

2018 Regular Session

HOUSE BILL NO. 223

BY REPRESENTATIVE MARINO

CRIMINAL/SENTENCING: Provides relative to responsive verdicts

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 814(A) and (B), relative to
3 responsive verdicts; to provide relative to responsive verdicts with regard to the
4 crimes of theft, criminal damage to property, and the attempt to commit these
5 offenses; to amend responsive verdicts to reflect existing penalty grades for the
6 crimes of theft, simple criminal damage to property, and unauthorized use of a
7 movable; to provide relative to responsive verdicts for violations of the Uniform
8 Controlled Dangerous Substances Law; to provide relative to responsive verdicts for
9 violations of the Uniform Controlled Dangerous Substances Law that are based upon
10 the weight of the substance; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Criminal Procedure Article 814(A) and (B) are hereby amended
13 and reenacted to read as follows:

14 Art. 814. Responsive verdicts; in particular

15 A. The only responsive verdicts which may be rendered when the indictment
16 charges the following offenses are:

17 1. First Degree Murder:

18 Guilty.

19 Guilty of second degree murder.

20 Guilty of manslaughter.

- 1 Not guilty.
- 2 2. Attempted First Degree Murder:
- 3 Guilty.
- 4 Guilty of attempted second degree murder.
- 5 Guilty of attempted manslaughter.
- 6 Guilty of aggravated battery.
- 7 Not guilty.
- 8 3. Second Degree Murder:
- 9 Guilty.
- 10 Guilty of manslaughter.
- 11 Guilty of negligent homicide.
- 12 Not guilty.
- 13 4. Attempted Second Degree Murder:
- 14 Guilty.
- 15 Guilty of attempted manslaughter.
- 16 Guilty of aggravated battery.
- 17 Not guilty.
- 18 5. Manslaughter:
- 19 Guilty.
- 20 Guilty of negligent homicide.
- 21 Not guilty.
- 22 6. Attempted Manslaughter:
- 23 Guilty.
- 24 Guilty of aggravated battery.
- 25 Not guilty.
- 26 7. Negligent Homicide:
- 27 Guilty.
- 28 Not guilty.
- 29 ~~7.1:8.~~ 8. Vehicular homicide:

- 1 Guilty.
- 2 Guilty of negligent homicide.
- 3 Not guilty.
- 4 ~~7.2.9.~~ Vehicular negligent injuring:
- 5 Guilty.
- 6 Guilty of negligent injuring.
- 7 Guilty of operating a vehicle while intoxicated.
- 8 Not guilty.
- 9 ~~7.3.10.~~ First degree vehicular negligent injuring:
- 10 Guilty.
- 11 Guilty of vehicular negligent injuring.
- 12 Guilty of negligent injuring.
- 13 Guilty of operating a vehicle while intoxicated.
- 14 Not guilty.
- 15 ~~8.11. Aggravated Rape or First Degree Rape~~ degree rape (formerly titled
- 16 aggravated rape):
- 17 Guilty.
- 18 Guilty of attempted ~~aggravated or~~ first degree rape.
- 19 Guilty of ~~forcible or~~ second degree rape.
- 20 Guilty of attempted ~~forcible or~~ second degree rape.
- 21 Guilty of sexual battery.
- 22 Guilty of ~~simple or~~ third degree rape.
- 23 Guilty of attempted ~~simple or~~ third degree rape.
- 24 Guilty of oral sexual battery.
- 25 Not guilty.
- 26 ~~8.1.12. Aggravated or first~~ First degree rape (formerly titled aggravated rape)
- 27 of a child under the age of thirteen:
- 28 Guilty.
- 29 Guilty of attempted ~~aggravated or~~ first degree rape.

