

2017 Regular Session

SENATE BILL NO. 139

BY SENATOR MARTINY

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

CRIMINAL JUSTICE. Provides relative to criminal justice. (7/1/17)

AN ACT

To amend and reenact Code of Criminal Procedure Arts. 893(A) and (B), the introductory paragraph of 899.1(A), (B), and (D), 900(A)(5), (6), and (7), and 903.1, R.S. 13:5304(B)(10)(b), and R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), the introductory paragraph of (6), (8)(a), and (9), 574.4(A)(1), (B)(1) and (C)(2), 574.4.1(A)(1), 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F) and (G), 574.20, and 828(B) and (C), and to enact Code of Criminal Procedure Arts. 893(G), 895.6, and 895.7, and R.S. 15:574.2(C)(4), 574.4(F), 574.9(H), 827(A)(7) and 828(D), relative to criminal justice; to provide for alternatives to incarceration; to provide for release from incarceration and from supervision; to provide for felony probation and parole; to provide for suspension and deferral of sentence; to provide for the term of probation and of parole; to provide for extended probation periods; to provide for discharge credits for felony probation and for parole; to provide for the earning of discharge credits; to provide for the regulation of number of credits earned; to provide for methods to rescind credits; to provide for notice; to provide for the satisfaction of sentences; to provide for discharge from probation and from parole; to provide for administrative sanctions; to provide for technical violations of

1 probation and of parole; to authorize use of administrative sanctions; to provide for
2 a system of administrative rewards; to provide for probation and for parole
3 revocation; to provide for sentences imposed for technical violations of probation
4 and of parole; to provide for credit for time served; to provide for the substance
5 abuse probation program; to provide for diminution of sentence; to provide for good
6 time; to provide for earning rates for good time; to provide for the committee on
7 parole; to provide for meetings of the committee on parole; to provide for voting; to
8 provide for administrative parole; to provide for notice to victims; to provide for
9 notice for victim's spouse or next of kin; to provide for parole eligibility; to provide
10 for parole eligibility for offenders serving a life sentence; to provide for parole
11 hearings; to provide for conditions of parole; to provide for custody and supervision
12 of parolees; to provide for modification of parole; to provide for suspension of
13 probation and of parole; to provide for return to custody hearings; to provide for
14 detainers; to provide for enforceability of detainers; to provide for medical parole;
15 to authorize medical treatment furloughs; to provide for the terms of medical parole
16 and medical treatment furlough; to provide for revocation of medical parole or
17 medical treatment furlough for improved health; to provide for written case plans;
18 to provide for classification and treatment programs; to provide for credit for
19 participation in certain programs; to provide relative to good time for offenders
20 sentenced as habitual offenders; to provide for rulemaking; to provide for record
21 collection; to provide for maintenance of records; to provide for effective dates; and
22 to provide for related matters.

23 Be it enacted by the Legislature of Louisiana:

24 Section 1. Code of Criminal Procedure Arts. 893(A) and (B), the introductory
25 paragraph of 899.1(A), (B), and (D), 900(A)(5), (6), and (7), and 903.1 are hereby amended
26 and reenacted and Code of Criminal Procedure Arts. 893(G), 895.6, and 895.7 are hereby
27 enacted to read as follows:

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

29 A. When it appears that the best interest of the public and of the defendant

1 will be served, the court, after a first, ~~or second,~~ **or third** conviction of a noncapital
 2 felony, may suspend, in whole or in part, the imposition or execution of either or
 3 both sentences, where suspension is allowed under the law, and in either or both
 4 cases place the defendant on probation under the supervision of the division of
 5 probation and parole. The court shall not suspend the sentence of a conviction for an
 6 offense that is designated in the court minutes as a crime of violence pursuant to
 7 Article 890.3, **except a first conviction for an offense with a maximum prison**
 8 **sentence of ten years or less that was not committed against a family member,**
 9 **household member, or dating partner,** or of a second **or third** conviction if the
 10 second **or third** conviction is for a violation of R.S. 14:73.5, 81.1, or 81.2. The
 11 period of probation shall be specified and shall not be ~~less than one year nor more~~
 12 ~~than five~~ **three** years. The suspended sentence shall be regarded as a sentence for the
 13 purpose of granting or denying a new trial or appeal. Supervised release as provided
 14 for by Chapter 3-E of Title 15 of the Louisiana Revised Statutes of 1950 shall not be
 15 considered probation and shall not be limited by the ~~five~~ **three**-year period for
 16 probation provided for by the provisions of this Paragraph.

17 B.(1)(a) **Notwithstanding any other provision of law to the contrary,**
 18 **when it appears that the best interest of the public and of the defendant will be**
 19 **served, the court, after a fourth conviction of operating a vehicle while**
 20 **intoxicated pursuant to R.S. 14:98,** ~~The court~~ may suspend, in whole or in part, the
 21 imposition or execution of the sentence when **the defendant was not offered such**
 22 **alternatives prior to his fourth conviction of operating a vehicle while**
 23 **intoxicated and** the following conditions exist:

24 (i) ~~The sentence is for a third conviction of any of the following:~~

25 (aa) ~~A noncapital felony for which a defendant could have his sentence~~
 26 ~~suspended under Paragraph A of this Article had the conviction been for a first or~~
 27 ~~second offense:~~

28 (bb) ~~A violation of the Uniform Controlled Dangerous Substances Law:~~

29 (cc) ~~A third conviction of operating a vehicle while intoxicated in violation~~

1 ~~of R.S. 14:98.~~

2 (ii) ~~It appears that suspending the sentence is in the best interest of the public~~
3 ~~and the defendant.~~

4 ~~(iii)~~**(a)** The district attorney consents to the suspension of the sentence.

5 ~~(iv)~~**(b)** The court orders the defendant to do any of the following:

6 ~~(aa)~~**(i)** Enter and complete a program provided by the drug division of the
7 district court pursuant to R.S. 13:5301 et seq. ~~When a case is assigned to the drug~~
8 ~~division probation program pursuant to the provisions of R.S. 13:5301 et seq., with~~
9 ~~the consent of the district attorney, the court may place the defendant on probation~~
10 ~~for a period of not more than eight years if the court determines that successful~~
11 ~~completion of the program may require that period of probation to exceed the five-~~
12 ~~year limit. If necessary to assure successful completion of the drug division~~
13 ~~probation program, the court may extend the duration of the probation period. The~~
14 ~~period of probation as initially fixed or as extended shall not exceed eight years.~~

15 ~~(bb)~~**(ii)** Enter and complete an established driving while intoxicated court or
16 sobriety court program, ~~as agreed upon by the trial court and the district attorney.~~
17 ~~When a case is assigned to an established driving while intoxicated court or sobriety~~
18 ~~court program, with the consent of the district attorney, the court may place the~~
19 ~~defendant on probation for a period of not more than eight years if the court~~
20 ~~determines that successful completion of the program may require that period of~~
21 ~~probation to exceed the five-year limit. If necessary to assure successful completion~~
22 ~~of the drug division probation program, the court may extend the duration of the~~
23 ~~probation period. The period of probation as initially fixed or as extended shall not~~
24 ~~exceed eight years.~~

25 ~~(ee)~~**(iii)** Reside for a minimum period of one year in a facility which
26 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.
27 40:2852.

28 ~~(dd)~~**(iv)** Enter and complete the Swift and Certain Probation Pilot Program
29 established pursuant to R.S. 13:5371 et seq. ~~When a case is assigned to this pilot~~

1 program, with the consent of the district attorney, the court may place the defendant
2 on probation for a period of not less than one year and not more than eight years if
3 the court determines that successful completion of the program may require that
4 period of probation to exceed the five-year limit. If necessary to ensure successful
5 completion of the program, the court may extend the duration of the probation
6 period. The period of probation as initially fixed or as extended shall not exceed
7 eight years.

8 ~~(b)~~**(2)** When suspension is allowed under this Paragraph, the defendant shall
9 be placed on probation under the supervision of the division of probation and parole.
10 The period of probation shall be specified and shall not be less than two years nor
11 more than five **three** years, except as provided in Subitems (a)(iv)(aa), (bb), and (dd)
12 of this Subparagraph **Paragraph G of this Article**. The suspended sentence shall be
13 regarded as a sentence for the purpose of granting or denying a new trial or appeal.

14 ~~(2)~~ Notwithstanding any other provisions of law to the contrary, the
15 sentencing alternatives available in Subparagraph (1) of this Paragraph, shall be
16 made available to offenders convicted of a fourth offense violation of operating a
17 vehicle while intoxicated pursuant to R.S. 14:98, only if the offender had not been
18 offered such alternatives prior to his fourth conviction of operating a vehicle while
19 intoxicated.

