

RÉSUMÉ DIGEST

ACT 280 (SB 139)

2017 Regular Session

Martiny

Prior law provided relative to probation, parole, diminution of sentence or "good time", medical parole, and duties of the Department of Public Safety and Corrections (DPS&C).

With regard to probation, new law does all of the following:

- (1) Authorizes the court to suspend the sentence of a third conviction of noncapital felony offense and provides that the period of probation shall be specified and shall not be more than three years.
- (2) Authorizes the court to suspend the sentence of a first conviction of an offense designated in the court minutes as a crime of violence pursuant to prior law (C.Cr.P. Art. 890.3), if the offense has a maximum prison sentence of 10 years or less and was not committed against a family member, household member, or dating partner.
- (3) Retains the prior law prohibition on suspension of sentence for a second or third conviction of computer fraud (R.S. 14:73.3), pornography involving juveniles (R.S. 14:81.1), or molestation of a juvenile or person with a physical or mental disability (R.S. 14:81.2), and, although they are noncapital felony offenses, provides that if the court suspends the sentence for a first conviction of pornography involving juveniles or molestation of a juvenile or person with a physical or mental disability, the period of probation shall be specified and shall not be more than five years.
- (4) Provides relative to the court's authority to suspend the sentence of a person convicted of a third or fourth offense DWI (R.S. 14:98) and provides relative to the conditions that must be met in order for the court to suspend the offender's sentence.
- (5) Authorizes the court, with the consent of the district attorney, to order a defendant, upon a third or fourth felony conviction, to enter and complete a program provided by the drug division of the district court, an established driving while intoxicated court or sobriety court program, a mental health court program, a Veterans Court program, a reentry court program, or the Swift and Certain Probation Pilot Program as provided by prior law. Further authorizes the court to extend the probation period to up to eight years in order for the defendant to successfully complete the program.
- (6) Authorizes a person on felony probation, except for an offender convicted of a crime of violence or a sex offense, to receive "earned compliance credits" at a rate of 30 days for every calendar month of compliance with probation conditions. Provides relative to the procedure by which such credits may be rescinded as an administrative sanction and provides that when the defendant's total probation term is satisfied through a combination of time served and earned compliance credits, the DPS&C shall order the termination of the defendant's probation.
- (7) Provides that provisions of prior law relative to administrative sanctions imposed for technical violations of an offender's probation apply only to offenders convicted of a crime of violence or a sex offense.
- (8) Create a new system of administrative sanctions that are imposed for technical violations of an offender's probation that apply to offenders convicted of offenses other than a crime of violence or a sex offense. Provides the procedure by which these new law administrative sanctions may be imposed, provides relative to the use of incarceration for certain violations, and defines "technical violation".
- (9) Provides that in the event of revocation for a defendant placed on probation for the conviction of an offense other than a crime of violence or a sex offense, the defendant shall serve the suspended sentence with credit for time served while on probation.
- (10) Amends eligibility for the prior law substance abuse probation program to include defendants charged with a violation of a statute of this state relating to the use of, possession of, or possession with the intent to distribute any narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs, or where there is a significant relationship between the use of alcohol or drugs and the crime before

the court. Further amends eligibility to no longer exclude persons convicted of a crime of violence if the offense is punishable by imprisonment of ten years or less and was not committed against a family member, household member, or dating partner.

- (11) Amends eligibility for the prior law drug division probation program to no longer exclude persons convicted of a crime of violence if the offense is punishable by imprisonment of ten years or less and was not committed against a family member, household member, or dating partner.

With regard to diminution of sentence for good behavior or "good time", new law does all of the following:

- (1) Changes the rate by which an offender may earn good time for nonviolent offenses and non-sex offenses from one and one-half day for every one day to 13 days for every seven days in actual custody.
- (2) Changes the rate by which an offender may earn good time for a crime of violence, if the offender has no prior conviction for a crime of violence or for a sex offense, from three days for every 17 days to one day for every three days in actual custody. Provides that this rate does not apply to an offender convicted of a crime of violence if the offense is also defined as a sex offense. Further provides that this rate applies to those offenders who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.
- (3) Prohibits a person convicted of a sex offense or second or subsequent conviction of a crime of violence from earning good time.

New law creates "administrative parole" for offenders who are otherwise eligible for parole and who commits an offense on or after Nov. 1, 2017, other than a crime of violence or a sex offense. Administrative parole allows the offender to be released on the date of his parole eligibility without a hearing before the committee on parole if certain requirements are met including the following:

- (1) The completion of a case plan developed by DPS&C for the offender. In this regard, new law requires DPS&C to develop a case plan for each offender in its custody who is sentenced to 180 days or more. Requires the case plan to be based on the assessment of the offender's risk and needs and provides that it should be reasonably achievable prior to the offender's parole eligibility date.
- (2) No major disciplinary offenses prior to the administrative parole eligibility date.
- (3) The victim and the district attorney are notified and have not requested that the committee on parole conduct a hearing in order for the offender to be released on administrative parole.

