

2016 Regular Session

HOUSE BILL NO. 328

BY REPRESENTATIVE LOPINTO

COURTS/DISTRICT: Provides sanctions for technical violations of drug division probation programs

1 AN ACT

2 To amend and reenact R.S. 13:5304(B)(3)(f) and to enact R.S. 13:5304(B)(3)(g), relative to
3 the drug division probation program; to provide for penalties for a technical violation
4 committed while on drug division probation; to provide for the definition of a
5 "technical violation"; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:5304(B)(3)(f) is hereby amended and reenacted and R.S.
8 13:5304(B)(3)(g) is hereby enacted to read as follows:

9 §5304. The drug division probation program

10 * * *

11 B. Participation in probation programs shall be subject to the following
12 provisions:

13 * * *

14 (3) In offering a defendant the opportunity to request treatment, the court
15 shall advise the defendant of the following:

16 * * *

17 (f) If the defendant completes the drug division probation program, and
18 successfully completes all other requirements of his court-ordered probation, the
19 conviction may be set aside and the prosecution dismissed in accordance with the
20 provisions of Code of Criminal Procedure Articles 893 and 894. If the defendant

1 was sentenced at the time of the entry of the plea of guilty, the successful completion
2 of the drug division probation program and the other requirements of probation will
3 result in his discharge from supervision. If the defendant does not successfully
4 complete the drug division probation program, the judge may revoke the probation
5 and impose sentence, or the judge may revoke the probation and order the defendant
6 to serve the sentence previously imposed and suspended, or the judge may revoke
7 the probation and order the defendant to be committed to the custody of the
8 Department of Public Safety and Corrections and be required to serve a sentence of
9 not more than six months without diminution of sentence in the intensive
10 incarceration program pursuant to ~~R.S. 15:574.4.1~~, R.S. 15:574.4.4, or the court may
11 impose a sentence of not more than ninety days without diminution of sentence or
12 credit for time served prior to the revocation for any technical violation, or the court
13 may impose any sanction provided by Code of Criminal Procedure Article 900, and
14 extend probation and order that the defendant continue treatment for an additional
15 period, or both. The term of the revocation for a technical violation shall begin on
16 the date the court orders the revocation. Upon completion of the imposed sentence
17 for the technical revocation, the defendant shall return to active and supervised
18 probation for a period equal to the remainder of the original period of probation
19 subject to any additional conditions imposed by the court.

20 (g) A "technical violation", as used in this Paragraph, means any violation
21 except it shall not include any of the following:

22 (i) Being arrested, charged, or convicted of any of the following:

23 (aa) A felony.

24 (bb) Any intentional misdemeanor directly affecting the person, including
25 but not limited to domestic abuse battery.

26 (ii) Being in possession of a firearm or other prohibited weapon.

27 (iii) Absconding from the jurisdiction of the court.

28 * * *

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 328 Original

2016 Regular Session

Lopinto

Abstract: Authorizes up to a 90-day sanction for a technical violation of drug division probation.

Present law provides for the establishment of drug division probation courts in certain judicial districts.

Present law provides that defendants sentenced to drug division probation supervision shall be responsible for costs associated with that supervision such as drug testing, treatment programs, or other expenses.

Present law provides that if a defendant violates the terms of the drug division probation, the court may revoke probation and order that the defendant serve the sentence previously imposed or suspended or the court may revoke probation and order the defendant be committed to DPS&C for not more than six months to the intensive incarceration program.

Proposed law provides that a court may sentence a defendant to incarceration for up to 90 days or impose sanctions provided by present law and extend probation and treatment for technical violations. Defines "technical violation".

(Amends R.S. 13:5304(B)(3)(f); Adds R.S. 13:5304(B)(3)(g))