

2020 Regular Session

HOUSE BILL NO. 339

BY REPRESENTATIVE JAMES

CRIMINAL/SENTENCING: Provides relative to sentencing

1 AN ACT

2 To amend and reenact R.S. 15:529.1(K), 571.3(B)(2)(c), and 574.4(A)(1)(b)(iii), relative to
3 sentencing; to provide relative to the rate of earning a diminution of sentence for
4 good behavior for persons convicted of a crime of violence or sex offense; to provide
5 relative to the applicability of certain rates of earning diminution of sentence for
6 good behavior; to provide relative to parole eligibility for persons convicted of a
7 crime of violence or a sex offense; to provide relative to the applicability of certain
8 parole eligibility rates; to provide relative to the applicability of the habitual offender
9 law; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:529.1(K), 571.3(B)(2)(c), and 574.4(A)(1)(b)(iii) are hereby
12 amended and reenacted to read as follows:

13 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
14 of court in the state of Louisiana as evidence

15 * * *

16 K.(1) ~~Except as provided in Paragraph (2) of this Subsection,~~
17 ~~notwithstanding~~ Notwithstanding any provision of law to the contrary, the court shall
18 apply the provisions of this Section ~~that were in effect on the date that the~~
19 ~~defendant's instant offense was committed~~ to all defendants regardless of the date the
20 instant offense was committed.

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 339 Original

2020 Regular Session

James

Abstract: Provides relative to the applicability of certain sentencing-related provisions.

Present law (R.S. 15:529.1, habitual offender law) provides that any person who, after having been convicted of a felony, thereafter commits any subsequent felony within La., upon conviction shall be subject to certain enhanced penalties.

Present law further provides that the court shall apply to a defendant the provisions of law that were in effect on the date that the defendant's instant offense was committed, except the provisions of present law as amended by Act Nos. 257 and 282 of the 2017 R.S. that provide for the amount of time that must elapse between the current and prior offense for present law to apply, shall apply to any bill of information filed on or after Nov. 1, 2017, accusing the person of a previous conviction.

Proposed law amends present law and requires the court to apply the provisions of present law to all defendants regardless of the date the instant offense was committed.

Present law (R.S. 15:571.3) provides that persons convicted of a crime of violence without a prior conviction of a crime of violence or sex offense shall earn diminution of sentence at a rate of one day for every three days in actual custody held on the imposed sentence. However, this provision of present law shall not apply to an offender whose instant conviction is for a crime that is listed both as a crime of violence and sex offense under present law.

Present law further provides that this provision of present law shall apply only to offenders who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.

Proposed law removes the exclusive prospective application and provides that the present law rate of diminution of sentence of one day for every three days in actual custody shall apply to offenders convicted prior to and on or after Nov. 1, 2017.

With respect to parole eligibility for persons convicted of a crime of violence or a sex offense, present law (R.S. 15:574.4) provides as follows:

- (1) A person, otherwise eligible for parole, convicted of a crime of violence who does not have a prior felony conviction for a crime of violence or a prior felony conviction for a sex offense shall be eligible for parole consideration upon serving 65% of the sentence imposed.
- (2) A person, otherwise eligible for parole, whose instant offense is a second conviction of a crime of violence or a first or second conviction of a sex offense shall be eligible for parole consideration upon serving 75% of the sentence imposed.
- (3) A person convicted a third or subsequent time of a crime of violence or a third or subsequent time of a sex offense shall not be eligible for parole.

Present law provides that these rates of parole eligibility for persons convicted of a crime of violence or sex offense set forth in present law shall have prospective application and shall be applicable only to persons who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.

Proposed law removes the exclusive prospective application of these parole eligibility rates and provides that such rates shall apply to persons convicted prior to and on or after Nov. 1, 2017.

(Amends R.S. 15:529.1(K), 571.3(B)(2)(c) and 574.4(A)(1)(b)(iii))