

2021 Regular Session

HOUSE BILL NO. 232

BY REPRESENTATIVES MARINO AND JAMES

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

CRIMINAL/SENTENCING: Provides relative to discharge and dismissals of prosecutions for misdemeanor convictions

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 894(B)(2) and to repeal Code of
3 Criminal Procedure Article 894(B)(3), relative to suspension and deferral of sentence
4 and probation in misdemeanor cases; to provide relative to discharge and dismissal
5 of prosecutions; to remove the restriction that discharge and dismissal may occur
6 only once during a five-year period; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 894(B)(2) is hereby amended and
9 reenacted to read as follows:

10 Art. 894. Suspension and deferral of sentence; probation in misdemeanor cases

11 * * *

12 B.

13 * * *

14 (2) The dismissal of the prosecution shall have the same effect as an
15 acquittal, except that the conviction may be considered as a prior offense and provide
16 the basis for subsequent prosecution of the party as a multiple offender. ~~Discharge~~
17 ~~and dismissal under this provision may occur only once with respect to any person~~
18 ~~during a five-year period. Except as provided in Subparagraph (3) of this Paragraph,~~
19 ~~discharge~~ Discharge and dismissal under this provision for the offense of operating

1 a vehicle while intoxicated may occur only once with respect to any person during
2 a ~~ten-year~~ five-year period.

3 * * *

4 Section 2. Code of Criminal Procedure Article 894(B)(3) is hereby repealed in its
5 entirety.

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 232 Original

2021 Regular Session

Marino

Abstract: Provides relative to discharge and dismissal of misdemeanor convictions and removes the restriction that such discharge and dismissal may occur only once with respect to any person during a five-year period.

Present law relative to misdemeanor convictions, provides that dismissal of prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a prior offense and provide the basis for subsequent prosecution of the party as a multiple offender. Provides that such discharge and dismissal may occur only once with respect to any person during a five-year period. Further provides that discharge and dismissal for the offense of operating a vehicle while intoxicated may occur only once with respect to any person during a 10-year period.

Proposed law amends present law to remove the restriction that discharge and dismissal may occur only once with respect to any person during a five-year period. Further provides that a discharge and dismissal for the offense of operating a vehicle while intoxicated may occur only once within a five-year period rather than a 10-year period.

Present law provides that discharge and dismissal may occur on a single subsequent prosecution and conviction which occurs during a 10-year period if the following conditions are met:

- (1) The offender has successfully completed a driving while intoxicated court or sobriety court program.
- (2) The conditions imposed by the court pursuant to the provisions of present law (C.Cr.P. Art. 894(A)(3)) have been met.

Proposed law repeals present law.

(Amends C.Cr.P. Art. 894(B)(2); Repeals C.Cr.P. Art. 894(B)(3))