1 Guilty of ~~forcible~~ or second degree rape.

2 Guilty of attempted ~~forcible~~ or second degree rape.

3 Guilty of ~~simple~~ or third degree rape.

4 Guilty of attempted ~~simple~~ or third degree rape.

5 Guilty of sexual battery.

6 Guilty of molestation of a juvenile or a person with a physical or mental
7 disability.

8 Guilty of attempted molestation of a juvenile or a person with a physical or
9 mental disability.

10 Guilty of indecent behavior with a juvenile.

11 Guilty of attempted indecent behavior with a juvenile.

12 Not guilty.

13 ~~9.13. Attempted Aggravated Rape~~ first degree rape or ~~Attempted First~~
14 ~~Degree Rape~~ (formerly titled aggravated rape):

15 Guilty.

16 Guilty of attempted ~~forcible~~ or second degree rape.

17 Guilty of attempted ~~simple~~ or third degree rape.

18 Not guilty.

19 ~~10.14. Forcible Rape or Second Degree Rape~~ degree rape (formerly titled
20 forcible rape):

21 Guilty.

22 Guilty of attempted ~~forcible~~ or second degree rape.

23 Guilty of ~~simple~~ or third degree rape.

24 Guilty of attempted ~~simple~~ or third degree rape.

25 Guilty of sexual battery.

26 Not guilty.

27 ~~11.15. Attempted Forcible Rape~~ second degree rape or ~~Attempted Second~~
28 ~~Degree Rape~~ (formerly titled forcible rape):

29 Guilty.

1 Guilty of attempted ~~simple or~~ third degree rape.

2 Not guilty.

3 ~~12.16. Simple Rape~~ Third degree rape or ~~Third Degree Rape~~ (formerly titled

4 simple rape):

5 Guilty.

6 Guilty of attempted ~~simple or~~ third degree rape.

7 Guilty of sexual battery.

8 Not guilty.

9 ~~13.17. Attempted Simple Rape~~ third degree rape or ~~Attempted Third Degree~~

10 ~~Rape~~ (formerly titled simple rape):

11 Guilty.

12 Not guilty.

13 ~~14.18.~~ Aggravated Battery:

14 Guilty.

15 Guilty of second degree battery.

16 Guilty of simple battery.

17 Not guilty.

18 ~~14.1.19.~~ Disarming of a Peace Officer:

19 Guilty.

20 Guilty of attempted disarming of a peace officer.

21 Guilty of battery of a police officer.

22 Guilty of aggravated assault.

23 Not guilty.

24 ~~14.2.20.~~ Aggravated Second Degree Battery

25 Guilty.

26 Guilty of aggravated battery.

27 Guilty of second degree battery.

28 Guilty of simple battery.

29 Not guilty.

- 1 ~~15:21.~~ Second Degree Battery:
- 2 Guilty.
- 3 Guilty of simple battery.
- 4 Not guilty.
- 5 ~~15:1.22.~~ Vehicular negligent injuring:
- 6 Guilty.
- 7 Not guilty.
- 8 ~~16:23.~~ Aggravated Assault:
- 9 Guilty.
- 10 Guilty of simple assault.
- 11 Not guilty.
- 12 ~~17:24.~~ Simple Battery:
- 13 Guilty.
- 14 Not guilty.
- 15 ~~18:25.~~ Aggravated Kidnapping:
- 16 Guilty.
- 17 Guilty of attempted aggravated kidnapping.
- 18 Guilty of second degree kidnapping.
- 19 Guilty of attempted second degree kidnapping.
- 20 Guilty of simple kidnapping.
- 21 Guilty of attempted simple kidnapping.
- 22 Not guilty.
- 23 ~~19:26.~~ Attempted Aggravated Kidnapping:
- 24 Guilty.
- 25 Guilty of attempted second degree kidnapping.
- 26 Guilty of attempted simple kidnapping.
- 27 Not guilty.
- 28 ~~20:27.~~ Simple Kidnapping:
- 29 Guilty.

