

2020 Regular Session

HOUSE BILL NO. 178

BY REPRESENTATIVE MARINO

PROBATION: Provides relative to the suspension or deferral of sentence and probation in felony cases

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893(E)(1)(b), (2), (3)(c), and (4),
3 relative to suspension and deferral of sentence and probation in felony cases; to
4 provide relative to the deferral of a sentence for certain drug offenses; to provide
5 relative to dismissals of prosecution; to remove the restriction that certain dismissals
6 may occur only once; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 893(E)(1)(b), (2), (3)(c), and (4) are
9 hereby amended and reenacted to read as follows:

10 Art. 893. Suspension and deferral of sentence and probation in felony cases

11 * * *

12 E.(1)

13 * * *

14 (b) The court shall not defer a sentence under this provision for an offense
15 or an attempted offense that is designated in the court minutes as a crime of violence
16 pursuant to Article 890.3 or that is defined as a sex offense by R.S. 15:541, involving
17 a child under the age of seventeen years or for a violation of ~~the Uniform Controlled~~
18 ~~Dangerous Substances Law that is punishable by a term of imprisonment of more~~
19 ~~than five years or for a violation of R.S. 40:966(A), 967(A), 968(A), 969(A), or~~
20 970(A).

1 purposes of expungement under the provisions of Title XXXIV of this Code ~~and~~
2 ~~may occur only once with respect to any person.~~

3 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 178 Original

2020 Regular Session

Marino

Abstract: Provides relative to the court's authority to defer a sentence for a violation of certain Uniform Controlled Dangerous Substances Law offenses and removes the restriction that certain dismissals of prosecution may occur only once.

Present law provides that the court shall not defer a sentence for an offense or an attempted offense that is designated in the court minutes as a crime of violence or that is defined as a sex offense, involving a child under the age of 17 years or for a violation of the Uniform Controlled Dangerous Substances Law that is punishable by a term of imprisonment of more than five years or for a violation of present law.

Proposed law removes the present law reference of a violation of a Uniform Controlled Dangerous Substances Law that is punishable by a term of imprisonment of more than five years.

Present law provides that upon motion of the defendant, if the court finds at the conclusion of the probationary period that the probation of the defendant has been satisfactory, the court may set the conviction aside and dismiss the prosecution. Present law further provides that the dismissal shall occur only once with respect to any person.

Proposed law removes the restriction that the dismissal may occur only once.

Present law provides that when a case is accepted into a drug court division probation program pursuant to present law and at the conclusion of the probationary period the court finds that the defendant has successfully completed all conditions of probation, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution. Present law further provides that the dismissal may occur only once with respect to any person.

Proposed law removes the restriction that the dismissal may occur only once.

Present law provides that when a defendant, who has been committed to the custody of the Dept. of Public Safety and Corrections to serve a sentence in the intensive incarceration program pursuant to present law, has successfully completed the intensive incarceration program as well as successfully completed all other conditions of parole or probation, and if the defendant is otherwise eligible, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution. Present law further provides that the dismissal may occur only once with respect to any person.

Proposed law removes the restriction that the dismissal may occur only once.

(Amends C.Cr.P. Art. 893(E)(1)(b), (2), (3)(c), and (4))