

SENATE BILL NO. 146

BY SENATOR CLAITOR

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

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AN ACT

To amend and reenact R.S. 15:529.1(A)(1), (3), and (4) and (C) and to enact R.S. 15:529.1(I) and (J), relative to the habitual offender law; to amend penalties provided for in the habitual offender law; to provide relative to the amount of time that must elapse between the current and prior offense for the habitual offender law to apply; to provide for the reduction by the court of a sentence under the habitual offender law under certain circumstances; to define "correctional supervision"; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:529.1(A)(1), (3), and (4) and (C) are hereby amended and reenacted and R.S. 15:529.1(I) and (J) are hereby enacted to read as follows:

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

A. Any person who, after having been convicted within this state of a felony, or who, after having been convicted under the laws of any other state or of the United States, or any foreign government of a crime which, if committed in this state would be a felony, thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows:

(1) If the second felony is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment shall be for a determinate term not less than ~~one-half~~ **one-third** the longest term and not more than twice the longest term prescribed for a first conviction.

* * *

(3) If the third felony is such that upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life then **the**

1 **following sentences apply:**

2 (a) The person shall be sentenced to imprisonment for a determinate term not
3 less than ~~two-thirds~~ **one-half** of the longest possible sentence for the conviction and
4 not more than twice the longest possible sentence prescribed for a first conviction;
5 ~~or.~~

6 (b) If the third felony and the two prior felonies are felonies defined as a
7 crime of violence under R.S. 14:2(B), **or** a sex offense as defined in ~~R.S. 15:540 et~~
8 ~~seq.~~ **R.S. 15:541** when the victim is under the age of eighteen at the time of
9 commission of the offense, ~~or as a violation of the Uniform Controlled Dangerous~~
10 ~~Substances Law punishable by imprisonment for ten years or more, or any other~~
11 ~~crimes punishable by imprisonment for twelve years or more, or any combination of~~
12 such crimes, the person shall be imprisoned for the remainder of his natural life,
13 without benefit of parole, probation, or suspension of sentence.

14 (4) If the fourth or subsequent felony is such that, upon a first conviction the
15 offender would be punishable by imprisonment for any term less than his natural life
16 then **the following sentences apply:**

17 (a) The person shall be sentenced to imprisonment for the fourth or
18 subsequent felony for a determinate term not less than the longest prescribed for a
19 first conviction but in no event less than twenty years and not more than his natural
20 life; ~~or.~~

21 (b) **If the fourth felony and no prior felony is defined as a crime of**
22 **violence under R.S. 14:2(B) or as a sex offense under R.S. 15:541, the person**
23 **shall be imprisoned for not less than twenty years nor more than twice the**
24 **longest possible sentence prescribed for a first conviction. If twice the possible**
25 **sentence prescribed for a first conviction is less than twenty years, the person**
26 **shall be imprisoned for twenty years.**

27 (c) If the fourth felony and two of the prior felonies are felonies defined as
28 a crime of violence under R.S. 14:2(B), **or** a sex offense as defined in ~~R.S. 15:541~~
29 ~~et seq.~~ **R.S. 15:541** when the victim is under the age of eighteen at the time of
30 commission of the offense, ~~or as a violation of the Uniform Controlled Dangerous~~

1 Substances Law punishable by imprisonment for ten years or more, or of any other
 2 crime punishable by imprisonment for twelve years or more, or any combination of
 3 such crimes, the person shall be imprisoned for the remainder of his natural life,
 4 without benefit of parole, probation, or suspension of sentence.

5 * * *

6 C.(1) The Except as provided in Paragraph (2) of this Subsection, the
 7 current offense shall not be counted as, respectively, a second, third, fourth, or higher
 8 offense if more than ~~ten~~ **five** years have elapsed between the date of the commission
 9 of the current offense or offenses and the expiration of the ~~maximum sentence or~~
 10 ~~sentences of~~ **correctional supervision, or term of imprisonment if the offender**
 11 **is not placed on supervision following imprisonment, for** the previous conviction
 12 or convictions, or between the expiration of the ~~maximum sentence or sentences of~~
 13 **correctional supervision, or term of imprisonment if the offender is not placed**
 14 **on supervision following imprisonment, for** each preceding conviction or
 15 convictions alleged in the multiple offender bill and the date of the commission of
 16 the following offense or offenses. In computing the intervals of time as provided
 17 ~~herein, in this Paragraph,~~ **in this Paragraph,** any period of parole, probation, or incarceration by a
 18 person in a penal institution, within or without the state, shall not be included in the
 19 computation of any of ~~said ten-year~~ **the five-year** periods between the expiration of
 20 the ~~maximum sentence or sentences~~ **correctional supervision, or term of**
 21 **imprisonment if the offender is not placed on supervision following**
 22 **imprisonment,** and the next succeeding offense or offenses.

23 **(2) The current offense shall not be counted as, respectively, a second,**
 24 **third, fourth, or higher offense if more than ten years have elapsed between the**
 25 **date of the commission of the current offense or offenses and the expiration of**
 26 **correctional supervision, or term of imprisonment if the offender is not placed**
 27 **on supervision following imprisonment, for a crime of violence as defined in**
 28 **R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or between the expiration**
 29 **of correctional supervision, or term of imprisonment if the offender is not**
 30 **placed on supervision following imprisonment, for each preceding conviction**

1 or convictions alleged in the multiple offender bill for a crime of violence as
 2 defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and the date
 3 of the commission of the following offense or offenses. In computing the
 4 intervals of time as provided in this Paragraph, any period of parole, probation,
 5 or incarceration by a person in a penal institution, within or without the state,
 6 shall not be included in the computation of any of the ten-year periods between
 7 the expiration of correctional supervision, or term of imprisonment if the
 8 offender is not placed on supervision following imprisonment, for a crime of
 9 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and
 10 the next succeeding offense or offenses.

11 * * *

12 I. If the court finds that a sentence imposed under the provisions of this
 13 Section would be constitutionally excessive pursuant to the criteria set forth in
 14 State v. Dorthey, 623 So.2d 1276 (La. 1993), then the court shall state for the
 15 record the reasons for such finding and shall impose the most severe sentence
 16 that is not constitutionally excessive.

17 J. For purposes of this Section, "correctional supervision" means any
 18 period of parole, probation, or incarceration of a person in a penal institution,
 19 either within the state of Louisiana or outside of the state.

20 Section 2. This Act shall become effective November 1, 2017, and shall have
 21 prospective application only to offenders whose convictions became final on or after
 22 November 1, 2017.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____