

2016 Regular Session

SENATE BILL NO. 196

BY SENATOR CORTEZ

CRIME/PUNISHMENT. Removes judge's discretion with regard to mandatory sentences for certain offenses involving the possession, use, or discharge of a firearm. (8/1/16)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893.3(H), relative to sentences
3 imposed for certain offenses involving the possession, use, or discharge of a firearm;
4 to provide that sentences prescribed for certain offenses and conditions of those
5 sentences are to be considered mandatory; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 893.3(H) is hereby amended and
8 reenacted to read as follows:

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

11 * * *

12 H. If the court finds that a sentence imposed under provisions of this Article
13 would be excessive, the court shall state for the record the reasons for such finding
14 and shall impose the most severe sentence which is not excessive. **However, when**
15 **the court makes any finding relative to the possession, use, or discharge of a**
16 **firearm as described in this Article, the terms of imprisonment provided for in**
17 **Subparagraph (E)(1) of this Article shall be considered mandatory sentences**

Present law provides that a mandatory minimum sentence imposed under these provisions of present law cannot be suspended and must be imposed in the same manner as provided in the felony for which the defendant was convicted.

Proposed law retains present law.

Present law provides that a defendant sentenced under the provisions of present law is not eligible for parole during the period of the mandatory minimum sentence.

Proposed law retains present law.

Present law provides that if the court finds that a sentence imposed under these provisions of present law would be excessive, the court is to state for the record the reasons for such finding and impose the most severe sentence that is not excessive.

Proposed law retains present law and adds that with regard to "violent felonies" under present law (second degree sexual battery, aggravated burglary, carjacking, armed robbery, second degree kidnapping, manslaughter, or forcible or second degree rape) only, when the court makes any finding relative to the possession, use, or discharge of a firearm as described in present law, the terms of imprisonment provided for in present law are mandatory sentences and the conditions of those sentences provided for in present law are mandatory conditions.

Effective August 1, 2016.

(Amends C.Cr.P. Art. 893.3(H))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Makes proposed law applicable only to sentencing for "violent felonies" under present law.