

2017 Regular Session

SENATE BILL NO. 146

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Provides relative to the Habitual Offender Law. (8/1/17)

1 AN ACT

2 To amend and reenact R.S. 15:529.1(C) and (G), relative to the Habitual Offender Law; to
3 decrease the cleansing period for offenses that are not crimes of violence or sex
4 offenses; to provide for the suspension of imposition or execution of a sentence
5 under the Habitual Offender Law under certain circumstances; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:529.1(C) and (G) are hereby amended and reenacted to read as
9 follows:

10 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
11 of court in the state of Louisiana as evidence

12 * * *

13 **C.(1) Except as provided in Paragraph (2) of this Subsection, the** ~~The~~
14 current offense shall not be counted as, respectively, a second, third, fourth, or higher
15 offense if more than ~~ten~~ **five** years have elapsed between the date of the commission
16 of the current offense or offenses and the expiration of the maximum sentence or
17 sentences of the previous conviction or convictions, or between the expiration of the

1 maximum sentence or sentences of each preceding conviction or convictions alleged
 2 in the multiple offender bill and the date of the commission of the following offense
 3 or offenses. In computing the intervals of time as provided herein, any period of
 4 parole, probation, or incarceration by a person in a penal institution, within or
 5 without the state, shall not be included in the computation of any of said ~~ten-year~~
 6 five-year periods between the expiration of the maximum sentence or sentences and
 7 the next succeeding offense or offenses.

8 (2) The current offense shall not be counted as, respectively, a second,
 9 third, fourth, or higher offense if more than ten years have elapsed between the
 10 date of the commission of the current offense or offenses and the expiration of
 11 the maximum sentence or sentences of the previous conviction or convictions for
 12 a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.
 13 15:541, or between the expiration of the maximum sentence or sentences of each
 14 preceding conviction or convictions alleged in the multiple offender bill for a
 15 crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.
 16 15:541 and the date of the commission of the following offense or offenses. In
 17 computing the intervals of time as provided herein, any period of parole,
 18 probation, or incarceration by a person in a penal institution, within or without
 19 the state, shall not be included in the computation of any of said ten-year
 20 periods between the expiration of the maximum sentence or sentences for a
 21 crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.
 22 15:541 and the next succeeding offense or offenses.

23 * * *

24 G.(1) Except as provided in Paragraph (2) of this Subsection, any Any
 25 sentence imposed under the provisions of this Section shall be at hard labor without
 26 benefit of probation or suspension of sentence.

27 (2) If the court finds that a sentence imposed under the provisions of this
 28 Section would be excessive under the totality of the circumstances, then the
 29 court may suspend the imposition or execution of not more than one-half of the

1 sentence prescribed by this Section. In the case of a sentence of life
2 imprisonment at hard labor, not less than thirty-five years of the sentence shall
3 be imposed without benefit of probation or suspension of sentence. If the court
4 suspends the imposition or execution of any portion of the sentence pursuant to
5 this Paragraph, it shall state for the record the reasons for such suspension.

6 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 146 Original 2017 Regular Session Claitor

Present law provides a 10-year "cleansing period" for prior convictions for purposes of present law (Habitual Offender Law).

Proposed law decreases the "cleansing period" from 10 years to five years for prior convictions that are not convictions for crimes of violence as defined in present law or sex offenses as defined in present law. The "cleansing period" for crimes of violence and sex offenses remains 10 years.

Proposed law otherwise retains present law.

Present law provides that any sentence imposed under the provisions the Habitual Offender Law are to be at hard labor without benefit of probation or suspension of sentence.

Proposed law retains present law but adds that if the court finds that a sentence imposed under the provisions of the Habitual Offender Law would be excessive under the totality of the circumstances, then the court may suspend the imposition or execution of not more than one-half of the sentence prescribed. Proposed law further provides that if the court suspends the imposition or execution of any portion of the sentence, it must state for the record the reasons for such suspension.

Effective August 1, 2017.

(Amends R.S. 15:529.1(C) and (G))