

2025 Regular Session

HOUSE BILL NO. 79

BY REPRESENTATIVE BACALA

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

CRIMINAL/PROCEDURE: Provides relative to the applicability of firearm enhancement provisions and penalties to plea agreements

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 893.2 and 893.3(A) through (D)
3 and (E)(1)(a), relative to sentencing; to provide for the applicability of firearm
4 enhancement sentencing provisions to plea agreements; to provide for stipulations;
5 to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 893.2 and 893.3(A) through (D) and
8 (E)(1)(a) are hereby amended and reenacted to read as follows:

9 Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a
10 specifically enumerated misdemeanor; submission to jury

11 A.(1) If a motion was filed by the state in compliance with Article 893.1, a
12 determination shall be made as to all of the following:

13 (a) ~~whether~~ Whether a firearm was discharged, or used during the
14 commission of the felony or specifically enumerated misdemeanor, or actually
15 possessed during the commission of any of the following:

16 (i) ~~a~~ A felony which is a crime of violence as defined by R.S. 14:2(B);

17 (ii) ~~felony~~ Felony theft;

18 (iii) ~~simple~~ Simple burglary;

19 (iv) ~~simple~~ Simple burglary of an inhabited dwelling;

20 (v) ~~unauthorized~~ Unauthorized entry of an inhabited dwelling;

1 (vi) ~~production~~ Production, manufacturing, distribution, dispensing, or
2 possession with intent to produce, manufacture, distribute, or dispense a controlled
3 dangerous substance in violation of the Uniform Controlled Dangerous Substances
4 Law; ~~or,~~

5 (vii) A specifically enumerated misdemeanor.

6 (b) ~~and whether~~ Whether the mandatory minimum sentencing provisions of
7 Article 893.3 have been shown to be applicable.

8 (2) Such determination is a specific finding of fact to be submitted to the jury
9 and proven by the state beyond a reasonable doubt.

10 B. If a motion was filed by the state in compliance with Article 893.1 and the
11 case is resolved pursuant to a plea agreement, the district attorney and the defendant
12 may stipulate that the provisions of Article 893.3 are applicable. Any such
13 stipulation shall identify for the court all of the following:

14 (1) The specific provision of Article 893.3 that applies.

15 (2) The specific underlying felony or specifically enumerated misdemeanor
16 within Article 893.3 that applies.

17 Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in
18 which firearm was possessed, used, or discharged

19 A. If the finder of fact finds beyond a reasonable doubt or a plea agreement
20 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
21 actually possessed a firearm during the commission of the felony or specifically
22 enumerated misdemeanor for which he was convicted, the court shall impose a term
23 of imprisonment of not less than two years nor more than the maximum term of
24 imprisonment provided for the underlying offense; however, if the maximum
25 sentence for the underlying offense is less than two years, the court shall impose the
26 maximum sentence.

27 B. If the finder of fact finds beyond a reasonable doubt or a plea agreement
28 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
29 actually used a firearm in the commission of the felony or specifically enumerated

1 misdemeanor for which he was convicted, the court shall impose a term of
2 imprisonment of not less than five years nor more than the maximum term of
3 imprisonment provided for the underlying offense; however, if the maximum
4 sentence for the underlying offense is less than five years, the court shall impose the
5 maximum sentence.

6 C. If the finder of fact finds beyond a reasonable doubt or a plea agreement
7 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
8 actually discharged a firearm in the commission of the felony or specifically
9 enumerated misdemeanor for which he was convicted, the court shall impose a term
10 of imprisonment of not less than ten years nor more than the maximum term of
11 imprisonment provided for the underlying offense; however, if the maximum
12 sentence for the underlying offense is less than ten years, the court shall impose the
13 maximum sentence.

14 D. If the finder of fact finds beyond a reasonable doubt or a plea agreement
15 is reached that includes a stipulation pursuant to Article 893.2(B) that a firearm was
16 actually used or discharged by the defendant during the commission of the felony for
17 which he was convicted, and thereby caused bodily injury, the court shall impose a
18 term of imprisonment of not less than fifteen years nor more than the maximum term
19 of imprisonment provided for the underlying offense; however, if the maximum
20 sentence for the underlying felony is less than fifteen years, the court shall impose
21 the maximum sentence.

22 E.(1)(a) Notwithstanding any other provision of law to the contrary, if the
23 finder of fact has determined or a plea agreement is reached that includes a
24 stipulation pursuant to Article 893.2(B) that the defendant committed a felony with
25 a firearm as provided ~~for~~ in this Article, and the crime is considered a violent felony
26 as defined in this Paragraph, the court shall impose a minimum term of
27 imprisonment of not less than ten years nor more than the maximum term of
28 imprisonment provided for the underlying offense. In addition, if the firearm is
29 discharged during the commission of such a violent felony, the court shall impose

1 a minimum term of imprisonment of not less than twenty years nor more than the
2 maximum term of imprisonment provided for the underlying offense.

3 * * *

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

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 79 Engrossed

2025 Regular Session

Bacala

Abstract: Provides relative to the applicability of firearm sentencing provisions to plea agreements.

Present law (C.Cr.P. Art. 893.2) provides for a determination as to whether a firearm was discharged, used, or actually possessed during the commission of a felony or a specifically enumerated misdemeanor.

Proposed law retains present law and provides that if a motion was filed by the state in compliance with present law (C.Cr.P. Art. 893.1) and the case is resolved pursuant to a plea agreement, the district attorney and the defendant may stipulate that the provisions of present law (C.Cr.P. Art. 893.3) are applicable.

Proposed law provides that any such stipulation shall identify for the court all of the following:

- (1) The specific provision of present law (C.Cr.P. Art. 893.3) that applies.
- (2) The specific underlying felony or specifically enumerated misdemeanor within present law (C.Cr.P. Art. 893.3) that applies.

Present law (C.Cr.P. Art. 893.3) provides for the imposition of various criminals sentences based on the felony or specifically enumerated misdemeanor in which a firearm was actually possessed, used, or discharged.

Proposed law retains present law and adds plea agreements that include a stipulation pursuant to proposed law (C.Cr.P. Art. 893.2(B)).

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Arts. 893.2 and 893.3(A)-(D) and (E)(1)(a))