

Regular Session, 2014

SENATE BILL NO. 352

BY SENATOR MILLS

CRIME/PUNISHMENT. Provides relative to mandatory minimum sentences. (8/1/14)

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AN ACT

To enact Code of Criminal Procedure Article 890.3, relative to sentencing; to authorize waiver of mandatory minimum sentences under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 890.3 is hereby enacted to read as follows:

**Art. 890.3. Waiver of mandatory minimum sentences**

**A. Notwithstanding any other provision of law to the contrary, the sentencing court may depart from an applicable mandatory minimum sentence or a sentence of imprisonment that is otherwise to be imposed without benefit of parole, probation, or suspension of sentence if the court, based on substantial and compelling reasons in the record, and giving due regard to the nature of the crime, the defendant's history and character, and the defendant's chances of successful rehabilitation, finds both of the following:**

**(1) Imposition of the mandatory minimum sentence or the benefit restrictions would result in substantial injustice to the defendant.**

1                    **(2) Imposition of the mandatory minimum sentence or the benefit**  
2                    **restrictions is not necessary for the protection of the public.**

3                    **B. The provisions of Paragraph A of this Article shall not apply under**  
4                    **any of the following circumstances:**

5                    **(1) The offense included the use, attempted use, or threatened use of a**  
6                    **dangerous weapon by the defendant against another person or resulted in the**  
7                    **serious bodily injury of another person.**

8                    **(2) The offense involved a sex offense as defined and enumerated in R.S.**  
9                    **15:541 against a person under the age of eighteen years.**

10                   **(3) The offense is punishable by life imprisonment without parole,**  
11                   **probation, or suspension of sentence.**

The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alden A. Clement Jr.

#### DIGEST

Mills (SB 352)

Proposed law provides that a sentencing court may depart from an applicable mandatory minimum sentence or a sentence of imprisonment that is otherwise to be imposed without benefit of parole, probation, or suspension of sentence if the court, based on substantial and compelling reasons in the record, and giving due regard to the nature of the crime, the defendant's history and character, and the defendant's chances of successful rehabilitation, finds both of the following:

- (1) Imposition of the mandatory minimum sentence or the benefit restrictions would result in substantial injustice to the defendant.
- (2) Imposition of the mandatory minimum sentence or the benefit restrictions is not necessary for the protection of the public.

Proposed law provides that proposed law does not apply under any of the following circumstances:

- (1) The offense included the use, attempted use, or threatened use of a dangerous weapon by the defendant against another person or resulted in the serious bodily injury of another person.
- (2) The offense involved a sex offense as defined in present law against a person under the age of 18 years.
- (3) The offense is punishable by life imprisonment without parole, probation, or suspension of sentence.

Effective August 1, 2014.

(Adds C.Cr.P. Art. 890.3)