SLS 18RS-1903 **ORIGINAL**

2018 Regular Session

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SENATE BILL NO. 522

BY SENATOR CLAITOR

CRIME/PUNISHMENT. Provides relative to the payment of restitution to the victim of a crime. (8/1/18)

AN ACT

2	To amend and reenact Code of Criminal Procedure Art. 875.1(D)(1)(a), (E), and (F) and to
3	enact Code of Criminal Procedure Art. 875.1(G), relative to restitution; to provide
4	relative to payment of restitution to the victim of a crime; to prohibit the waiver and
5	forgiveness of a defendant's financial obligations that are designated as restitution;
6	and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Code of Criminal Procedure Art. 875.1(D)(1)(a), (E), and (F) are hereby
9	amended and reenacted and Code of Criminal Procedure Art. 875.1(G) is hereby enacted to
10	read as follows:
11	Art. 875.1. Determination of substantial financial hardship to the defendant
12	* * *
13	D.(1) If the court determines that payment in full of the aggregate amount of
14	all financial obligations imposed upon the defendant would cause substantial
15	financial hardship to the defendant or his dependents, the court shall do either of the
16	following:
17	(a) Waive all or any portion of the financial obligations, except for any

financial obligation designated as restitution due to a victim.

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E. If a defendant is ordered to make monthly payments under a payment plan established pursuant to the provisions of Subsubparagraph (D)(1)(b) of this Article, the defendant's outstanding financial obligations, except for a financial obligation designated as restitution, resulting from his criminal conviction are forgiven and considered paid-in-full if the defendant makes consistent monthly payments for either twelve consecutive months or consistent monthly payments for half of the defendant's term of supervision, whichever is longer.

F. If, at the termination or end of the defendant's term of supervision, any restitution ordered by the court remains outstanding, the balance of the unpaid restitution shall be reduced to a civil money judgment in favor of the person to whom restitution is owed that may be enforced in the same manner as provided for the execution of judgments in the Louisiana Code of Civil Procedure. For any civil money judgment ordered under this Article, the clerk shall send notice of the judgment to the last known address of the person to whom the restitution was ordered to be paid.

G. The provisions of this Article shall apply only to defendants convicted of offenses classified as felonies under applicable law.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 522 Original

2018 Regular Session

Claitor

Present law (C.Cr.P. Art. 875.1, as enacted by Act No. 260 of the 2017 R.S., effective Aug. 1, 2018) provides that, beginning Aug. 1, 2018, prior to ordering the imposition of any financial obligation, the court shall determine whether payment in full of the aggregate amount of all the financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents.

Present law further provides for the following in this regard:

If the court determines that payment in full of the aggregate amount of all financial (1) obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, the court shall either waive all or any portion of the financial obligation or order a payment plan that requires the defendant to make a monthly payment to fulfill the obligations.

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

(2) Provides that the defendant's outstanding financial obligations may be forgiven and considered paid-in-full if the defendant makes consistent monthly payments for either 12 consecutive months or consistent monthly payments for half of the defendant's term of supervision, whichever is longer.

<u>Proposed law</u> amends <u>present law</u> (C.Cr.P. Art. 875.1, as enacted by Act No. 260 of the 2017 R.S., effective Aug. 1, 2018) to provide that the portion of the defendant's financial obligations that is designated as restitution due to a victim shall not be waived or forgiven pursuant to <u>present law</u>.

Finally, <u>proposed law</u> provides that any outstanding balance of unpaid restitution at the end of a defendant's term of supervision shall be reduced to a civil money judgment that may be enforced in the same manner as provided for the execution of judgments in the La. Code of Civil Procedure. Notice of the judgment shall be sent by the clerk to the last known address of the person to whom the restitution was ordered to be paid.

Effective August 1, 2018.

(Amends C.Cr.P. Art. 875.1(D)(1)(a), (E), and (F); adds C.Cr.P. Art. 875.1(G))