

2017 Regular Session

SENATE BILL NO. 221

BY SENATOR ALARIO

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

CRIME/PUNISHMENT. Provides relative to the window of time for which certain prior crimes will count towards current habitual offender penalty enhancements. (see Act)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 15:529.1(A) and 529.1(C), relative  
3 to the Habitual Offender Law; to provide relative to the period of time for which  
4 certain prior offenses are used for habitual offender penalty enhancements in the  
5 context of a felony class system; to provide for definitions; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 15:529.1(A) and 529.1(C) are hereby  
9 amended and reenacted to read as follows:

10 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk  
11 of court in the state of Louisiana as evidence

12 A. Any person who, after having been convicted within this state of a felony,  
13 or who, after having been convicted under the laws of any other state or of the  
14 United States, or any foreign government of a crime which, if committed in this state  
15 would be a felony, thereafter commits any subsequent **A, B, C, or F felony or any**  
16 **felony punishable by imprisonment or natural life** within this state, upon  
17 conviction of said felony, shall be punished as follows:

\* \* \*

C.~~(1)~~ The current offense shall not be counted as, respectively, a second, third, fourth, or higher offense if ~~more than ten years have~~ **sufficient time has** elapsed between the date of the commission of the current offense or offenses and the expiration of the maximum sentence or sentences of the previous conviction or convictions, or between the expiration of the maximum sentence or sentences of each preceding conviction or convictions alleged in the multiple offender bill and the date of the commission of the following offense or offenses.

**(2)** In computing the intervals of time as provided herein, any period of parole, probation, or incarceration by a person in a penal institution, within or without the state, shall not be included in the computation of any of said ten-year periods between the expiration of the maximum sentence or sentences and the next succeeding offense or offenses.

**(3) For purposes of this Subsection, "sufficient time" means:**

**(a) For previous convictions for A, B, or F felony offenses as defined in R.S. 14:6.2, or any felony punishable by imprisonment for natural life, a period of more than ten years.**

**(b) For previous convictions for C, D, or E felony offenses as defined in R.S. 14:6.2, a period of more than five years.**

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Section 2. This Act shall become effective if and when the Act that originated as Senate Bill No. \_\_\_\_ of the 2017 Regular Session of the Legislature becomes effective.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

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DIGEST

SB 221 Original 2017 Regular Session Alario

Present law (Habitual Offender Law) provides that any person who, after having been convicted within La. of a felony, or who, after having been convicted under the laws of any other state or of the U.S., or any foreign government of a crime which, if committed in La. would be a felony, thereafter commits any subsequent felony within La. upon conviction is to be punished as follows:

(1) If the second felony is such that upon a first conviction the offender would be

punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment is to be for a determinate term not less than one-half the longest term and not more than twice the longest term prescribed for a first conviction.

- (2) If the second felony and the prior felony are sex offenses as defined in present law, or the prior felony would be a sex offense as defined in present law, except that it occurred prior to 6/18/92, or the conviction was obtained under the laws of any other state, the U.S., or any foreign government, the person is to be sentenced to imprisonment at hard labor for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than three times the longest possible sentence prescribed for a first conviction, without benefit of probation, parole, or suspension of sentence.
- (3) If the second felony and the prior felony are sex offenses as defined in present law, or the prior felony would be a sex offense as defined in present law, except that it occurred prior to 6/18/92, or the conviction was obtained under the laws of any other state, the U.S., or any foreign government, and the victims of the previous offense and the instant offense were under the age of 13 years at the time of the commission of the offense or any part thereof, the person is to be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.
- (4) If the third felony is such that upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life then:
  - (a) The person is to be sentenced to imprisonment for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than twice the longest possible sentence prescribed for a first conviction; or
  - (b) If the third felony and the two prior felonies are felonies defined as a crime of violence under present law, a sex offense as defined in present law when the victim is under the age of 18 years at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for 10 years or more, or any other crimes punishable by imprisonment for 12 years or more, or any combination of such crimes, the person is to be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.
- (5) If the fourth or subsequent felony is such that, upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life then:
  - (a) The person is to be sentenced to imprisonment for the fourth or subsequent felony for a determinate term not less than the longest prescribed for a first conviction but in no event less than 20 years and not more than his natural life; or
  - (b) If the fourth felony and two of the prior felonies are felonies defined as a crime of violence under present law, a sex offense as defined in present law when the victim is under the age of 18 years at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for 10 years or more, or of any other crime punishable by imprisonment for 12 years or more, or any combination of such crimes, the person is to be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

Proposed law provides that any person who, after having been convicted within La. of a felony, or who, after having been convicted under the laws of any other state or of the U.S., or any foreign government of a crime which, if committed in La. would be a felony,

thereafter commits any A, B, C, or F felony in the context of a felony class system, or who commits any felony punishable by imprisonment for natural life, is to be punished in accordance with present law habitual offender penalties.

Present law provides that for purposes of the Habitual Offender Law, the current offense cannot be counted as, respectively, a second, third, fourth, or higher offense if more than 10 years have elapsed between the date of the commission of the current offense or offenses and the expiration of the maximum sentence or sentences of the previous conviction or convictions, or between the expiration of the maximum sentence or sentences of each preceding conviction or convictions alleged in the multiple offender bill and the date of the commission of the following offense or offenses ("cleansing period"). Present law further provides that in computing the intervals of time as provided in present law, any period of parole, probation, or incarceration by a person in a penal institution, within or without the state, cannot be included in the computation of any of said 10-year periods between the expiration of the maximum sentence or sentences and the next succeeding offense or offenses.

Proposed law changes the prior felony cleansing period from 10 years to "sufficient time" that has elapsed between the date of the commission of the current offense or offenses and the expiration of the maximum sentence or sentences of the previous conviction or convictions, or between the expiration of the maximum sentence or sentences of each preceding conviction or convictions alleged in the multiple offender bill and the date of the commission of the following offense or offenses.

Proposed law defines "sufficient time" for purposes of proposed law as follows:

- (1) For previous convictions for A, B, or F felony offenses or any felony punishable by imprisonment for natural life, a period of more than 10 years.
- (2) For previous convictions for C, D, or E felony offenses, a period of more than five years.

Effective if and when Senate Bill \_\_\_\_ of the 2017 Regular Session is enacted and becomes effective.

(Amends R.S. 15:529.1(A)(intro para) and (C))