20 * * *

21 **G. If the court orders a defendant, upon a third conviction or fourth**
22 **felony conviction, to enter and complete a program provided by the drug**
23 **division of the district court pursuant to R.S. 13:5301, an established driving**
24 **while intoxicated court or sobriety court program, or the Swift and Certain**
25 **Probation Pilot Program established pursuant to R.S. 13:5371, the court may,**
26 **with consent of the district attorney, place the defendant on probation for a**
27 **period of not more than eight years if the court determines that successful**
28 **completion of the program may require that period of probation to exceed the**
29 **three-year limit. The court may not extend the duration of the probation period**

1 solely due to unpaid fees and fines. The period of probation as initially fixed or
2 as extended shall not exceed eight years.

3 * * *

4 Art. 895.6. Discharge credits; probation

5 A.(1) Every defendant on felony probation pursuant to Article 895 shall
6 earn discharge credits for compliance with the terms and conditions of
7 probation supervision to reduce the term of supervision. A defendant shall earn
8 credits equal to thirty days for every calendar month of compliance with the
9 terms and conditions of his probation. A defendant shall not receive credits for
10 any partial calendar month of felony probation.

11 (2) Notwithstanding Subparagraph (1) of this Paragraph and any other
12 law to the contrary, discharge credits may not be earned in conjunction with
13 any other credits received toward a defendant's term of probation. If a
14 defendant receives credit toward his term of probation for any other reason, he
15 shall not receive discharge credits for that period of time.

16 B. If the chief probation and parole officer, upon recommendation by a
17 probation officer, has reasonable cause to believe that a defendant on felony
18 probation has not been compliant with the conditions of his probation in a given
19 calendar month, he shall notify the sentencing judge within five business days
20 of learning of the incident of noncompliance. If, within five business days of
21 receiving the notification, the judge does not make a ruling to the contrary,
22 thirty days of earned discharge credits will be rescinded from the defendant.
23 Credits may only be rescinded for a month in which the defendant is found not
24 to be in compliance.

25 C. The Department of Corrections shall develop written policies and
26 procedures for the implementation of earned discharge credits for defendants
27 on felony probation supervision provided for by the provisions of this Article.
28 The policies and procedures shall include but not be limited to written
29 guidelines regarding the process to earn discharge credits and the application

1 of the credits toward the reduction of the term of supervision. The Department
2 of Corrections shall also collect data on the implementation of earned discharge
3 credits, including the names of defendants that earned credits, how many
4 credits are applied to each defendant, and reductions to supervision periods at
5 the time of discharge.

6 D. The Department of Corrections shall maintain a record of credits
7 earned by each defendant under this Article. Every six months from the date
8 the defendant is placed on probation, the department shall notify the defendant
9 of the current earned compliance discharge date for the defendant's term of
10 supervision and the overall sentence of the defendant.

11 E. The Department of Corrections shall notify the court no less than sixty
12 days prior to the expected discharge date. Nothing in this Article shall prohibit
13 the department from requesting that the court terminate a sentence prior to the
14 discharge date.

15 F. When a defendant's total sentence is satisfied through a combination
16 of time served on felony probation and earned discharge credits, the supervising
17 agency shall order the discharge of the sentence of the defendant.

18 G. For purposes of this Article, "calendar month of compliance" shall
19 be defined as any one of the twelve periods of time in which the calendar is
20 divided in which none of the following occur:

21 (1) A violation report is submitted by a probation officer.

22 (2) An administrative sanction is issued by a probation officer pursuant
23 to Article 899.1.

24 (3) A defendant absconds from supervision in any of the following ways:

25 (a) Fails to report within five business days after release from custody.

26 (b) Fails to report, as ordered by the court or directed by the probation
27 officer, for a scheduled meeting with a probation officer, and fails to make
28 contact with a probation officer within thirty days of the missed meeting.

29 (c) The defendant serves a term of imprisonment pursuant to Article 900.

1 **Art. 895.7. Discharge credits; parole**

2 **A.(1) Every defendant on parole pursuant to R.S. 15:574.4.2 shall earn**
3 **discharge credits for compliance with the terms and conditions of parole**
4 **supervision to reduce the term of supervision. A defendant shall earn credits**
5 **equal to thirty days for every calendar month of compliance with the terms and**
6 **conditions of his parole supervision. A defendant shall not receive credits for**
7 **any partial calendar month of parole.**

8 **(2) Notwithstanding Subparagraph (1) of this Paragraph and any**
9 **provision of law to the contrary, discharge credits may not be earned in**
10 **conjunction with any other credits toward a defendant's term of parole. If a**
11 **defendant receives credit toward his term of parole for any other reason, he**
12 **shall not receive discharge credits for that period of time.**

13 **B. If the chief probation and parole officer, upon recommendation by a**
14 **parole officer, has reasonable cause to believe that a defendant on parole has**
15 **not been compliant with the conditions of his parole in a given calendar month,**
16 **he shall notify the sentencing judge within five business days of learning of the**
17 **incident of noncompliance. If, within five business days of receiving the**
18 **notification, the judge does not make a ruling to the contrary, thirty days of**
19 **earned discharge credits shall be rescinded from the defendant. Credits may**
20 **only be rescinded for a month in which the defendant is found not to be in**
21 **compliance.**

22 **C. The Department of Corrections shall develop written policies and**
23 **procedures for the implementation of earned discharge credits for defendants**
24 **on parole supervision provided for by the provisions of this Article. The policies**
25 **and procedures shall include but not be limited to written guidelines regarding**
26 **the process to earn discharge credits and the application of the credits toward**
27 **the reduction of the term of supervision. The Department of Corrections shall**
28 **also collect data on the implementation of earned discharge credits, including**
29 **the names of defendants that earned credits, how many credits are applied to**

1 each defendant, and reductions to supervision periods at the time of discharge.

2 D. The Department of Corrections shall maintain a record of credits
3 earned by each defendant under this Article. Every six months from the date
4 the defendant is released on parole, the department shall notify the defendant
5 of the current earned compliance discharge date for the defendant's term of
6 supervision and the overall sentence of the defendant.

7 E. The Department of Corrections shall notify the court no less than sixty
8 days prior to the expected discharge date. Nothing in this Article shall prohibit
9 the department from requesting that the court terminate a sentence prior to the
10 termination date.

11 F. When a defendant's total sentence is satisfied through a combination
12 of time served on parole and earned discharge credits, the Department of
13 Corrections, without order by the committee, shall discharge the defendant.

14 G. For purposes of this Article, "calendar month of compliance" shall
15 be defined as any one of the twelve periods of time in which the calendar is
16 divided in which none of the following occur:

17 (1) A violation report is submitted by a parole officer.

18 (2) An administrative sanction is issued by a parole officer pursuant to
19 R.S. 15:574.7.

20 (3) A defendant absconds from supervision in any of the following ways:

21 (a) Fails to report within five business days after release from custody.

22 (b) Fails to report, as ordered by the court or directed by the parole
23 officer, for a scheduled meeting with a parole officer, and fails to make contact
24 with a parole officer within thirty days of the missed meeting.

25 (c) The defendant serves a term of imprisonment pursuant to R.S.
26 15:574.9.

27 * * *

28 Art. 899.1. Administrative sanctions for technical violations

29 A. ~~At the time of sentencing, the court may make a determination as to~~

1 ~~whether a defendant is eligible for the imposition of administrative sanctions as~~
 2 ~~provided for in this Article. If authorized to do so by the sentencing court, each time~~
 3 ~~a~~ **If a** defendant violates a condition of his probation, a probation agency ~~may~~ **shall**
 4 **be authorized to** use administrative sanctions to address a technical violation
 5 committed by a defendant when all of the following occur:

6 * * *

7 B. The department shall promulgate rules to implement the provisions of this
 8 Article to establish the following:

9 (1)~~(a)~~ **(a)** A system of structured, administrative sanctions which shall be
 10 imposed for technical violations of probation and which shall take into consideration
 11 the following factors:

- 12 ~~(a)~~**(i)** The severity of the violation behavior.
- 13 ~~(b)~~**(ii)** The prior violation history.
- 14 ~~(c)~~**(iii)** The severity of the underlying criminal conviction.
- 15 ~~(d)~~**(iv)** The criminal history of the probationer.
- 16 ~~(e)~~**(v)** Any special circumstances, characteristics, or resources of the
 17 probationer.
- 18 ~~(f)~~**(vi)** Protection of the community.
- 19 ~~(g)~~**(vii)** Deterrence.
- 20 ~~(h)~~**(viii)** The availability of appropriate local sanctions, including but not
 21 limited to jail, treatment, community service work, house arrest, electronic
 22 surveillance, restitution centers, work release centers, day reporting centers, or other
 23 local sanctions.

