

Regular Session, 2012

HOUSE BILL NO. 1068

BY REPRESENTATIVE LOPINTO

CRIMINAL/SENTENCING: Provides sentencing options with respect to certain offenses

1 AN ACT

2 To enact Code of Criminal Procedure Article 890.1, relative to criminal sentencing; to
3 provide that certain sentences may be served with the benefit of parole, probation,
4 or suspension of sentence under certain circumstances; to provide for applicability;
5 to provide for limitations; to provide for exceptions; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 890.1 is hereby enacted to read as
9 follows:

10 Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

11 A. Notwithstanding any other provision of law to the contrary, if a felony or
12 misdemeanor offense specifies a sentence with a minimum term of confinement or
13 a minimum fine, or that the sentence shall be served without benefit of parole,
14 probation, or suspension of sentence, the court, upon conviction, in sentencing the
15 offender shall impose the sentence as provided in the penalty provisions for that
16 offense, unless one of the following occurs:

17 (1) The defendant pled guilty pursuant to a negotiated plea agreement with
18 the prosecution and the court, which specifies that the sentence shall be served with
19 benefit of parole, probation, or suspension of sentence or specifies a reduced fine or
20 term of confinement.

1 (2) In cases resulting in trial, the prosecution, the defendant, and the court
2 entered into a post-conviction agreement, which specifies that the sentence shall be
3 served with benefit of parole, probation, or suspension of sentence or specifies a
4 reduced fine or term of confinement.

5 B. If such agreements are entered into between the prosecution and the
6 defendant, the court, at sentencing, shall not impose a lesser term of imprisonment,
7 lesser fine, or lesser period of sentence served without benefit of parole, probation,
8 or suspension of sentence than that expressly provided for under the terms of the plea
9 or post-conviction agreement.

10 C. No plea or post-conviction agreement shall provide parole eligibility at
11 a time earlier than that provided in R.S. 15:574.4.

12 D. Nothing in this Article shall apply to a crime of violence as defined in
13 R.S. 14:2(B) or a sex offense as defined in R.S. 15:541.

14 E. At the time the sentence is imposed pursuant to this Article, the Uniform
15 Commitment Sentencing Order shall specify that the sentence is imposed pursuant
16 to the provisions of this Article.

17 Section 2. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 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)]

Lopinto

HB No. 1068

Abstract: Provides for deviation from minimum mandatory sentences in certain cases.

Present law provides that sentences for certain offenses shall be served without benefit of parole, probation, or suspension of sentence (minimum mandatory sentences).

Proposed law provides that if a felony or misdemeanor specifies a sentence with a minimum term of confinement or a mandatory minimum fine, or that a sentence shall be served

without benefit of parole, probation, or suspension of sentence, the court, upon conviction, in sentencing the offender shall impose the sentence as provided in the penalty provisions for that offense unless one of the following occurs:

- (1) The defendant pled guilty pursuant to a negotiated plea agreement with the prosecution and the court, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.
- (2) In cases resulting in trial, the prosecution, the defendant, and the court entered into a post-conviction agreement, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.

Proposed law provides that if such agreements are entered into between the prosecution and the defendant, then the court, at sentencing, shall not impose a lesser term of imprisonment, lesser fine, or lesser period of sentence served without benefit of parole, probation, or suspension of sentence than that expressly provided for under the terms of the plea or post-conviction agreement.

Proposed law provides that no agreement shall provide for parole eligibility earlier than provided by present law.

Proposed law shall not apply to sentences for convictions of sex offenses or crimes of violence.

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

(Adds C.Cr.P. Art. 890.1)