- 1 Guilty of attempted simple kidnapping.
- 2 Not guilty.
- 3 ~~21:28.~~ Attempted Simple Kidnapping:
- 4 Guilty.
- 5 Not guilty.
- 6 ~~22:29.~~ Armed Robbery:
- 7 Guilty.
- 8 Guilty of attempted armed robbery.
- 9 Guilty of first degree robbery.
- 10 Guilty of attempted first degree robbery.
- 11 Guilty of simple robbery.
- 12 Guilty of attempted simple robbery.
- 13 Not guilty.
- 14 ~~23:30.~~ Attempted Armed Robbery:
- 15 Guilty.
- 16 Guilty of attempted first degree robbery.
- 17 Guilty of attempted simple robbery.
- 18 Not guilty.
- 19 ~~23:1:31.~~ First Degree Robbery:
- 20 Guilty.
- 21 Guilty of attempted first degree robbery.
- 22 Guilty of simple robbery.
- 23 Guilty of attempted simple robbery.
- 24 Not guilty.
- 25 ~~24:32.~~ Simple Robbery:
- 26 Guilty.
- 27 Guilty of attempted simple robbery.
- 28 Not guilty.
- 29 ~~25:33.~~ Attempted Simple Robbery:

1 Guilty.

2 Not guilty.

3 ~~26.34.~~ Theft:

4 Guilty of theft of property having a value of twenty-five thousand dollars or
5 more.

6 Guilty of theft of property having a value of five thousand dollars or more,
7 but less than twenty-five thousand dollars.

8 Guilty of theft of property having a value of ~~seven hundred fifty~~ one thousand
9 dollars or more, but less than five thousand dollars.

10 Guilty of theft of property having a value of less than ~~seven hundred fifty~~ one
11 thousand dollars.

12 Guilty of attempted theft of property having a value of twenty-five thousand
13 dollars or more.

14 Guilty of attempted theft of property having a value of five thousand dollars
15 or more, but less than twenty-five thousand dollars.

16 Guilty of attempted theft of property having a value of ~~seven hundred fifty~~
17 one thousand dollars or more, but less than five thousand dollars.

18 Guilty of attempted theft of property having a value of less than ~~seven~~
19 ~~hundred fifty~~ one thousand dollars.

20 Guilty of unauthorized use of movables having a value in excess of ~~five~~
21 ~~hundred~~ one thousand dollars.

22 Guilty of unauthorized use of movables having a value of ~~five hundred~~ one
23 thousand dollars or less.

24 Not guilty.

25 ~~27.35.~~ Attempted Theft:

26 Guilty of attempted theft of property having a value of twenty-five thousand
27 dollars or more.

28 Guilty of attempted theft of property having a value of five thousand dollars
29 or more, but less than twenty-five thousand dollars.

1 Guilty of attempted theft of property having a value of ~~seven hundred fifty~~
2 one thousand dollars or more, but less than ~~twenty-five~~ five thousand dollars.

3 Guilty of attempted theft of property having a value of less than ~~seven~~
4 ~~hundred fifty~~ one thousand dollars.

5 ~~Guilty of attempted unauthorized use of movables having a value of less than~~
6 ~~one hundred dollars.~~

7 Guilty of attempted unauthorized use of movables having a value in excess
8 of ~~five hundred~~ one thousand dollars.

9 Guilty of attempted unauthorized use of movables having a value of ~~five~~
10 ~~hundred~~ one thousand dollars or less.

11 Not guilty.

12 ~~28.36.~~ Aggravated Arson:

13 Guilty.

14 Guilty of simple arson where the damage amounted to five hundred dollars
15 or more.

16 Guilty of simple arson where the damage amounted to less than five hundred
17 dollars.

18 The simple arson verdicts are responsive only if the words "belonging to
19 another and with damage amounting to _____ dollars" are included in the
20 indictment.