24 **(b) Incarceration shall not be used for the first or second lowest-level**
 25 **violations, including but not limited to a first positive drug test; association with**
 26 **people known to be involved in criminal activity; changing residence without**
 27 **permission; failure to initially report as required; failure to pay restitution up**
 28 **to three months; failure to report as instructed; travel without permission; and**
 29 **unemployment and failure to seek employment within ninety days.**

1 **(c) Incarceration shall not be used for first or second violations of alcohol**
 2 **use or admission, except for defendants convicted of operating a vehicle while**
 3 **intoxicated; convicted of domestic abuse battery committed by one family**
 4 **member, household member, or dating partner against another; or convicted**
 5 **of violation of protective order committed by one family member, household**
 6 **member, or dating partner against another.**

7 (2) Procedures to provide a probationer with written notice of the right to a
 8 probation violation hearing to determine whether the probationer violated the
 9 conditions of probation alleged in the violation report and the right to be represented
 10 by counsel at state expense at that hearing if financially eligible.

11 (3) Procedures for a probationer to provide written waiver of the right to a
 12 probation violation hearing, to admit to the violation or affirmatively choose not to
 13 contest the violation alleged in the probation violation report, and to consent to the
 14 imposition of administrative sanctions by the department.

15 (4) The level and type of sanctions that may be imposed by probation officers
 16 and other supervisory personnel.

17 (5) The level and type of violation behavior that warrants a recommendation
 18 to the court that probation be revoked.

19 (6) Procedures notifying the probationer, the district attorney, the defense
 20 counsel of record, and the court of probation of a violation admitted by the
 21 probationer and the administrative sanctions imposed.

22 (7) Such other policies and procedures as are necessary to implement the
 23 provisions of this Article and to provide adequate probation supervision.

24 * * *

25 D. For purposes of this Article, "technical violation" means any violation of
 26 a condition of probation, ~~except for an allegation of a subsequent criminal act.~~
 27 ~~Notwithstanding any provision of law to the contrary, if the subsequent alleged~~
 28 ~~criminal act is misdemeanor possession of marijuana or tetrahydrocannabinol, or~~
 29 ~~chemical derivatives thereof, as provided in R.S. 40:966(E)(1), it shall be considered~~

1 a "~~technical violation~~". "Technical violation" shall not include any of the
2 following:

3 (1) A new felony conviction.

4 (2) A conviction for an intentional misdemeanor directly affecting the
5 person.

6 (3) An allegation of a subsequent criminal act that if proven would be a
7 crime of violence as defined in R.S. 14:2(B).

8 (4) An allegation of a subsequent criminal act that if proven would be a
9 sex offense as defined in R.S. 15:541.

10 (5) An allegation of domestic abuse battery as defined in R.S. 14:35.3
11 committed by one family member, household member, or dating partner
12 against another.

13 (6) An allegation of violation of protective order as defined in R.S. 14:79
14 committed by one family member, household member, or dating partner
15 against another.

16 Art. 900. Violation hearing; sanctions

17 A. After an arrest pursuant to Article 899, the court shall cause a defendant
18 who continues to be held in custody to be brought before it within thirty days for a
19 hearing. If a summons is issued pursuant to Article 899, or if the defendant has been
20 admitted to bail, the court shall set the matter for a violation hearing within a
21 reasonable time. The hearing may be informal or summary. If the court decides that
22 the defendant has violated, or was about to violate, a condition of his probation it
23 may:

24 * * *

25 (5) Order that the probation be revoked. In the event of revocation the
26 defendant shall serve the sentence suspended, ~~with or without~~ subject to credit for
27 ~~the time served on probation at the discretion of the court~~ or in a substance abuse
28 program. If the imposition of sentence was suspended, the defendant shall serve the
29 sentence imposed by the court at the revocation hearing.

1 (6)(a) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
2 any defendant who has been placed on probation by the drug division probation
3 program pursuant to R.S. 13:5304, and who has had his probation revoked under the
4 provisions of this Article for a technical violation of drug division probation as
5 determined by the court, may be ordered to be committed to the custody of the
6 Department of Public Safety and Corrections and be required to serve a sentence of
7 not more than twelve months without diminution of sentence in the intensive
8 incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful
9 completion of the program, the defendant shall return to active, supervised probation
10 with the drug division probation program for a period of time as ordered by the court,
11 subject to any additional conditions imposed by the court and under the same
12 provisions of law under which the defendant was originally sentenced. If an offender
13 is denied entry into the intensive incarceration program for physical or mental health
14 reasons or for failure to meet the department's suitability criteria, the department
15 shall notify the sentencing court for resentencing in accordance with the provisions
16 of Article 881.1.

17 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
18 any defendant who has been placed on probation by the court ~~for the conviction of~~
19 ~~an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex~~
20 ~~offense as defined in R.S. 15:541(24);~~ and who has had his probation revoked under
21 the provisions of this Article for ~~his first~~ **a** technical violation of his probation as
22 determined by the court, shall be required to serve ~~a sentence of not more than ninety~~
23 ~~days without diminution of sentence, **without diminution of sentence, as follows:**~~

24 **(i) For the first technical violation, not more than fifteen days.**

25 **(ii) For the second technical violation, not more than thirty days.**

26 **(iii) For a third or subsequent technical violation, not more than**
27 **forty-five days.**

28 **(c)** The defendant shall be given credit for time served prior to the revocation
29 hearing for time served in actual custody while being held for a technical violation

1 in a local detention facility, state institution, or out-of-state institution pursuant to
 2 Article 880. The term of the revocation for a technical violation shall begin on the
 3 date the court orders the revocation. Upon completion of the imposed sentence for
 4 the technical revocation, the defendant shall return to active and supervised probation
 5 for a period equal to the remainder of the original period of probation subject to any
 6 additional conditions imposed by the court. ~~The provisions of this Paragraph shall~~
 7 ~~apply only to the defendant's first revocation for a technical violation.~~

8 **(d) If a defendant completes ninety days of court-recommended**
 9 **substance abuse treatment he shall receive ninety days credit toward his term**
 10 **of probation.**

11 ~~(e)~~**(e)** A "technical violation", as used in this Paragraph, means any violation
 12 **except a felony conviction.** ~~except it shall not include any of the following:~~

13 ~~(i) Being arrested, charged, or convicted of any of the following:~~

14 ~~(aa) A felony.~~

15 ~~(bb) A violation of any provision of Title 40 of the Louisiana Revised~~
 16 ~~Statutes of 1950, except for misdemeanor possession of marijuana or~~
 17 ~~tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S.~~
 18 ~~40:966(E)(1), which shall be considered a "technical violation".~~

19 ~~(cc) Any intentional misdemeanor directly affecting the person.~~

20 ~~(dd) At the discretion of the court, any attempt to commit any intentional~~
 21 ~~misdemeanor directly affecting the person.~~

22 ~~(ee) At the discretion of the court, any attempt to commit any other~~
 23 ~~misdemeanor.~~

24 ~~(ii) Being in possession of a firearm or other prohibited weapon.~~

25 ~~(iii) Failing to appear at any court hearing.~~

26 ~~(iv) Absconding from the jurisdiction of the court.~~

27 ~~(v) Failing to satisfactorily complete a drug court program if ordered to do~~
 28 ~~so as a special condition of probation.~~

29 ~~(vi) At the discretion of the court, failing to report to the probation officer for~~

1 ~~more than one hundred twenty consecutive days.~~

2 (7) ~~Extend the period of probation, provided the total amount of time served~~
3 ~~by the defendant on probation for any one offense shall not exceed the maximum~~
4 ~~period of probation provided by law.~~

5 * * *

6 Art. 903.1. Substance abuse probation program; eligibility

7 A. In order to be eligible for the substance abuse probation program, the
8 defendant **must be charged with a violation of a statute of this state relating to**
9 **the use and possession of or possession with intent to distribute any narcotic**
10 **drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs,**
11 **or where there is a significant relationship between the use of alcohol or drugs**
12 **and the crime before the court.** ~~shall not be excluded from participation pursuant~~
13 ~~to the provisions of Paragraph B of this Article and shall be charged with any of the~~
14 ~~following offenses:~~

15 (1) ~~Felony possession of a controlled dangerous substance as defined in R.S.~~
16 ~~40:966(C), 967(C), 968(C), or 969(C).~~

17 (2) ~~Except as provided in Subparagraph (3) of this Paragraph, possession with~~
18 ~~intent to distribute a controlled dangerous substance as defined in R.S. 40:966(A),~~
19 ~~967(A), 968(A), or 969(A) where the offense involves less than twenty-eight grams~~
20 ~~of the controlled dangerous substance.~~

21 (3) ~~Possession with intent to distribute marijuana or synthetic cannabinoids~~
22 ~~as defined in R.S. 40:966(A) where the offense involves less than one pound of~~
23 ~~marijuana or synthetic cannabinoids.~~

24 B. The provisions of this Article shall not apply to any defendant who has
25 been convicted of a crime of violence as defined in R.S. 14:2(B), **except for a first**
26 **conviction of an offense with a maximum prison sentence of ten years or less**
27 **that was not committed against a family member, household member, or dating**
28 **partner,** or a sex offense as defined in R.S. 15:541, or any defendant who has
29 participated in or declined to participate in a drug division probation program as

1 provided for in R.S. 13:5301 et seq.

