

2018 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVE MARINO

CRIMINAL/SENTENCING: Provides relative to persons participating in certain specialty court programs

1 AN ACT

2 To amend and reenact R.S. 15:574.6.1(A) and Code of Criminal Procedure Articles  
3 893(B)(1)(introductory paragraph) and (b)(iii) and (iv) and (G) and 895.6(A) and to  
4 enact Code of Criminal Procedure Article 893(B)(1)(b)(v), (vi), and (vii), relative to  
5 participation in specialty court programs; to authorize probation for persons  
6 convicted of certain offenses to allow for participation in a specialty court program  
7 upon approval by the district attorney and under certain circumstances; to provide  
8 relative to the circumstances under which the sentence of a fourth conviction for a  
9 noncapital felony may be suspended; to provide relative to the duration of probation  
10 when a defendant is placed in a specialty court program; to prohibit specialty court  
11 program participants from earning compliance credits toward a term of probation or  
12 parole; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Code of Criminal Procedure Articles 893(B)(1)(introductory paragraph)  
15 and (b)(iii) and (iv) and (G) and 895.6(A) are hereby amended and reenacted and Code of  
16 Criminal Procedure Article 893(B)(1)(b)(v), (vi), and (vii) are hereby enacted to read as  
17 follows:

18 Art. 893. Suspension and deferral of sentence and probation in felony cases

19 \* \* \*

20 B.(1) Notwithstanding any other provision of law to the contrary, when it  
21 appears that the best interest of the public and of the defendant will be served, the

1 court, after a fourth conviction of a noncapital felony or after a third or fourth  
2 conviction of operating a vehicle while intoxicated pursuant to R.S. 14:98, may  
3 suspend, in whole or in part, the imposition or execution of the sentence when the  
4 defendant was not offered such alternatives prior to his fourth conviction of  
5 operating a vehicle while intoxicated and the following conditions exist:

6 \* \* \*

7 (b) The court orders the defendant to do any of the following:

8 \* \* \*

9 (iii) Enter and complete a mental health court program established pursuant  
10 to R.S. 13:5351 et seq.

11 (iv) Enter and complete a Veterans Court program established pursuant to  
12 R.S. 13:5361 et seq.

13 (v) Enter and complete a reentry court program established pursuant to R.S.  
14 13:5401.

15 ~~(iii)~~(vi) Reside for a minimum period of one year in a facility which  
16 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.  
17 40:2851 et seq.

18 ~~(iv)~~(vii) Enter and complete the Swift and Certain Probation Pilot Program  
19 established pursuant to R.S. 13:5371 et seq.

20 \* \* \*

21 G. If the court, with the consent of the district attorney, orders a defendant;  
22 ~~upon a third conviction or fourth felony conviction;~~ to enter and complete a program  
23 provided by the drug division of the district court pursuant to R.S. 13:5301, an  
24 established driving while intoxicated court or sobriety court program, a mental health  
25 court program established pursuant to R.S. 13:5351 et seq., a Veterans Court  
26 program established pursuant to R.S. 13:5361 et seq., a reentry court established  
27 pursuant to R.S. 13:5401, or the Swift and Certain Probation Pilot Program  
28 established pursuant to R.S. 13:5371, the court may place the defendant on probation  
29 for a period of not more than eight years if the court determines that successful

1 completion of the program may require that period of probation to exceed the three-  
2 year limit. The court may not extend the duration of the probation period solely due  
3 to unpaid fees and fines. The period of probation as initially fixed or as extended  
4 shall not exceed eight years.

5 \* \* \*

6 Art. 895.6. Compliance credits; probation

7 A.(1) Every Except as provided in Subparagraph (2) of this Paragraph, every  
8 defendant on felony probation pursuant to Article 893 for an offense other than a  
9 crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.  
10 15:541 shall earn a diminution of probation term, to be known as "earned compliance  
11 credits", by good behavior. The amount of diminution of probation term allowed  
12 under this Article shall be at the rate of thirty days for every full calendar month on  
13 probation.

14 (2) A defendant who is ordered by the court to enter and complete a specialty  
15 court program is not eligible to receive earned compliance credits pursuant to the  
16 provisions of this Article. For purposes of this Article, "specialty court program"  
17 includes any of the following: a program provided by the drug division of the  
18 district court pursuant to R.S. 13:5301, an established driving while intoxicated court  
19 or sobriety court program, a mental health court program established pursuant to R.S.  
20 13:5351 et seq., a Veterans Court program established pursuant to R.S. 13:5361 et  
21 seq., a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain  
22 Probation Pilot Program established pursuant to R.S. 13:5371.

