

2018 Regular Session

HOUSE BILL NO. 452

BY REPRESENTATIVES DWIGHT AND COUSSAN

PROBATION: Provides relative to administrative sanctions

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 899.2(B)(1), relative to
3 administrative sanctions for certain violations of probation; to remove the prohibition
4 of incarceration under certain circumstances; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 899.2(B)(1) is hereby amended and
7 reenacted to read as follows:

8 Art. 899.2. Administrative sanctions for technical violations; offenses other than
9 crimes of violence or sex offenses

10 * * *

11 B. The department shall promulgate rules to implement the provisions of this
12 Article to establish the following:

13 (1)~~(a)~~ A system of structured, administrative sanctions which shall be
14 imposed for technical violations of probation and which shall take into consideration
15 the following factors:

16 ~~(i)~~(a) The severity of the violation behavior.

17 ~~(ii)~~(b) The prior violation history.

18 ~~(iii)~~(c) The severity of the underlying criminal conviction.

19 ~~(iv)~~(d) The criminal history of the probationer.

20 ~~(v)~~(e) Any special circumstances, characteristics, or resources of the
21 probationer.

1 ~~(vi)~~(f) Protection of the community.

2 ~~(vii)~~(g) Deterrence.

3 ~~(viii)~~(h) The availability of appropriate local sanctions, including but not
4 limited to jail, treatment, community service work, house arrest, electronic
5 surveillance, restitution centers, work release centers, day reporting centers, or other
6 local sanctions.

7 ~~(b) Incarceration shall not be used for the lowest-tier violations including the~~
8 ~~first positive drug test and the first or second violation for the following:~~

9 ~~(i) Association with known felons or persons involved in criminal activity.~~

10 ~~(ii) Changing residence without permission.~~

11 ~~(iii) Failure to initially report as required. However, incarceration may be~~
12 ~~used if the court, after a contradictory hearing, finds that the probationer wilfully~~
13 ~~failed to report as required and instructed for the purpose of permanently avoiding~~
14 ~~probation supervision.~~

15 ~~(iv) Failure to pay restitution for up to three months.~~

16 ~~(v) Failure to report as instructed. However, incarceration may be used if the~~
17 ~~court, after a contradictory hearing, finds that the probationer wilfully failed to report~~
18 ~~as required and instructed for the purpose of permanently avoiding probation~~
19 ~~supervision.~~

20 ~~(vi) Traveling without permission.~~

21 ~~(vii) Occasion of unemployment and failure to seek employment within~~
22 ~~ninety days.~~

23 ~~(c) Incarceration shall not be used for first or second violations of alcohol~~
24 ~~use or admission, except for defendants convicted of operating a vehicle while~~
25 ~~intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse battery~~
26 ~~pursuant to R.S. 14:35.3 committed by one family member or household member~~
27 ~~against another; defendants convicted of battery by one dating partner as defined by~~
28 ~~R.S. 46:2151 against another; or defendants convicted of violation of a protective~~
29 ~~order, pursuant to R.S. 14:79, issued against the defendant to protect a family~~