2 Section 2. R.S. 13:5304(B)(10)(b) is hereby amended and reenacted to read as
3 follows:

4 §5304. The drug division probation program

5 * * *

6 B. Participation in probation programs shall be subject to the following
7 provisions:

8 * * *

9 (10) In order to be eligible for the drug division probation program, the
10 defendant must satisfy each of the following criteria:

11 * * *

12 (b) The crime before the court cannot be a crime of violence as defined in
13 R.S. 14:2(B), **except a first conviction of an offense with a maximum prison**
14 **sentence of ten years or less that was not committed against a family member,**
15 **household member, or dating partner,** or an offense of domestic abuse battery
16 which is punishable by imprisonment at hard labor as provided in R.S. 14:35.3.

17 * * *

18 Section 3. R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), the
19 introductory paragraph of (6), (8)(a) and (9), 574.4(A)(1), (B)(1) and (C)(2), 574.4.1(A)(1),
20 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F), and (G), 574.20 and 828(B) and (C) are
21 hereby amended and reenacted and R.S. 15:574.2(C)(4), 574.4(F), 574.9(H), 827(A)(7) and
22 828(D) are hereby enacted to read as follows:

23 §571.3. Diminution of sentence for good behavior

24 * * *

25 B.(1)(a) Unless otherwise prohibited, every ~~inmate~~ **offender** in the custody
26 of the department who has been convicted of a felony, except an ~~inmate~~ **offender**
27 convicted a second time of a crime of violence as defined by R.S. 14:2(B), and
28 sentenced to imprisonment for a stated number of years or months, may earn, in lieu
29 of incentive wages, a diminution of sentence by good behavior and performance of

1 work or self-improvement activities, or both, to be known as "good time". Those
2 ~~inmates~~ offenders serving life sentences will be credited with good time earned
3 which will be applied toward diminution of their sentences at such time as the life
4 sentences might be commuted to a specific number of years. The secretary shall
5 establish regulations for awarding and recording of good time and shall determine
6 when good time has been earned toward diminution of sentence. The amount of
7 diminution of sentence allowed under the provisions of this Section shall be at the
8 rate of ~~one and one half day for every one day~~ thirteen days for every seven days
9 in actual custody served on the imposed sentence, including time spent in custody
10 with good behavior prior to sentencing for the particular sentence imposed as
11 authorized by the provisions of Code of Criminal Procedure Article 880.

12 (b) The provisions of Subparagraph (a) of this Paragraph shall be applicable
13 to ~~persons~~ offenders convicted of offenses or revoked on probation or parole on
14 or after January 1, 1992 and who are not serving a sentence for the following
15 offenses:

16 (i) A sex offense as defined in R.S. 15:541.

17 (ii) A crime of violence as defined in R.S. 14:2(B).

18 (iii) Any offense which would constitute a crime of violence as defined in
19 R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of
20 conviction.

21 (2)(a) An ~~inmate~~ offender convicted ~~a first time~~ of a crime of violence as
22 defined in R.S. 14:2(B), without a prior conviction of a crime of violence as
23 defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, shall earn
24 diminution of sentence at a rate of ~~three days for every seventeen~~ one day for every
25 three days in actual custody held on the imposed sentence, including time spent in
26 custody with good behavior prior to sentencing for the particular sentence imposed
27 as authorized by Code of Criminal Procedure Article 880.

28 (b) The provisions of this Paragraph shall not apply to an offender if his
29 instant conviction is for a crime that is classified as both a crime of violence as

1 **defined in R.S. 14:2(B) and a sex offense as defined in 15:541.**

2 **(c) The provisions of this Paragraph shall apply only to offenders**
 3 **convicted of offenses or revoked on probation or parole on or after November 1,**
 4 **2017.**

5 ~~(3) A person shall not be eligible for diminution of sentence for good~~
 6 ~~behavior if he has been convicted of or pled guilty to, or where adjudication has been~~
 7 ~~deferred or withheld for, a violation of any one of the following offenses:~~

8 ~~(a) Rape (R.S. 14:41).~~

9 ~~(b) Aggravated or first degree rape (R.S. 14:42).~~

10 ~~(c) Forcible or second degree rape (R.S. 14:42.1).~~

11 ~~(d) Simple or third degree rape (R.S. 14:43).~~

12 ~~(e) Sexual battery (R.S. 14:43.1).~~

13 ~~(f) Second degree sexual battery (R.S. 14:43.2).~~

14 ~~(g) Oral sexual battery (R.S. 14:43.3).~~

15 ~~(h) Intentional exposure to AIDS virus (R.S. 14:43.5).~~

16 ~~(i) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

17 ~~(j) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

18 ~~(k) Felony carnal knowledge of a juvenile (R.S. 14:80).~~

19 ~~(l) Indecent behavior with juveniles (R.S. 14:81).~~

20 ~~(m) Pornography involving juvenile (R.S. 14:81.1).~~

21 ~~(n) Molestation of a juvenile or a person with a physical or mental disability~~
 22 ~~(R.S. 14:81.2).~~

23 ~~(o) Computer-aided solicitation of a minor (R.S. 14:81.3).~~

24 ~~(p) Crime against nature (R.S. 14:89).~~

25 ~~(q) Aggravated crime against nature (R.S. 14:89.1).~~

26 ~~(r) Sexual battery of persons with infirmities (R.S. 14:93.5).~~

27 ~~(4) Diminution of sentence shall not be allowed an inmate in the custody of~~
 28 ~~the Department of Public Safety and Corrections if the inmate has been convicted~~
 29 ~~one or more times under the laws of this state, any other state, or the federal~~

1 ~~government of any one or more of the following crimes or attempts to commit any~~
2 ~~of the following crimes:~~

- 3 (a) ~~Felony carnal knowledge of a juvenile.~~
- 4 (b) ~~Indecent behavior with juveniles.~~
- 5 (c) ~~Molestation of a juvenile or a person with a physical or mental disability.~~
- 6 (d) ~~Crime against nature as defined by R.S. 14:89(A)(2).~~
- 7 (e) ~~Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).~~

8 * * *

9 D.(1) Diminution of sentence shall not be allowed an inmate **offender** in the
10 custody of the Department of Public Safety and Corrections if the instant offense is
11 a ~~second offense crime of violence as defined by R.S. 14:2(B)~~ **crime of violence as**
12 **defined by R.S. 14:2(B) and the offender has two or more prior convictions for**
13 **a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S.**
14 **15:541.**

15 (2) Diminution of sentence shall not be allowed an offender in the
16 custody of the Department of Public Safety and Corrections if the instant
17 offense is a sex offense as defined by R.S. 15:541.

18 * * *

19 §574.2. Committee on parole, Board of Pardons; membership; qualifications;
20 vacancies; compensation; domicile; venue; meetings; quorum;
21 panels; powers and duties; transfer of property to committee;
22 representation of applicants before the committee; prohibitions

23 * * *

24 C.(1) The committee shall meet in a minimum of three-member panels at the
25 adult correctional institutions on regular scheduled dates, not less than every three
26 months. Such dates are to be determined by the chairman. Except as provided for in
27 Paragraph (2) of this Subsection **or in cases where the offender is released**
28 **pursuant to Paragraph (4) of this Subsection**, three votes of a three-member panel
29 shall be required to grant parole, or, if the number exceeds a three-member panel, a

1 unanimous vote of those present shall be required to grant parole.

2 (2) **Except in cases where the offender is released pursuant to Paragraph**
3 **(4) of this Subsection, the** The committee may grant parole with two votes of a
4 three-member panel, or, if the number exceeds a three-member panel, a majority vote
5 of those present if all of the following conditions are met:

6 (a) The offender has not been convicted of a sex offense as defined in R.S.
7 15:541 or an offense which would constitute a sex offense as defined in R.S. 15:541,
8 regardless of the date of conviction.

