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## DIGEST

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Proposed law removes this provision of present law which required that a defendant, whose probation has been revoked, receive credit for time served while on probation for a nonviolent, non-sex offense, and instead authorizes the court to determine whether the defendant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