

2021 Regular Session

HOUSE BILL NO. 77

BY REPRESENTATIVE MARINO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROBATION: Provides relative to the suspension or deferral of sentence and probation in felony cases

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893(B), relative to suspension of  
3 sentences in felony cases; to provide relative to fourth or subsequent convictions;  
4 to provide relative to the consent of the district attorney; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 893(B) is hereby amended and  
8 reenacted to read as follows:

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

10 \* \* \*

11 B.(1) Notwithstanding any other provision of law to the contrary, when it  
12 appears that the best interest of the public and of the defendant will be served, the  
13 court, after a fourth or subsequent conviction of a noncapital felony may suspend,  
14 in whole or in part, the imposition or execution of the sentence upon consent of the  
15 district attorney.

16 (2) or after After a third or fourth conviction of operating a vehicle while  
17 intoxicated pursuant to R.S. 14:98, the court may suspend, in whole or in part, the  
18 imposition or execution of the sentence when the defendant was not offered such  
19 alternatives prior to his fourth conviction of operating a vehicle while intoxicated  
20 and the following conditions exist:

- 1 (a) The district attorney consents to the suspension of the sentence.
- 2 (b) The court orders the defendant to do any of the following:
- 3 (i) Enter and complete a program provided by the drug division of the district
- 4 court pursuant to R.S. 13:5301 et seq.
- 5 (ii) Enter and complete an established driving while intoxicated court or
- 6 sobriety court program.
- 7 (iii) Enter and complete a mental health court program established pursuant
- 8 to R.S. 13:5351 et seq.
- 9 (iv) Enter and complete a Veterans Court program established pursuant to
- 10 R.S. 13:5361 et seq.
- 11 (v) Enter and complete a reentry court program established pursuant to R.S.
- 12 13:5401.
- 13 (vi) Reside for a minimum period of one year in a facility which conforms
- 14 to the Judicial Agency Referral Residential Facility Regulatory Act, R.S. 40:2851 et
- 15 seq.
- 16 (vii) Enter and complete the Swift and Certain Probation Pilot Program
- 17 established pursuant to R.S. 13:5371 et seq.
- 18 ~~(2)~~(3) When suspension is allowed under this Paragraph, the defendant shall
- 19 be placed on probation under the supervision of the division of probation and parole.
- 20 The period of probation shall be specified and shall not be more than three years,
- 21 except as provided in Paragraph G of this Article. The suspended sentence shall be
- 22 regarded as a sentence for the purpose of granting or denying a new trial or appeal.
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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)]

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HB 77 Original

2021 Regular Session

Marino

**Abstract:** Authorizes the court, after a defendant's fourth or subsequent conviction of a noncapital felony, to suspend the imposition or execution of a sentence upon consent of the district attorney.

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. Provides that the period of probation shall be specified and shall not be more than three years.

Present law further provides that when it appears that the best interest of the public and of the defendant will be served, the court, after a fourth conviction of a noncapital felony or after a third or fourth conviction of operating a vehicle while intoxicated pursuant to present law (R.S. 14:98), may suspend, in whole or in part, the imposition or execution of the sentence when the defendant was not offered such alternatives prior to his fourth conviction of operating a vehicle while intoxicated and the following conditions exist:

- (1) The district attorney consents to the suspension of the sentence.
- (2) The court orders the defendant to do any of the following pursuant to present law:
  - (a) Enter and complete a program provided by the drug division of the district court.
  - (b) Enter and complete an established driving while intoxicated court or sobriety court program.
  - (c) Enter and complete a mental health court program.
  - (d) Enter and complete a Veterans Court program.
  - (e) Enter and complete a reentry court program.
  - (f) Reside for a minimum period of one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act.
  - (g) Enter and complete the Swift and Certain Probation Pilot Program.

Proposed law amends present law to provide that after a fourth or subsequent conviction of a noncapital felony, the court may suspend, in whole or in part, the imposition or execution of the sentence upon the consent of the district attorney. Proposed law removes the requirement for such defendants to participate in the present law speciality court programs.

Proposed law retains the requirement of the consent of the district attorney and the defendant's participation in the present law speciality court programs for defendants with a third or fourth conviction of operating a vehicle while intoxicated.

(Amends C.Cr.P. Art. 893(B))