9 (b) The offender has not committed any major disciplinary offenses in the
10 twelve consecutive months prior to the parole eligibility date. A major disciplinary
11 offense is an offense identified as a Schedule B offense by the Department of Public
12 Safety and Corrections in the Disciplinary Rules and Procedures of Adult Offenders.

13 (c) The offender has completed the mandatory minimum of one hundred
14 hours of pre-release programming in accordance with R.S. 15:827.1 if such
15 programming is available at the facility where the offender is incarcerated.

16 (d) The offender has completed substance abuse treatment as applicable.

17 (e) The offender has obtained a GED credential, unless the offender has
18 previously obtained a high school diploma or is deemed by a certified educator as
19 being incapable of obtaining a GED credential due to a learning disability. If the
20 offender is deemed incapable of obtaining a GED credential, the offender must
21 complete at least one of the following: a literacy program, an adult basic education
22 program, or a job skills training program.

23 (f) The offender has obtained a low-risk level designation determined by a
24 validated risk assessment instrument approved by the secretary of the Department
25 of Public Safety and Corrections.

26 * * *

27 **(4)(a) Notwithstanding any provision of law to the contrary, each**
28 **offender convicted after November 1, 2017, and eligible for parole pursuant to**
29 **R.S. 15:574.4(A)(1), except those sentenced under R.S. 15:529.1, shall be**

1 released on administrative parole on the offender's parole eligibility date
 2 without a hearing before the committee if all of the following conditions are
 3 met:

4 (i) The offender has completed a case plan pursuant to R.S. 15:827(A)(7),
 5 except as provided in Subparagraph (b) of this Paragraph.

6 (ii) A victim of the offender has been notified pursuant to Subsection D
 7 of this Section and has not requested that the committee conduct a hearing.

8 (iii) The offender has not committed any major disciplinary offenses in
 9 the twelve consecutive months prior to the administrative parole eligibility date.

10 A major disciplinary offense is an offense identified as a Schedule B offense by
 11 the Department of Public Safety and Corrections in the Disciplinary Rules and
 12 Procedures for Adult Offenders.

13 (iv) The offender has agreed to the conditions of supervision.

14 (v) For any offender convicted of a sex offense as defined in R.S. 15:541,
 15 the committee and the offender have completed the requirements set forth in
 16 R.S. 15:574.4.3.

17 (b) If the offender has met the conditions provided in Items (ii), (iii), (iv),
 18 and (v) of Subparagraph (a) of this Paragraph, he shall still be released on
 19 administrative parole if the case plan was not created for him or the incomplete
 20 case plan was not the fault of the offender.

21 D. In accordance with the provisions of this Part, the committee on parole
 22 shall have the following powers and duties:

23 (1) ~~To~~ Except as provided in Paragraph (C)(4) of this Section, to
 24 determine the time and conditions of release on parole of any ~~person~~ offender who
 25 has been convicted of a felony and sentenced to imprisonment, and confined in any
 26 penal or correctional institution in this state.

27 * * *

28 (6) ~~To~~ Except as provided in Paragraph (C)(4) of this Section, to consider
 29 all pertinent information with respect to each ~~prisoner~~ offender who is incarcerated

1 in any penal or correctional institution in this state at least one month prior to the
 2 parole eligible date and thereafter at such other intervals as it may determine, which
 3 information shall be a part of the inmate's **offender's** consolidated summary record
 4 and which shall include:

5 * * *

6 (8)(a) To notify the district attorney of the parish where the conviction
 7 occurred. The notification shall be in writing and shall be issued at least ~~thirty~~ sixty
 8 days prior to the hearing date. **For offenders eligible for release pursuant to**
 9 **Paragraph (C)(4) of this Section, the notification shall be in writing and shall be**
 10 **issued at least ninety days prior to the offender's administrative parole**
 11 **eligibility date.** The district attorney of the parish where the conviction occurred
 12 shall be allowed to review the record of the offender since incarceration, including
 13 but not limited to any educational or vocational training, rehabilitative program
 14 participation, disciplinary conduct, and risk assessment score. The district attorney
 15 shall be allowed to present testimony to the committee on parole and submit
 16 information relevant to the proceedings, **except as provided in Paragraph (C)(4)**
 17 **of this Section.**

18 * * *

19 (9)(a) To notify the victim, or the spouse or next of kin of a deceased victim,
 20 when the offender is scheduled for a parole hearing. The notification shall be in
 21 writing and sent no less than ~~thirty~~ sixty days prior to the hearing date. The notice
 22 shall advise the victim, or the spouse or next of kin of a deceased victim, of their
 23 rights with regard to the hearing. The notice is not required when the victim, or the
 24 spouse or next of kin of a deceased victim, advises the committee in writing that such
 25 notification is not desired. The victim, or the spouse or next of kin of a deceased
 26 victim, shall be allowed to testify at the hearing. The victim, or the spouse or next
 27 of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to
 28 testimony or evidence offered by or on behalf of the offender, or both.

29 **(b) To notify the victim, or the spouse or next of kin of a deceased victim**

1 of those offenders eligible for release pursuant to Paragraph (C)(4) of this
 2 Section. The notification shall meet all requirements set forth in Subparagraph
 3 (9)(a) of this Section except that it shall give notice of the offender's
 4 administrative parole eligibility date and be sent no less than ninety days prior
 5 to the offender's administrative parole eligibility date.

6 * * *

7 §574.4. Parole; eligibility

8 A.(1)(a) Unless eligible at an earlier date and except as provided for in
 9 Subparagraph (b) of this Paragraph and Subsection B of this Section, a person;
 10 otherwise eligible for parole, ~~convicted of a first felony offense~~ shall be eligible for
 11 parole consideration upon serving twenty-five percent of the sentence imposed.
 12 The provisions of this Subparagraph shall not apply to any person whose
 13 instant offense is a crime of violence as defined in R.S. 14:2(B), a sex offense as
 14 defined in R.S. 15:541, or any offense which would constitute a crime of violence
 15 as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless
 16 of the date of conviction. Notwithstanding any provisions of law to the contrary,
 17 the provisions of this Subparagraph shall be applicable to persons convicted of
 18 offenses or revoked of probation or parole prior to and on or after, November 1,
 19 2017. ~~thirty-three and one-third percent of the sentence imposed. Upon conviction~~
 20 ~~of a second felony offense, such person shall be eligible for parole consideration~~
 21 ~~upon serving fifty percent of the sentence imposed. A person convicted of a third or~~
 22 ~~subsequent felony offense shall not be eligible for parole.~~

23 (b)(i) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
 24 a person, ~~otherwise eligible for parole, convicted of a first felony offense shall be~~
 25 ~~eligible for parole consideration upon serving twenty-five percent of the sentence~~
 26 ~~imposed. The provisions of this Subparagraph shall not apply to any person who has~~
 27 ~~been convicted of a crime of violence as defined in R.S. 14:2(B), has been convicted~~
 28 ~~of a sex offense as defined in R.S. 15:541, has been sentenced as a habitual offender~~
 29 ~~pursuant to R.S. 15:529.1, or is otherwise ineligible for parole. **A person, otherwise**~~

1 eligible for parole, whose instant offense is a first or second conviction of a
2 crime of violence as defined in R.S. 14:2(B) or a first or second conviction of a
3 sex offense as defined in R.S. 15:541 shall be eligible for parole consideration
4 upon serving seventy-five percent of the sentence imposed. The offense shall not
5 be counted as a second or subsequent offense if more than ten years have lapsed
6 between the date of the commission of the instant offense and the expiration of
7 the offender's maximum sentence of the previous conviction, or between the
8 expiration of the offender's maximum sentence of each preceding conviction
9 and the date of the commission of the following offense. A person convicted a
10 third or subsequent time of a crime of violence as defined in R.S. 14:2(B) or a
11 third or subsequent time of a sex offense as defined in R.S. 15:541 shall not be
12 eligible for parole.

13 (ii) Notwithstanding the provisions of Subparagraph (b)(i) of this
14 Paragraph, a person, otherwise eligible for parole, convicted of a crime of
15 violence as defined in R.S. 15:541 who does not have a prior felony conviction
16 for a crime of violence as defined in R.S. 14:2(B) or a prior felony conviction for
17 a sex offense as defined in R.S. 15:541 shall be eligible for parole consideration
18 upon serving sixty-five percent of the sentence imposed. The provisions of this
19 Item shall not apply to any person convicted of a sex offense as defined in R.S.
20 15:541.

