



- (e) Any offense defined as an "aggravated offense", a "sex offense", or as a "sex offense against a victim who is a minor".
  - (f) Any felony offense listed as an offense against a person.
  - (g) Any felony offense listed as an offense affecting the public's sensibilities.
  - (h) Any felony offense listed as an offense against organized government.
  - (i) Any offense listed as a miscellaneous crime or offense with the exception of offenses pertaining to contraband.
- (2) The defendant is a first offender or a subsequent offender who has not previously participated in the drug division probation program.
  - (3) The defendant cannot have any prior felony conviction defined as a homicide.
  - (4) The defendant cannot have any other criminal proceeding currently pending against him which involves an offense excluded by proposed law.

Present law provides that the defendant must agree to the drug division probation program. If the defendant elects to undergo treatment and participate in the drug division probation program, then the court is required to order an examination of the defendant by one of the court's designated licensed treatment professionals. Treatment professionals are required to possess sufficient experience in working with criminal justice clients with alcohol or drug abuse or addictions, or both, and be certified and approved by the state of Louisiana. The designated treatment professionals are required to utilize standardized testing and evaluation procedures to determine whether or not the defendant is an appropriate candidate for a treatment program and shall report such findings to the court and the district attorney.

Proposed law retains present law but also requires that treatment professionals are also required to possess sufficient experience in working with mental illness.

Proposed law provides that if the defendant meets the eligibility requirements set forth in proposed law and the treatment program examiner recommends that the defendant is suitable for the program, the court shall accept the defendant's guilty plea and suspend or defer the imposition of sentence and place the defendant on probation under the terms and conditions of the drug division probation program. Proposed law also authorizes the court to impose sentence and suspend the execution thereof, placing the defendant on probation under the terms and conditions of the drug division probation program.

Proposed law provides that if the defendant does not meet the mandatory eligibility requirements in proposed law that the district attorney may propose that the court have the person screened for eligibility if certain criteria in proposed law are satisfied.

Present law provides that if the court finds that the probationer has violated a condition of probation or a provision of the probation agreement and that the probationer should be removed from the probation program, then the court is authorized to revoke the probation and sentence the individual in accordance with the guilty plea or, if the individual has been sentenced and the sentence suspended, order the individual to begin serving the sentence.

Proposed law retains present law but provides that if the court revokes probation, the court is required to sentence the defendant in accordance with the guilty plea, except that one year of the sentence shall be served at hard labor without benefit of parole, probation, or suspension of sentence, or credit for good time, and the defendant is required to continue mandatory drug treatment for no less than nine months while in the custody of the Dept. of Public Safety and Corrections.

Proposed law provides that if an individual who meets the mandatory eligibility under proposed law and has been recommended suitable for the drug court probation program by the designated treatment professional does not enter a guilty plea, but is found guilty at trial, the court is required to sentence the individual to not less than one year at hard labor, without benefit of parole, probation, suspension of sentence, or credit for good time, and the court is further required to order the defendant to participate in mandatory drug treatment program for at least nine months while in the custody of the Dept. of Public Safety and Corrections.

Proposed law seeks to create a fund within the state treasury known as the "Drug Court Fund" which will consist of those revenues collected or derived from the current pharmaceutical-opioid litigation. The monies in this fund are required to be used solely for the purpose of awarding grants to the district courts to create or maintain the drug division within each district court. The Supreme Court Drug and Specialty Court Office is required to award such funds to the district courts, the Dept. of Public Safety and Corrections, as well as any other state or local entity tasked with compliance with the provisions of proposed law as are appropriate in its discretion and based upon the individual needs of each entity with respect to compliance with the provisions of proposed law.

Present law requires that the pre-trial drug testing program used to determine the presence of any controlled dangerous substance identified in the Uniform Controlled Substances Law to be performed prior to first court appearance and random testing thereafter to verify that the person is drug free.

Proposed law requires that the pre-trial drug testing program used to determine the presence of any controlled dangerous substance identified in the Uniform Controlled Substances Law to be performed within 24 hours of the booking of the person and random testing thereafter to verify that the person is drug free.

Proposed law provides that the presence of a positive drug test result during the booking process requires the assessment of a drug treatment professional within 24 hours of the positive drug test result to determine whether the person suffers from alcoholism or drug abuse or addiction, or both, or whether the person is in danger of becoming dependent on alcohol or drugs.

Proposed law requires that a positive drug test result and an assessment by a drug treatment

professional that the person suffers from alcoholism or drug abuse or addiction, or both, or is in danger of becoming dependent on alcohol or drugs be considered by the court as significant factors in its determination under present law as to whether the person poses a risk to the safety of any other person or the community, and the presence of these factors may be sufficient to hold a defendant without bail.

Proposed law requires that if the court determines that bail is appropriate for a person who, has a positive drug test result and an assessment by a drug treatment professional that the person suffers from alcoholism or drug abuse or addiction, or both, or is in danger of becoming dependent on alcohol or drugs, then as a mandatory condition of bail, random drug testing is required at least once every seven days.

Proposed law provides that notwithstanding any other conditions on bail, a refusal to submit to a drug test or a positive test result on any of the random drug testing is considered a violation of a condition of bail, that results in the revocation of bail and issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody.

Effective August 1, 2020.

(Amends R.S. 13:5304(A), (B), (D)(3)(b) and (G), and C. Cr. P. Art. 320(D) and (E); adds R.S. 13:5304(P) and 5306, and C. Cr. P. Art. 701(B)(3))