

2018 Regular Session

HOUSE BILL NO. 807

BY REPRESENTATIVE JAY MORRIS

CRIMINAL/PROCEDURE: Provides relative to probation and parole violations

1 AN ACT

2 To amend and reenact R.S. 15:574.9(H)(2)(introductory paragraph) and Code of Criminal
3 Procedure Article 900(A)(5) and (6)(b)(introductory paragraph) and (d)(introductory
4 paragraph), relative to probation or parole violations; to provide relative to the credit
5 a defendant receives for time served while on probation when probation is revoked;
6 to provide relative to technical violations of parole or probation conditions; to
7 provide for discretion in determining whether a violation is a technical violation
8 except for certain violations; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:574.9(H)(2)(introductory paragraph) is hereby amended and
11 reenacted to read as follows:

12 §574.9. Revocation of parole for violation of condition; committee panels; return
13 to custody hearing; duration of reimprisonment and reparole after revocation;
14 credit for time served; revocation for a technical violation

15 * * *

16 H.

17 * * *

18 (2) A "technical violation", as used in this Subsection, ~~means~~ may include,
19 in the discretion of the committee on parole, any violation except it shall not include
20 any of the following:

21 * * *

1 Section 2. Code of Criminal Procedure Article 900(A)(5) and (6)(b)(introductory
2 paragraph) and (d)(introductory paragraph) are hereby amended and reenacted to read as
3 follows:

4 Art. 900. Violation hearing; sanctions

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

14 * * *

15 (5)(a) Order that the probation be revoked. In the event of revocation the
16 defendant shall serve the sentence suspended, with or without credit for the time
17 served on probation at the discretion of the court. If the imposition of sentence was
18 suspended, the defendant shall serve the sentence imposed by the court at the
19 revocation hearing.

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

25 (6)

26 * * *

27 (b) ~~Notwithstanding the provisions of Subparagraph (A)(5) of this Article,~~
28 any Any defendant who has been placed on probation by the court for the conviction
29 of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex

1 offense as defined by R.S. 15:541, and who has had his probation revoked under the
2 provisions of this Article for a technical violation of his probation as determined by
3 the court, shall be required to serve, without diminution of sentence, as follows:

4 * * *

5 (d) A "technical violation", as used in this Paragraph, ~~means~~ may include,
6 in the discretion of the court, any violation, except it shall not include any of the
7 following:

8 * * *

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 807 Original

2018 Regular Session

Jay Morris

Abstract: Provides for the amount of credit a defendant receives for time served while on probation when probation is revoked, and provides for the determination of a "technical violation" for purposes of probation and parole.

Present law provides that when a defendant's sentence is suspended and the defendant is placed on probation, if the defendant's probation is subsequently revoked, the defendant shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court.

Present law further provides that in the event of revocation for a defendant placed on probation for the conviction of an offense other than a crime of violence or a sex offense, the defendant shall serve the sentence suspended with credit for time served on probation.

Proposed law removes this provision of present law which required that a defendant, whose probation has been revoked, receive credit for time served while on probation for a nonviolent, non-sex offense, and instead authorizes the court to determine whether the defendant shall receive such credit.

Present law provides that any offender who is placed on probation or parole and whose probation or parole is being revoked for a technical violation shall be required to serve the following sentences:

- (1) For a first violation - not more than 15 days.
- (2) For a second violation - not more than 30 days.
- (3) For a third or subsequent violation - not more than 45 days.
- (4) For custodial substance abuse treatment programs - not more than 90 days.

For these purposes, present law defines "technical violation" as any violation except it shall not include any of the following:

- (1) An allegation of a criminal act that is subsequently proven to be a felony.
- (2) An allegation of a criminal act that is subsequently proven to be an intentional misdemeanor directly affecting the person.
- (3) An allegation of a criminal act that is subsequently proven to be a violation of a protective order issued against the offender to protect a household member, family member, or dating partner.
- (4) Being in possession of a firearm or other prohibited weapon.
- (5) Absconding from the jurisdiction of the committee on parole by leaving the state without the prior approval of the probation and parole officer.

Proposed law provides the court with discretion to determine whether a violation of probation conditions is "technical" except for the list of specific violations which cannot be "technical" as provided by present law and provides the committee on parole with discretion to determine what constitutes a "technical violation" of parole.

(Amends R.S. 15:574.9(H)(2)(intro. para.) and C.Cr.P. Art. 900(A)(5) and (6)(b)(intro. para.) and (d)(intro. para.))