21 (iii) The provisions of this Subparagraph shall be applicable only to
22 persons convicted of offenses or revoked on probation or parole on or after
23 July 1, 2017.

24 ~~(ii) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a~~
25 ~~person, otherwise eligible for parole, convicted of a second felony offense shall be~~
26 ~~eligible for parole consideration upon serving thirty-three and one-third percent of~~
27 ~~the sentence imposed. The current offense shall not be counted as a second or~~
28 ~~subsequent offense if more than ten years have lapsed between the date of the~~
29 ~~commission of the current offense or offenses and the expiration of the person's~~

1 ~~maximum sentence or sentences of the previous conviction or convictions, or~~
 2 ~~between the expiration of his maximum sentence or sentences of each preceding~~
 3 ~~conviction and the date of the commission of the following offense or offenses. In~~
 4 ~~computing the intervals of time, any period of parole, probation, or incarceration by~~
 5 ~~a person in a penal institution, within or without the state shall not be included in the~~
 6 ~~computation of any of the ten-year periods between the expiration of the person's~~
 7 ~~maximum sentence or sentences and the next succeeding offense or offenses. The~~
 8 ~~provisions of this Item shall not apply to any person who has been convicted of a~~
 9 ~~crime of violence as defined in R.S. 14:2(B), has been convicted of a sex offense as~~
 10 ~~defined in R.S. 15:541, has been sentenced as a habitual offender pursuant to R.S.~~
 11 ~~15:529.1, or is otherwise ineligible for parole.~~

12 ~~(iii) Any person eligible for parole pursuant to the provisions of this~~
 13 ~~Subparagraph shall not be eligible for parole pursuant to the provisions of~~
 14 ~~Subparagraph (a) of this Paragraph.~~

15 ~~(iv) Nothing in this Subparagraph shall prevent a person from reapplying for~~
 16 ~~parole as provided by rules adopted in accordance with the Administrative Procedure~~
 17 ~~Act.~~

18 * * *

19 B.(1) No person shall be eligible for parole consideration who has been
 20 convicted of armed robbery and denied parole eligibility under the provisions of R.S.
 21 14:64. Except as provided in Paragraph (2) of this Subsection, and except as
 22 provided in Paragraph (A)(5) and Subsections **D, and E, and F** of this Section, no
 23 prisoner serving a life sentence shall be eligible for parole consideration until his life
 24 sentence has been commuted to a fixed term of years. No prisoner sentenced as a
 25 serial sexual offender shall be eligible for parole. No prisoner may be paroled while
 26 there is pending against him any indictment or information for any crime suspected
 27 of having been committed by him while a prisoner. Notwithstanding any other
 28 provisions of law to the contrary, a person convicted of a crime of violence and not
 29 otherwise ineligible for parole shall serve at least ~~seventy~~ **sixty**-five percent of the

1 sentence imposed, before being eligible for parole. The victim or victim's family
 2 shall be notified whenever the offender is to be released provided that the victim or
 3 victim's family has completed a Louisiana victim notice and registration form as
 4 provided in R.S. 46:1841 et seq., or has otherwise provided contact information and
 5 has indicated to the Department of Public Safety and Corrections, Crime Victims
 6 Services Bureau, that they desire such notification.

7 * * *

8 C.(1) * * *

9 (2)(a) ~~In~~ **Except as provided in R.S. 15:574.2(C)(4), in** cases where the
 10 offender has been convicted of, or where adjudication has been deferred or withheld
 11 for the perpetration or attempted perpetration of a violation of a sex offense as
 12 defined in R.S. 15:541 and parole is permitted by law and the offender is otherwise
 13 eligible, the committee shall consider reports, assessments, and clinical information,
 14 as available, including any testing and recommendations by mental health
 15 professionals, as to all of the following:

16 (i) Whether the offender has successfully completed the sex offender
 17 program.

18 (ii) Whether, in the expert's opinion, there is a likelihood that the offender
 19 will or will not repeat the criminal conduct and that the offender will or will not be
 20 a danger to society.

21 (b) ~~The~~ **Except as provided in R.S. 15:574.2(C)(4), the** committee shall
 22 render its decision ordering or denying the release of the prisoner on parole only after
 23 considering this clinical evidence where such clinical evidence is available.

24 * * *

25 **F. Notwithstanding any provision of law to the contrary, an offender**
 26 **serving a life sentence for second degree murder (R.S. 14:30.1), shall be eligible**
 27 **for parole consideration pursuant to the provisions of this Subsection if all of**
 28 **the following conditions are met:**

29 **(1) The offender committed the offense after August 1, 1973, and prior**

1 to June 29, 1979.

2 (2) The offender has served at least thirty years of the sentence imposed.

3 (3) The offender has reached the age of fifty.

4 §574.4.1. Parole consideration and hearings

5 A.(1) The parole hearings shall be conducted in a formal manner in
6 accordance with the rules formulated by the committee and with the provisions of
7 this Part. ~~Before~~ Except as provided in R.S. 15:574.2(C)(4), before the parole of
8 any prisoner is ordered, such prisoner shall appear before and be interviewed by the
9 committee, except those incarcerated in parish prisons or parish correctional centers,
10 in which case one committee member may conduct the interview. The committee
11 may order a reconsideration of the case or a rehearing at any time.

12 * * *

13 §574.4.3. Parole requirements for certain sex offenders

14 A.(1) ~~Before having a parole hearing~~ Parole shall not be granted for any
15 offender who has been convicted of a violation of a sex offense as defined in R.S.
16 15:541, when the law permits parole consideration for that offense, and when
17 according to law an offender convicted of one of those offenses is otherwise eligible
18 for parole, unless the committee has given sufficient notice to the victim or the
19 victim's parent or guardian pursuant to R.S. 15:574.2(D)(9). ~~shall give written~~
20 ~~notice of the date and time of the parole hearing at least three days prior to the~~
21 ~~hearing to the victim or the victim's parent or guardian, unless the victim, parent, or~~
22 ~~guardian has advised the committee on parole in writing that such notification is not~~
23 ~~desired.~~

24 * * *

25 §574.6. Parole term; automatic discharge

26 The parole term, when the committee orders a ~~prisoner~~ an offender released
27 on parole, shall be for the remainder of the prisoner's sentence, ~~without any~~
28 ~~diminution of sentence for good behavior~~ with credits for compliance with the
29 terms and conditions of parole supervision pursuant to Code of Criminal

1 **Procedure Article 895.7.** When the parolee has completed his full parole term, he
2 shall be discharged from parole by the Department of Public Safety and Corrections
3 without order by the committee, provided that:

4 (1) No warrant has been issued by the committee for the arrest of the parolee.

5 (2) No detainer has been issued by the parole officer for the detention of the
6 parolee pending revocation proceedings.

7 (3) No indictment or bill of information is pending for any felony the parolee
8 is suspected to have committed while on parole.

9 §574.7. Custody and supervision of parolees; modification or suspension of
10 supervision; violation of conditions of parole; sanctions; alternative
11 conditions; administrative sanctions

12 * * *

13 B.(1) ~~At the time a defendant is released on parole, the committee on parole~~
14 ~~may make a determination as to whether a defendant is eligible for the imposition~~
15 ~~of administrative sanctions as provided for in this Section. If authorized to do so by~~
16 ~~the committee, each **Each** time a parolee violates a condition of parole, a parole~~
17 officer ~~may~~ **shall be authorized to** use administrative sanctions to address a
18 technical violation committed by a parolee when all of the following occur:

19 (a) The parolee, after receiving written notification of his right to a hearing
20 before a court and right to counsel, provides a written waiver of a parole violation
21 hearing.

22 (b) The parolee admits to the violation or affirmatively chooses not to contest
23 the violation alleged in the parole violation report.

24 (c) The parolee consents to the imposition of administrative sanctions by the
25 Department of Public Safety and Corrections.

26 (2) The department shall promulgate rules to implement the provisions of this
27 Subsection to establish the following:

28 (a)**(i)** A system of structured, administrative sanctions which shall be
29 imposed for technical violations of parole and which shall take into consideration the

1 following factors:

2 ~~(i)~~**(aa)** The severity of the violation behavior.

3 ~~(ii)~~**(bb)** The prior violation history.

4 ~~(iii)~~**(cc)** The severity of the underlying criminal conviction.

5 ~~(iv)~~**(dd)** The criminal history of the parolee.

6 ~~(v)~~**(ee)** Any special circumstances, characteristics, or resources of the parolee.

7 ~~(vi)~~**(ff)** Protection of the community.

8 ~~(vii)~~**(gg)** Deterrence.

