

2018 Regular Session

SENATE BILL NO. 501

BY SENATOR WALSWORTH

PROBATION/PAROLE. Provides relative to violations of probation and parole. (8/1/18)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 900(A)(5), the introductory

3 paragraph of (6)(b) and the introductory paragraph of (6)(d) and the introductory

4 paragraph of R.S. 15:574.9(H)(2), relative to probation and parole; to provide

5 relative to violation hearings for violations of probation; to provide for revocation

6 of probation; to provide for judicial discretion; to provide for technical violations of

7 probation; to provide for revocation of parole; to provide for the committee on

8 parole; to provide for technical violations of parole; to provide for definitions; to

9 provide for applicability; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Art. 900(A)(5), the introductory paragraph

12 of (6)(b) and the introductory paragraph of (6)(d) are hereby amended and reenacted to read

13 as follows:

14 Art. 900. Violation hearing; sanctions

15 A. \* \* \*

16 (5)(a) Order that the probation be revoked. In the event of revocation the

17 defendant shall serve the sentence suspended, with or without credit for the time

1 served on probation at the discretion of the court. If the imposition of sentence was  
2 suspended, the defendant shall serve the sentence imposed by the court at the  
3 revocation hearing.

4 ~~(b) Notwithstanding the provisions of Subsubparagraph (a) of this~~  
5 ~~Subparagraph, in the event of revocation for a defendant placed on probation for the~~  
6 ~~conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or~~  
7 ~~a sex offense as defined in R.S. 15:541, the defendant shall serve the sentence~~  
8 ~~suspended with credit for time served on probation.~~

9 (6)(a) \* \* \*

10 (b) ~~Notwithstanding the provisions of Subparagraph (A)(5) of this Article,~~  
11 ~~any Any defendant who has been placed on probation by the court for the conviction~~  
12 ~~of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex~~  
13 ~~offense as defined by R.S. 15:541, and who has had his probation revoked under the~~  
14 ~~provisions of this Article for a technical violation of his probation as determined by~~  
15 ~~the court, shall be required to serve, without diminution of sentence, as follows:~~

16 \* \* \*

17 (d) A "technical violation", as used in this Paragraph, ~~means any may, at the~~  
18 ~~discretion of the court, include any violation,~~ except it shall not include any of the  
19 following:

20 \* \* \*

21 Section 2. The introductory paragraph of R.S. 15:574.9(H)(2) is hereby amended and  
22 reenacted to read as follows:

23 §574.9. Revocation of parole for violation of condition; committee panels; return to  
24 custody hearing; duration of reimprisonment and reparole after  
25 revocation; credit for time served; revocation for a technical violation

26 \* \* \*

27 H.(1)(a) \* \* \*

28 (2) A "technical violation", as used in this Subsection, ~~means may include,~~  
29 ~~at the discretion of the committee, any violation except it shall not include any of~~

1 the following:

2 \* \* \*

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Menou.

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DIGEST

SB 501 Original                      2018 Regular Session                      Walsworth

Present law provides that a violation hearing shall occur if a person is arrested for a violation of his probation. Further provides that if the court finds that the defendant violated or was about to violate a condition of his probation it can impose certain sanctions, including revoke the defendant's probation.

Proposed law retains present law.

Present law provides that when probation is revoked for a defendant placed on probation for the conviction of an offense that is not a crime of violence or a sex offense, he shall serve the sentence suspended with credit for time served on probation.

Present law provides that when probation is revoked for a defendant placed on probation for the conviction of an offense that is a crime of violence or sex offense, he shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court.

Proposed law provides that if probation is revoked for a defendant, regardless of his conviction, the court shall have the discretion to determine if the sentence suspended will be served with or without credit for time served.

Present law provides that any defendant placed on probation by the drug division probation program may have his probation revoked for a technical violation.

Proposed law retains present law.

Present law defines "technical violation" as it pertains to those placed on probation by the drug division probation program, as any violation, except:

- (1) An allegation of a criminal act that is subsequently proven to be a felony.
- (2) An allegation of a criminal act that is subsequently proven to be an intentional misdemeanor directly affecting the person.
- (3) An allegation of a criminal act that is subsequently proven to be a violation of a protective order, issued against the offender to protect a family member or household member, or dating partner.
- (4) Being in possession of a firearm or other prohibited weapon.
- (5) Absconding from the jurisdiction of the court by leaving the state without the prior approval of the court or the probation and parole officer.

Proposed law provides that "technical violation", as it pertains to those placed on probation by the drug division probation program, may include any violation, at the discretion of the court. Proposed law retains the present law exceptions.

Present law provides that if a parolee is returned to the physical custody of DPSC, the

committee on parole shall hold a hearing to determine if his parole should be revoked, unless the hearing is waived by the parolee.

Proposed law retains present law.

Present law provides that if parole is revoked for a technical violation, the person shall be incarcerated for a certain amount of time.

Proposed law retains present law.

Present law defines "technical violation", as it pertains to parole revocation, as any violation, except:

- (1) An allegation of a criminal act that is subsequently proven to be a felony.
- (2) An allegation of a criminal act that is subsequently proven to be an intentional misdemeanor directly affecting the person.
- (3) An allegation of a criminal act that is subsequently proven to be a violation of a protective order issued against the offender to protect a household member or family member, or dating partner.
- (4) Being in possession of a firearm or other prohibited weapon.
- (5) Absconding from the jurisdiction of the committee on parole by leaving the state without the prior approval of the probation and parole officer.

Proposed law provides that "technical violation", as it pertains to parole revocation, may include any violation, at the discretion of the committee on parole. Proposed law retains the present law exceptions.

Effective August 1, 2018.

(Amends C.Cr.P. Art. 900(A)(5), (6)(b)(intro para) and (6)(d)(intro para) and R.S. 15:574.9(H)(2)(intro para))