21 Not guilty.

22 ~~29.37.~~ Attempted Aggravated Arson:

23 Guilty.

24 Guilty of attempted simple arson where the damage would have amounted
25 to five hundred dollars or more.

26 Guilty of attempted simple arson where the damage would have amounted
27 to less than five hundred dollars.

1 The attempted simple arson verdicts are responsive only if the words
2 "belonging to another and with damage that would have amounted to _____
3 dollars" are included in the indictment.

4 Not guilty.

5 ~~30:38~~. Simple Arson:

6 Guilty of simple arson where the damage done amounted to five hundred
7 dollars or more.

8 Guilty of simple arson where the damage done amounted to less than five
9 hundred dollars.

10 Not guilty.

11 ~~31:39~~. Attempted Simple Arson:

12 Guilty of attempted arson where the damage would have amounted to five
13 hundred dollars or more.

14 Guilty of attempted simple arson where the damage would have amounted
15 to less than five hundred dollars.

16 Not guilty.

17 ~~32:40~~. Arson With Intent to Defraud:

18 Guilty.

19 Not guilty.

20 ~~33:41~~. Attempted Arson With Intent to Defraud:

21 Guilty.

22 Not guilty.

23 ~~34:42~~. Aggravated Criminal Damage to Property:

24 Guilty.

25 Guilty of simple criminal damage to property where the damage amounted
26 to fifty thousand dollars or more.

27 Guilty of simple criminal damage to property where the damage amounted
28 to ~~five hundred~~ one thousand dollars or more, but less than fifty thousand dollars.

1 Guilty of simple criminal damage to property where the damage amounted
2 to less than ~~five hundred~~ one thousand dollars.

3 The simple criminal damage to property verdicts are responsive only if the
4 words "belonging to another and with damage amounting to _____ dollars" are
5 included in the indictment.

6 Not guilty.

7 ~~35:43.~~ Attempted Aggravated Criminal Damage to Property:

8 Guilty.

9 Guilty of attempted simple criminal damage to property where the damage
10 would have amounted to fifty thousand dollars or more.

11 Guilty of attempted simple criminal damage to property where the damage
12 would have amounted to ~~five hundred~~ one thousand dollars or more, but less than
13 fifty thousand dollars.

14 Guilty of attempted simple criminal damage to property where the damage
15 would have amounted to less than ~~five hundred~~ one thousand dollars.

16 The attempted simple criminal damage to property verdicts are responsive
17 only if the words "belonging to another and with damage that would have amounted
18 to _____ dollars" are included in the indictment.

19 Not guilty.

20 ~~36:44.~~ Simple Criminal Damage to Property:

21 Guilty of simple criminal damage to property where the damage done
22 amounted to fifty thousand dollars or more.

23 Guilty of simple criminal damage to property where the damage done
24 amounted to ~~five hundred~~ one thousand dollars or more, but less than fifty thousand
25 dollars.

26 Guilty of simple criminal damage to property where the damage done
27 amounted to less than ~~five hundred~~ one thousand dollars.

28 Not guilty.

29 ~~37:45.~~ Attempted Simple Criminal Damage to Property:

1 Guilty of attempted simple criminal damage to property where the damage
2 would have amounted to fifty thousand dollars or more.

3 Guilty of attempted simple criminal damage to property where the damage
4 would have amounted to ~~five hundred~~ one thousand dollars or more, but less than
5 fifty thousand dollars.

6 Guilty of attempted simple criminal damage to property where the damage
7 would have amounted to less than ~~five hundred~~ one thousand dollars.

