

2018 Regular Session

HOUSE BILL NO. 526

BY REPRESENTATIVE BAGNERIS

PROBATION: Provides relative to probation violations of persons on probation for a crime of violence or sex offense

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 900(A)(5) and (6)(b), relative to
3 probation; to provide relative to revocation of a defendant's probation; to provide
4 relative to the credit a defendant receives for time served while on probation when
5 probation is revoked; to provide relative to the amount of time a defendant is
6 required to serve for a technical violation; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 900(A)(5) and (6)(b) are hereby
9 amended and reenacted to read as follows:

10 Art. 900. Violation hearing; sanctions

11 A. After an arrest pursuant to Article 899, the court shall cause a defendant
12 who continues to be held in custody to be brought before it within thirty days for a
13 hearing. If a summons is issued pursuant to Article 899, or if the defendant has been
14 admitted to bail, the court shall set the matter for a violation hearing within a
15 reasonable time. The hearing may be informal or summary. The defendant may
16 choose, with the court's consent, to appear at the violation hearing and stipulate the
17 revocation by simultaneous audio-visual transmission in accordance with the
18 provisions of Article 562. If the court decides that the defendant has violated, or was
19 about to violate, a condition of his probation it may:

20 * * *

1 (5)(a) Order that the probation be revoked. In the event of revocation, the
2 defendant shall serve the sentence suspended; with ~~or without~~ credit for the time
3 served on probation ~~at the discretion of the court~~. If the imposition of sentence was
4 suspended, the defendant shall serve the sentence imposed by the court at the
5 revocation hearing.

6 ~~(b) Notwithstanding the provisions of Subsubparagraph (a) of this~~
7 ~~Subparagraph, in the event of revocation for a defendant placed on probation for the~~
8 ~~conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or~~
9 ~~a sex offense as defined in R.S. 15:541, the defendant shall serve the sentence~~
10 ~~suspended with credit for time served on probation.~~

11 (6)

12 * * *

13 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
14 any defendant who has been placed on probation by the court ~~for the conviction of~~
15 ~~an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex~~
16 ~~offense as defined by R.S. 15:541~~, and who has had his probation revoked under the
17 provisions of this Article for a technical violation of his probation as determined by
18 the court, shall be required to serve, without diminution of sentence, as follows:

19 * * *

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 526 Original 2018 Regular Session Bagneris

Abstract: Provides relative to the credit a non-violent, non-sex offender receives for time served while on probation when probation is revoked, and the amount of time the offender is required to serve for a technical violation of his probation conditions.

Present law provides that after an arrest of a defendant who was placed on probation, the court shall cause a defendant who continues to be held in custody to be brought before it within 30 days for a violation hearing. If the court decides that the defendant has violated, or was about to violate, a condition of his probation, present law provides for a list of actions that the court is authorized to take including the issuance of an order that the defendant's probation be revoked.

In the event of revocation, present law provides that the defendant shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court. However, if the defendant was placed on probation for the conviction of a non-violent, non-sex offense, present law provides that the defendant shall receive credit toward his suspended sentence for the time he served while on probation.

Proposed law amends present law to provide that in the event of revocation, the defendant shall serve the sentence suspended with credit for the time served on probation regardless of the offense for which his sentence was suspended.

Present law provides that any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence or sex offense, and who has had his probation revoked pursuant to present law for a technical violation of his probation as determined by the court, shall be required to serve, without diminution of sentence, as follows:

- (i) For a first technical violation, not more than fifteen days.
- (ii) For a second technical violation, not more than thirty days.
- (iii) For a third or subsequent technical violation, not more than forty-five days.
- (iv) For custodial substance abuse treatment programs, not more than ninety days.

Proposed law retains present law, but expands its application to defendants placed on probation for the conviction of a crime of violence or sex offense.

(Amends C.Cr.P. Art. 900(A)(5) and (6)(b))