With regard to parole, new law does all of the following:

- (1) Provides that a person convicted of a nonviolent and non-sex offense shall be eligible for parole consideration upon serving 25% of the sentence imposed. Further provides that this shall apply to persons convicted of offenses prior to and on or after Nov. 1, 2017.
- (2) Provides that a person convicted of a crime of violence, with no prior conviction for a crime of violence or a sex offense, shall be eligible for parole upon serving 65% of the sentence imposed. Further provides that this shall apply only to those persons who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.
- (3) Provides that a person convicted of a second offense crime of violence or a first or second conviction of a sex offense, shall be eligible for parole upon serving 75% of the sentence imposed. Further provides that this shall apply only to those persons who commit an offense or whose probation or parole is revoked on or after Nov. 1, 2017.

- (4) Provides parole eligibility for persons serving a life sentence for second degree murder (R.S. 14:30.1) if the offense was committed after July 2, 1973, and before June 29, 1979, the offender has served at least 40 years of the sentence imposed, and the committee on parole grants parole with a unanimous vote.
- (5) Authorizes a person on parole for an offense other than a crime of violence or a sex offense to receive "earned compliance credits" at a rate of 30 days for every full calendar month on parole. Provides relative to the procedure by which such credits may be rescinded as an administrative sanction and provides that when the person's total parole term is satisfied through a combination of time served and earned compliance credits, the DPS&C shall order the discharge of the offender from parole.
- (6) Provides that provisions of prior law relative to administrative sanctions imposed for technical violations of an offender's parole apply only to offenders convicted of a crime of violence or a sex offense.
- (7) Create a new system of administrative sanctions that are imposed for technical violations of an offender's parole that apply to offenders convicted of offenses other than a crime of violence or a sex offense. Provides the procedure by which these new law administrative sanctions may be imposed, provides relative to the use of incarceration for certain violations, and defines "technical violation".
- (8) Provides that when a judge sets bond on allegations of a new felony offense for a person released on parole, the division of probation and parole of DPS&C and the committee on parole must be notified within three business days. Further provides that the detainer will expire 10 days after the bond has been set unless the division of probation and parole seeks to maintain the detainer.
- (9) Provides that in the event of revocation for a person who is on parole, the person shall be given credit toward service of his sentence for time spent in actual custody prior to the revocation hearing while being held for a technical violation.

New law requires the committee on parole to establish the medical treatment furlough program to be administered by DPS&C for the purpose of utilizing off-site medical facilities for an eligible offender's medical treatment. New law further provides for the following in this regard:

- (1) Provides for the eligibility requirements for the program and provides that persons who are awaiting execution are not eligible.
- (2) Defines "off-site medical facility" and provides that placement of an offender released on medical treatment program shall be in an acute care hospital, nursing home, or other appropriate medical facility.
- (3) Provides that provisions of prior law relative to medical parole, including but not limited to the following, also apply to the medical treatment furlough:
 - (a) Requires DPS&C to fully consider the offender's crime and criminal history, time served in custody, institutional conduct, and whether the offender presents a risk to himself or society.
 - (b) Requires the committee on parole to establish additional conditions for persons released on medical parole or medical treatment furlough.
 - (c) Authorizes the committee to request medical evidence or medical examinations.
 - (d) Provides that if it is determined that the offender's condition has improved such that he would no longer be eligible for medical parole or medical treatment furlough, the committee on parole may order that the offender be returned to the custody of DP&C.

Finally, new law provides that the release of protected health information to DPS&C or the committee on parole for purposes of medical parole and medical treatment furlough shall be in accordance with all state and federal laws and regulations.

Effective November 1, 2017.

(Amends C.Cr.P. Arts. 893(A) and (B), 899.1(A)(intro para), 900(A)(5) and (6), and 903.1, R.S. 13:5304(B)(10)(b), R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2)(intro para) and (D)(1), (6)(intro para), (8)(a), and (9), 574.4(A)(1), (B)(1), and (C)(2)(a)(intro para) and (b), 574.4.1(A)(1), 574.6, 574.7(B)(1)(intro para) and (C), 574.9(D), (E), (F), and (G), 574.20, and 828(B) and (C); adds C.Cr.P. Arts. 893(G), 895.6, and 899.2 and R.S. 15:574.2(C)(4), 574.4(F), 574.6.1, 574.7(D), 574.9(H), 827(A)(7), and 828(D))