23 \* \* \*

24 Section 2. R.S. 15:574.6.1(A) is hereby amended and reenacted to read as follows:

25 §574.6.1. Compliance credits; parole

26 A.(1) Every Except as provided in Paragraph (2) of this Subsection, every  
27 offender on parole for an offense other than a crime of violence as defined by R.S.  
28 14:2(B) or a sex offense as defined by R.S. 15:541 shall earn a diminution of parole  
29 term, to be known as "earned compliance credits", by good behavior on parole. The

1 amount of diminution of parole term allowed under this Section shall be at the rate  
2 of thirty days for every full calendar month on parole.

3 (2) A defendant who as a condition of his release on parole is required to  
4 enter and complete a reentry court program established pursuant to R.S. 13:5401 is  
5 not eligible to receive earned compliance credits pursuant to the provisions of this  
6 Section.

7 \* \* \*

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### 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 537 Engrossed

2018 Regular Session

Marino

**Abstract:** Authorizes suspension of sentence for noncapital felony offenses when certain conditions are met, and authorizes the extension of probation and prohibits earning of compliance credits for persons ordered to enter and complete certain specialty court programs.

Present law authorizes the court to suspend a sentence and place a defendant on probation after a first, second, or third conviction for a noncapital felony. The period of probation shall be specified and shall not be more than three years.

Present law further provides that the court, under certain circumstances, may suspend the sentence and place a defendant on probation after a fourth conviction of operating a vehicle while intoxicated if certain conditions are met:

- (1) The defendant was not offered such alternatives prior to his fourth conviction of operating a vehicle while intoxicated.
- (2) The district attorney consents to the suspension of the sentence.
- (3) The court orders the defendant to do any of the following:
  - (a) Enter and complete a program provided by the drug division of the district court pursuant to present law.
  - (b) Enter and complete an established driving while intoxicated court or sobriety court program.
  - (c) Reside for a minimum period of one year in a facility which conforms to the present law Judicial Agency Referral Residential Facility Regulatory Act.
  - (d) Enter and complete the Swift and Certain Probation Pilot Program established pursuant to present law.

In this regard, present law provides that the period of probation shall be specified and shall not exceed three years, unless the court determines that successful completion of the program may require the period of probation to exceed the three-year limit, up to eight years.

Proposed law amends present law to authorize the court to suspend the sentence and place a defendant on probation for either of the following when the conditions provided in present law are met:

- (1) A fourth conviction of any noncapital felony offense.
- (2) A third or fourth offense of operating a vehicle while intoxicated.

In addition, proposed law adds the following to the list of programs that the court may order the defendant to enter and complete: a mental health court program, a Veterans Court program, and a reentry court program.

Present law provides that if the court, with the consent of the district attorney, orders a defendant, upon a third conviction or fourth felony conviction, to enter and complete any of the following present law programs, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the three-year limit: a program provided by the drug division of the district court, an established driving while intoxicated court or sobriety court program, a mental health court program, a Veterans Court program, a reentry court program, or the Swift and Certain Probation Pilot Program.

Proposed law expands present law to allow the court to extend the period of probation beyond the three-year limit, up to eight years, for a first, second, third, or fourth conviction, for which present law allows the suspension of sentence, if the defendant is ordered to complete any of the programs set forth in present law.

Present law provides that every defendant placed on probation and every defendant released on parole, except for those defendants convicted of a crime of violence or sex offense, shall earn a diminution of probation or parole term, to be known as "earned compliance credits", by good behavior.

Proposed law amends present law to provide that a defendant placed on probation who is ordered to enter and complete a specialty court program is not eligible to receive earned compliance credits, and to provide that a defendant who is required to enter and complete a reentry court program as a condition of his release on parole is not eligible to receive earned compliance credits.

(Amends R.S. 15:574.6.1(A) and C.Cr.P. Arts. 893(B)(1)(intro. para.) and (b)(iii) and (iv) and (G) and 895.6(A); Adds C.Cr.P. Art. 893(B)(1)(b)(v), (vi), and (vii))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Authorize the court to suspend the sentence for a third or fourth conviction of operating a vehicle while intoxicated if certain conditions are met including consent of the district attorney and the requirement that the defendant participate in a specialty court program.
2. Add that a defendant who is ordered to enter and complete a specialty court program is not eligible to receive earned compliance credits.
3. Add that a defendant who, as a condition of parole, is required to enter and complete a reentry court program is not eligible to receive earned compliance credits.