8 Not guilty.

9 ~~38:46.~~ 38:46. Damage to Property With Intent to Defraud:

10 Guilty.

11 Not guilty.

12 ~~39:47.~~ 39:47. Attempted Damage to Property With Intent to Defraud:

13 Guilty.

14 Not guilty.

15 ~~40:48.~~ 40:48. Aggravated Burglary:

16 Guilty.

17 Guilty of attempted aggravated burglary.

18 Guilty of simple burglary.

19 Guilty of attempted simple burglary.

20 Guilty of simple burglary of an inhabited dwelling.

21 Guilty of attempted simple burglary of an inhabited dwelling.

22 Guilty of unauthorized entry of an inhabited dwelling.

23 Guilty of attempted unauthorized entry of an inhabited dwelling.

24 Not guilty.

25 ~~41:49.~~ 41:49. Attempted Aggravated Burglary:

26 Guilty.

27 Guilty of attempted simple burglary.

28 Guilty of attempted simple burglary of an inhabited dwelling.

29 Guilty of attempted unauthorized entry of an inhabited dwelling.

- 1 Not guilty.
- 2 ~~42:50.~~ Simple Burglary:
- 3 Guilty.
- 4 Guilty of attempted simple burglary.
- 5 Guilty of unauthorized entry of a place of business.
- 6 Guilty of attempted unauthorized entry of a place of business.
- 7 Not guilty.
- 8 ~~43:51.~~ Simple Burglary of an Inhabited Dwelling:
- 9 Guilty.
- 10 Guilty of attempted simple burglary of an inhabited dwelling.
- 11 Guilty of unauthorized entry of an inhabited dwelling.
- 12 Guilty of attempted unauthorized entry of an inhabited dwelling.
- 13 Not guilty.
- 14 ~~44:52.~~ Attempted Simple Burglary:
- 15 Guilty.
- 16 Not guilty.
- 17 ~~45:53.~~ Aggravated Flight from an Officer:
- 18 Guilty.
- 19 Guilty of flight from an officer.
- 20 Not guilty.
- 21 ~~46:54.~~ Contamination of Water Supplies:
- 22 Guilty of contaminating water supplies when the act foreseeably endangered
- 23 the life or health of human beings.
- 24 Guilty of contaminating water supplies when the act did not foreseeably
- 25 endanger the life or health of human beings.
- 26 Not guilty.
- 27 ~~47:55.~~ Attempted Contamination of Water Supplies:
- 28 Guilty of attempted contamination of water supplies when the act would
- 29 foreseeably endanger the life or health of human beings.

1 Guilty of attempted contamination of water supplies when the act would not
2 foreseeably endanger the life or health of human beings.

3 Not guilty.

4 ~~48:56.~~ Production, Manufacture, Distribution or Dispensation of Controlled
5 Dangerous Substances:

6 Guilty.

7 Guilty of attempted production, manufacture, distribution or dispensation of
8 controlled dangerous substances.

9 Guilty of possession of controlled dangerous substances.

10 Guilty of attempted possession of controlled dangerous substances.

11 Not guilty.

12 ~~49:57.~~ Possession of Controlled Dangerous Substances With Intent to
13 Produce, Manufacture, Distribute, or Dispense:

14 Guilty.

15 Guilty of attempted possession of controlled dangerous substances with intent
16 to produce, manufacture, distribute, or dispense.

17 Guilty of possession of controlled dangerous substances.

18 Guilty of attempted possession of controlled dangerous substances.

19 Not guilty.

20 ~~50:58.~~ Possession of Controlled Dangerous Substances:

21 Guilty.

22 Guilty of attempted possession of controlled dangerous substances.

23 Not guilty.

24 ~~51:59.~~ Possession of Cocaine:

25 Guilty.

26 Guilty of attempted possession of cocaine.

27 Guilty of possession of drug paraphernalia.

28 Not guilty.

1 The possession of drug paraphernalia verdict is responsive only if there is
2 evidence of drug paraphernalia, as defined in R.S. ~~40:1031~~ 40:1021, in the charged
3 offense of possession of cocaine.