9 ~~(viii)~~**(hh)** The availability of appropriate local sanctions, including but not
10 limited to jail, treatment, community service work, house arrest, electronic
11 surveillance, restitution centers, work release centers, day reporting centers, or other
12 local sanctions.

13 **(ii) Incarceration shall not be used for the first or second lowest-level**
14 **violations, including but not limited to first positive drug test; association with**
15 **known felons or persons involved in criminal activity; changing residence**
16 **without permission; failure to initially report as required; failure to pay**
17 **restitution up to three months; failure to report as instructed; travel without**
18 **permission; and unemployment and failure to seek employment within ninety**
19 **days.**

20 **(iii) Incarceration shall not be used for first or second violations of**
21 **alcohol use or admission, except for defendants convicted of operating a vehicle**
22 **while intoxicated; convicted of domestic abuse battery committed by one family**
23 **member, household member, or dating partner against another; or convicted**
24 **of violation of protective order committed by one family member, household**
25 **member, or dating partner against another.**

26 (b) Procedures to provide a parolee with written notice of the right to a parole
27 violation hearing to determine whether the parolee violated the conditions of parole
28 alleged in the violation report and the right to be represented by counsel at state
29 expense at that hearing if financially eligible.

1 (c) Procedures for a parolee to provide written waiver of the right to a parole
2 violation hearing, to admit to the violation or affirmatively choose not to contest the
3 violation alleged in the parole violation report, and to consent to the imposition of
4 administrative sanctions by the department.

5 (d) The level and type of sanctions that may be imposed by parole officers
6 and other supervisory personnel.

7 (e) The level and type of violation behavior that warrants a recommendation
8 to the committee that parole be revoked.

9 (f) Procedures notifying the parolee and the committee on parole of a
10 violation admitted by the parolee and the administrative sanctions imposed.

11 (g) Such other policies and procedures as are necessary to implement the
12 provisions of this Subsection and to provide adequate parole supervision.

13 **(h) A system of structured administrative rewards for compliance with**
14 **conditions and positive behavior that exceeds the conditions of parole.**

15 (3) If the administrative sanction imposed pursuant to the provisions of this
16 Subsection is jail confinement, the confinement shall not exceed ten days per
17 violation and shall not exceed a total of sixty days per year.

18 (4) For purposes of this Subsection, "technical violation" means any violation
19 of a condition of parole ~~as defined in R.S. 15:574.9(G)(2).~~ **except the following:**

20 **(a) A new felony conviction.**

21 **(b) A conviction for an intentional misdemeanor directly affecting the**
22 **person.**

23 **(c) An allegation of a subsequent criminal act that if proven would be a**
24 **crime of violence as defined in R.S. 14:2(B).**

25 **(d) An allegation of a subsequent criminal act that if proven would be a**
26 **sex offense as defined in R.S. 15:541.**

27 **(e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3**
28 **committed by one family member, household member, or dating partner**
29 **against another.**

1 **(f) An allegation of violation of protective order pursuant to R.S. 14:79**
 2 **committed by one family member, household member, or dating partner**
 3 **against another.**

4 * * *

5 §574.9. Revocation of parole for violation of condition; committee panels; return to
 6 custody hearing; duration of reimprisonment and reparole after
 7 revocation; credit for time served; revocation for a technical violation

8 * * *

9 **D. When a detainer is issued by the parole officer for an allegation of the**
 10 **commission of another crime, it is enforceable until bond is set by the judge for**
 11 **the new crime. When the bond is set, the detainer shall expire and the parolee**
 12 **may be released upon posting of the bond.**

13 ~~D~~E. Parole revocation shall require two votes of a three-member panel of
 14 parole committee members or, if the number of members present exceeds a three-
 15 member panel, a majority vote of those members present and voting, and the order
 16 of revocation shall be reduced to writing and preserved.

17 ~~E~~F. When the parole of a parolee has been revoked by the committee for
 18 violation of the conditions of parole, the parolee shall be returned to the physical
 19 custody of the Department of Public Safety and Corrections, corrections services,
 20 and serve the remainder of his sentence as of the date of his release on parole, and
 21 any credit for time served for good behavior while on parole. The parolee shall be
 22 given credit for time served prior to the revocation hearing for time served in actual
 23 custody while being held for a parole violation in a local detention facility, state
 24 institution, or out-of-state institution pursuant to Code of Criminal Procedure Article
 25 880.

26 ~~F~~G. Any such prisoner whose parole has been revoked may be considered by
 27 the committee for reparole in accordance with the provisions of this Part.

28 ~~G~~H.(1)(a)(i) Except as provided in Subparagraph (b) of this Paragraph, any
 29 offender who has been released on parole and whose parole supervision is being

1 revoked pursuant to the provisions of this Subsection for a technical violation of the
2 conditions of parole as determined by the committee on parole, shall be required to
3 serve the following sentences:

4 (aa) For the first technical violation, ~~the offender shall serve~~ not more than
5 **ninety fifteen** days.

6 (bb) For a second technical violation, ~~the offender shall serve~~ not more than
7 ~~one hundred twenty~~ **thirty** days.

8 (cc) For a third or subsequent technical violation, ~~the offender shall serve~~ not
9 more than ~~one hundred eighty~~ **forty-five** days.

10 (ii) The sentences imposed pursuant to Item (i) of this Subparagraph shall be
11 served without diminution of sentence ~~or credit for time served prior to the~~
12 ~~revocation for a technical violation.~~ The term of the revocation for the technical
13 violation shall begin on the date the committee on parole orders the revocation.
14 Upon completion of the imposed technical revocation sentence, the offender shall
15 return to active parole supervision for the remainder of the original term of
16 supervision.

17 **(iii) If the offender completes ninety days of committee-recommended**
18 **substance abuse treatment, he shall receive ninety days of credit toward his**
19 **term of parole.**

20 **(iv) The offender shall be given credit toward service of his sentence for**
21 **time spent in actual custody prior to the revocation hearing while being held for**
22 **a technical violation in a local detention facility, state institution, or out-of-state**
23 **institution.**

24 (b) ~~The provisions of Subparagraph (a) of this Paragraph shall not apply to~~
25 ~~the following offenders:~~

26 (i) ~~Any offender released on parole for the conviction of a crime of violence~~
27 ~~as defined in R.S. 14:2(B):~~

28 (ii) ~~Any offender released on parole for the conviction of a sex offense as~~
29 ~~defined in R.S. 15:541:~~

1 ~~violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.~~

2 **B. Medical Parole**

3 **(1)** The committee on parole shall establish the medical parole program to be
4 administered by the Department of Public Safety and Corrections. An ~~inmate~~
5 **offender** eligible for consideration for release under the program shall be any ~~person~~
6 **offender** who, because of an existing medical or physical condition, is determined
7 by the department to be within one of the following designations:

8 ~~(1)(a)~~ **"Permanently disabled inmate offender"** means any ~~person~~ **offender**
9 who is unable to engage in any substantial gainful activity by reason of any
10 medically determinable physical impairment which can be expected to result in death
11 or which is or can be expected to be permanently irreversible.

12 ~~(2)(b)~~ **"Terminally ill inmate offender"** means any ~~inmate~~ **offender** who,
13 because of an existing medical condition, is irreversibly terminally ill. For the
14 purposes of this Section, "terminally ill" is defined as having a life expectancy of less
15 than one year due to an underlying medical condition.

16 **(2) Medical parole shall not be available to any offender serving a**
17 **sentence for a conviction of first degree murder (R.S. 14:30) or second degree**
18 **murder (R.S. 14:30.1) or awaiting execution.**

19 **C. Medical Treatment Furlough**

20 **(1) The committee on parole shall establish the medical treatment**
21 **furlough program to be administered by the department for the purpose of**
22 **utilizing off site medical facilities for an eligible offender's medical treatment.**
23 **Medical treatment furlough shall not be available to any offender who is**
24 **awaiting execution.**

25 **(2)(a) An offender eligible for consideration for release under the**
26 **medical treatment furlough program shall be any offender who is ineligible for**
27 **release on medical parole pursuant to Subsection B of this Section and is**
28 **determined by the department to be to a limited mobility offender.**

29 **(b) For the purposes of this Section, "limited mobility offender" means**

1 any offender who is unable to perform activities of daily living without help or
2 is confined to a bed or chair, including but not limited to prolonged coma and
3 medical ventilation.

4 (3) Notwithstanding any provision of law to the contrary, the committee
5 on parole may authorize the release of an eligible offender on medical treatment
6 furlough when all of the following conditions are met:

7 (a) Placement in an acute care hospital, nursing home, or other
8 appropriate medical facility able to meet the offender's medical and treatment
9 needs is secured.

