

2022 Regular Session

SENATE BILL NO. 142

BY SENATOR MORRIS

CRIMINAL JUSTICE. Prohibits felony violent or sex offenders from being released under certain circumstances. (8/1/22)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 890.1(D) and to enact R.S. 15:529.1(A)(5), relative to crimes of violence; to provide relative to minimum mandatory sentences for crimes of violence; to prohibit the waiver of minimum mandatory sentences for all crimes of violence; to provide an additional penalty for a second or subsequent offense when the offender has a criminal history including a crime of violence or sex offense; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 890.1(D) is hereby amended and reenacted to read as follows:

Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

* * *

D. The provisions of this Article shall not apply to a sex offense as defined in R.S. 15:541 or to any ~~of the following crimes~~ crime of violence as defined in

R.S. 14:2(B):

~~(1) R.S. 14:28.1 (Solicitation for murder):~~

~~(2) R.S. 14:30 (First degree murder):~~

- 1 ~~(3) R.S. 14:30.1 (Second degree murder).~~
- 2 ~~(4) R.S. 14:31 (Manslaughter).~~
- 3 ~~(5) R.S. 14:34.6 (Disarming of a peace officer).~~
- 4 ~~(6) R.S. 14:34.7 (Aggravated second degree battery).~~
- 5 ~~(7) R.S. 14:37.1 (Assault by drive-by shooting).~~
- 6 ~~(8) R.S. 14:37.4 (Aggravated assault with a firearm).~~
- 7 ~~(9) R.S. 14:42 (Aggravated or first degree rape).~~
- 8 ~~(10) R.S. 14:42.1 (Forcible or second degree rape).~~
- 9 ~~(11) R.S. 14:43 (Simple or third degree rape).~~
- 10 ~~(12) R.S. 14:43.1 (Sexual battery).~~
- 11 ~~(13) R.S. 14:43.2 (Second degree sexual battery).~~
- 12 ~~(14) R.S. 14:43.5 (Intentional exposure to AIDS virus).~~
- 13 ~~(15) R.S. 14:44 (Aggravated kidnapping).~~
- 14 ~~(16) R.S. 14:44.1 (Second degree kidnapping).~~
- 15 ~~(17) R.S. 14:46.2 (Human trafficking).~~
- 16 ~~(18) R.S. 14:46.3 (Trafficking of children for sexual purposes).~~
- 17 ~~(19) R.S. 14:51 (Aggravated arson).~~
- 18 ~~(20) R.S. 14:62.8 (Home invasion).~~
- 19 ~~(21) R.S. 14:64 (Armed robbery).~~
- 20 ~~(22) R.S. 14:64.4 (Second degree robbery).~~
- 21 ~~(23) R.S. 14:64.3 (Armed robbery; use of firearm).~~
- 22 ~~(24) R.S. 14:64.2 (Carjacking).~~
- 23 ~~(25) R.S. 14:78.1 (Aggravated incest).~~
- 24 ~~(26) R.S. 14:93.2.3 (Second degree cruelty to juveniles).~~
- 25 ~~(27) R.S. 14:128.1 (Terrorism).~~
- 26 ~~(28) R.S. 14:34 (Aggravated battery).~~
- 27 ~~(29) R.S. 14:37 (Aggravated assault).~~
- 28 ~~(30) R.S. 14:34.1 (Second Degree Battery)~~
- 29 ~~(31) R.S. 14:35.3 (Domestic Abuse Battery)~~

1 ~~(32) R.S. 14:40.2 (Stalking)~~

2 ~~(33) R.S. 14:64.1 (First Degree Robbery)~~

3 ~~(34) R.S. 14:32.5 (Feticide)~~

4 * * *

5 Section 2. R.S. 15:529.1(A)(5) is hereby enacted to read as follows:

6 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
7 of court in the state of Louisiana as evidence

8 A. * * *

9 **(5) In addition to the penalties provided in Paragraph (A)(1) through (4)**
10 **of this Section, and unless the offender is sentenced to life imprisonment, if the**
11 **instant felony and any prior felony is either a crime of violence as defined in**
12 **R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, the offender shall be**
13 **imprisoned at hard labor for an additional period of five years without benefit**
14 **of probation or suspension of sentence, to be served consecutively to the**
15 **sentence imposed pursuant to Paragraph (A)(1) through (4) of this Section.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

SB 142 Engrossed

2022 Regular Session

Morris

Present law prohibits a court from waiving the minimum mandatory sentence for certain crimes of violence.

Present law provides enhanced penalties for second and subsequent felony convictions under certain circumstances (Habitual Offender Law).

Proposed law prohibits a court from waiving the minimum mandatory sentence for all crimes of violence.

Proposed law retains present law and provides that a defendant who has a second or subsequent felony offense, except those sentenced to life imprisonment, when the defendant has a prior crime of violence or sex offense, or the current conviction is a crime of violence or sex offense, will serve an additional term of imprisonment for five years consecutive to the second or subsequent felony sentence.

Proposed law further provides that a defendant who has a second or subsequent felony offense, except those sentenced to life imprisonment, when either the current crime of conviction or any prior felony is both a crime of conviction or sex offense, will serve an additional term of imprisonment for 15 years consecutive to the second or subsequent felony sentence.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 890.1(D); adds R.S. 15:529.1(A)(5))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete proposed law requiring that the second or subsequent offense be committed within seven years of the first offense and be committed after the effective date of proposed law.
- 2.. Add enhanced penalty of five years hard labor when a defendant has a second or subsequent felony offense and a prior crime of violence or sex offense or current conviction is a crime of violence or sex offense, consecutive to the second or subsequent felony sentence.