4 ~~52:60.~~ 52:60. Attempted Production or Manufacture of Controlled Dangerous
5 Substances:

6 Guilty.

7 Guilty of attempted possession of controlled dangerous substances.

8 Not guilty.

9 ~~53:61.~~ 53:61. Attempted Distribution or Dispensation of Controlled Dangerous
10 Substances:

11 Guilty.

12 Guilty of possession of controlled dangerous substances.

13 Guilty of attempted possession of controlled dangerous substances.

14 Not guilty.

15 ~~54:62.~~ 54:62. Attempted Possession of Controlled Dangerous Substances With
16 Intent to Produce, Manufacture, Distribute or Dispense:

17 Guilty.

18 Guilty of attempted possession of controlled dangerous substances.

19 Not guilty.

20 ~~55:63.~~ 55:63. Creation or Distribution of Counterfeit Controlled Dangerous
21 Substances:

22 Guilty.

23 Guilty of attempted creation or distribution of counterfeit controlled
24 dangerous substances.

25 Not guilty.

26 ~~56:64.~~ 56:64. Possession of Counterfeit Controlled Dangerous Substances With
27 Intent to Distribute:

28 Guilty.

1 Guilty of attempted possession of counterfeit controlled dangerous substances
2 with intent to distribute.

3 Not guilty.

4 ~~57:65.~~ Attempted Creation, Distribution, or Possession of Counterfeit
5 Controlled Dangerous Substances With Intent to Distribute:

6 Guilty.

7 Not guilty.

8 ~~58:66.~~ Conspiracy to Violate any Provision of the Uniform Controlled
9 Dangerous Substances Law:

10 Guilty.

11 Not guilty.

12 ~~59:67.~~ Cruelty to Persons with Infirmities:

13 Guilty.

14 Guilty of attempted cruelty to persons with infirmities.

15 Guilty of simple battery.

16 Guilty of assault.

17 Guilty of negligent injuring.

18 Not guilty.

19 ~~60:68.~~ Solicitation of Crime Against Nature:

20 Guilty.

21 Guilty of attempted solicitation of crime against nature.

22 Guilty of prostitution.

23 Not guilty.

24 B.(1) Except as provided in Paragraph A, responsive verdicts in any other
25 cases arising under the Uniform Controlled Dangerous Substances Law shall be
26 governed by Article 815 of this Code.

27 (2) For purposes of this Article and Article 815, for any offense arising under
28 the Uniform Controlled Dangerous Substances Law that is graded according to the
29 weight of the substance, the responsive verdicts shall include grades of the offense

Prior to Act No. 281 of the 2017 R.S., the crime of simple criminal damage to property provided certain criminal penalties based on the following thresholds:

- (1) The damage is less than \$500.
- (2) The damage amounts to \$500 but less than \$50,000.

Prior to Act No. 281 of the 2017 R.S., the crime of unauthorized use of a movable provided certain criminal penalties based on the following thresholds:

- (1) The movable has a value of \$500 or less.
- (2) The movable has a value in excess of \$500.

Act No. 281 of the 2017 R.S. amended the threshold values for certain penalties provided in the crimes of theft, simple criminal damage to property, and unauthorized use of a movable to provide as follows:

- (1) For the crime of theft, the threshold value of \$750 was increased to a value of \$1,000.
- (2) For the crimes of simple criminal damage to property and unauthorized use of a movable, the threshold value of \$500 was increased to \$1,000.

Present law responsive verdicts for the crimes of theft, aggravated criminal damage to property, simple criminal damage to property, and the attempt to commit these offenses do not reflect the present law threshold values for the crimes of theft, simple criminal damage to property, and unauthorized use of a movable, but instead reflect the law that was in effect prior to Act No. 281 of the 2017 R.S.

Proposed law amends the present law responsive verdicts for the crimes of theft, aggravated criminal damage to property, simple criminal damage to property, and the attempt to commit these offenses to reflect the present law threshold values for the crimes of theft, simple criminal damage to property, and unauthorized use of a movable.

Proposed law makes other technical changes to present law, including renumbering the responsive verdicts provided in present law to remove decimalization.

(Amends C.Cr.P. Art. 814(A) and (B))