10 (b) All confinement and level of supervision requirements that the
11 committee deems necessary are secured.

12 (c) The committee determines that the offender does not present a
13 substantial flight risk.

14 D. No inmate offender shall be recommended for ~~medical parole~~ or medical
15 treatment furlough pursuant to this Section by the department until full
16 consideration has been given to the inmate's offender's crime and criminal history,
17 length of time served in custody, institutional conduct, an indication that the inmate
18 offender represents a low risk to himself or society, and a medical assessment of the
19 inmate's offender's condition. In the assessment of risk, emphasis shall be given to
20 the inmate's offender's medical condition and how this relates to his overall risk to
21 society.

22 DE. The authority to grant ~~medical parole~~ or medical treatment furlough
23 pursuant to this Section shall rest solely with the committee on parole, and the
24 committee shall establish additional conditions of the parole or medical treatment
25 furlough in accordance with the provisions of this Subpart. The Department of
26 Public Safety and Corrections shall identify those inmates offenders who may be
27 eligible for medical parole or medical treatment furlough based upon available
28 medical information. In considering an inmate offender for medical parole or
29 medical treatment furlough, the committee may require that additional medical

1 evidence be produced or that additional medical examinations be conducted. The
 2 committee on parole shall determine the risk to public safety and shall grant medical
 3 parole **or medical treatment furlough** only after determining that the ~~inmate~~
 4 **offender** does not pose a threat to public safety.

5 ~~EF~~. The parole term of an ~~inmate~~ **offender** released on medical parole **or**
 6 **medical treatment furlough** shall be for the remainder of the ~~inmate's~~ **offender's**
 7 sentence, without diminution of sentence for good behavior. Supervision of the
 8 ~~parolee~~ **offender** shall consist of periodic medical evaluations at intervals to be
 9 determined by the committee at the time of release.

10 ~~FG~~. If it is discovered through the supervision of the medical parolee **or**
 11 **medical treatment furlougee** that his condition has improved such that he would
 12 not then be eligible for medical parole **or medical treatment furlough** under the
 13 provisions of this Subpart, the committee may order that the ~~person~~ **offender** be
 14 returned to the custody of the Department of Public Safety and Corrections to await
 15 a hearing to determine whether his parole **or medical treatment furlough** shall be
 16 revoked. Any ~~person~~ **offender** whose medical parole **or medical treatment**
 17 **furlough** is revoked due to an improvement in his condition shall resume serving the
 18 balance of his sentence with credit given for the duration of the medical parole **or**
 19 **medical treatment furlough**. If the ~~person's~~ **offender's** medical parole **or medical**
 20 **treatment furlough** is revoked due to an improvement in his condition, and he
 21 would be otherwise eligible for parole, he may then be considered for parole under
 22 the provisions of R.S. 15:574.4. Medical parole **and medical treatment furlough**
 23 may also be revoked for violation of any condition of the parole as established by the
 24 committee on parole.

25 ~~GH~~. The committee on parole shall promulgate such rules as are necessary
 26 to effectuate this Subpart, including rules relative to the conduct of medical parole
 27 **and medical treatment furlough** hearings, and the conditions of medical parole **and**
 28 **medical treatment furlough** release.

29 * * *

1 §827. Duties of Department of Public Safety and Corrections

2 A. In addition to other duties imposed upon the department it shall be the
3 duty of the department to:

4 * * *

5 **(7) Establish a procedure that provides for each offender who is required**
6 **to serve an active term of imprisonment of one hundred eighty days or more,**
7 **a written case plan that is based on the results of an assessment of the offender's**
8 **risk and needs and includes participation in programming that addresses the**
9 **needs identified in that assessment. For offenders eligible for administrative**
10 **parole pursuant to R.S. 15:574.2(C)(4), the department shall notify the**
11 **committee in writing of an offender's compliance or noncompliance with the**
12 **case plan not less than sixty days before an offender's administrative parole**
13 **release date. The provisions of this Paragraph shall be implemented beginning**
14 **on November 1, 2017, and only to the extent that funds are appropriated for this**
15 **purpose and to the extent that it is consistent with the available resources.**

16 * * *

17 §828. Classification and treatment programs; qualified sex offender programs;
18 reports; earned credits

19 * * *

20 B. The secretary shall adopt rules and regulations for local jail facilities and
21 state correctional institutions to encourage voluntary participation by ~~inmates~~
22 **offenders** in certified treatment and rehabilitation programs, including but not
23 limited to basic education, job skills training, values development and faith-based
24 initiatives, therapeutic programs, and treatment programs. When funds are provided,
25 such educational programs shall be available at each penal or correctional institution
26 under the jurisdiction of the department. The rules and regulations may include
27 provisions for furloughs or the awarding of earned credits toward the reduction of
28 the projected good time parole supervision date. Offenders may be awarded up to
29 ~~ninety days toward the reduction of the projected good time parole supervision date~~

1 for satisfactory participation in each approved program pursuant to the provisions of
 2 this Subsection, but no offender shall receive more than three hundred sixty days
 3 total earned credits toward the reduction of the projected good time parole
 4 supervision date for program participation.

5 C. Notwithstanding any other provision of law to the contrary, any offender
 6 in the custody of the Department of Public Safety and Corrections who has been
 7 sentenced as an habitual offender pursuant to the provisions of R.S. 15:529.1 may
 8 earn additional good time for participation in certified treatment and rehabilitation
 9 programs as provided for in Subsection B of this Section, unless the offender was
 10 convicted of a sex offense as defined by R.S. 15:541 or a crime of violence as
 11 defined by R.S. 14:2(B). **offender's instant offense is one of the following:**

12 **(1) A sex offense as defined in R.S. 15:541.**

13 **(2) A crime of violence as defined in R.S. 14:2(B) and the offender has**
 14 **two or more prior convictions of a crime of violence as defined in R.S. 14:2(B)**
 15 **or a sex offense as defined in R.S. 15:541.**

16 **D. Offenders who are otherwise eligible under this Section who are**
 17 **participating in the workforce development work release program pursuant to**
 18 **R.S. 15:1199.9, shall be eligible to earn an additional one hundred eighty days**
 19 **of credit towards the reduction of the projected good time parole supervision**
 20 **date.**

21 Section 4. This Act shall become effective on November 1, 2017; if vetoed by the
 22 governor and subsequently approved by the legislature, this Act shall become effective on
 23 November 1, 2017, or on the day following such approval by the legislature, whichever is
 24 later.

The original instrument was prepared by Ashley Menou. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Alden A. Clement, Jr.

conviction of computer fraud, pornography involving juveniles, or molestation of a juvenile or a person with a physical or mental disability.

Proposed law retains present law and adds eligibility for offenders convicted a third time of a noncapital felony and offenders convicted a first time for an offense with a maximum prison sentence of 10 years or less that was not committed against a family member, household member, or dating partner.

Present law provides that when an offender's sentence is suspended, he is to be placed on probation for not less than one year and not more than five years.

Proposed law decreases the period of probation for a suspended sentence to not more than three years and removes mandatory minimum.

Proposed law retains present law and allows for suspension of a sentence for a fourth conviction of operating a vehicle while intoxicated if the offender was not offered such alternatives prior to his fourth conviction, the district attorney consents, and the court orders the offender to do any of the following:

- (1) Enter and complete a program provided by the drug division court of the district court.
- (2) Enter and complete an established driving while intoxicated court or sobriety court program.
- (3) Reside for at least one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act.
- (4) Enter and complete the Swift and Certain Probation Pilot Program.

Present law allows the period of probation for any offender to be extended to no more than eight years if the court deems it necessary to ensure completion of a drug court program, a sobriety court program, or the Swift and Certain Probation Pilot Program.

Proposed law removes the ability of the court to extend the duration of the probation period of cases assigned to such programs if it is the offender's first or second conviction.

Proposed law allows the probation period for an offender ordered to complete a drug court program, a sobriety court program, or the Swift and Certain Probation Pilot Program to be extended to no more than eight years only if it is the offender's third conviction or fourth felony conviction.

Proposed law provides that every offender on felony probation is to earn discharge credits for compliance with the terms of his probation at a rate of 30 days per full calendar month of compliance, beginning after the first full month of compliance. Proposed law further provides that, notwithstanding any other provision of present law or proposed law to the contrary, discharge credits may not be earned in conjunction with any other credits received toward a defendant's term of probation, and if a defendant receives credit toward his term of probation for any other reason, he cannot receive discharge credits for that period of time.

Proposed law provides that if the chief probation and parole officer has reasonable cause to believe an offender on felony probation has not been compliant, he must notify the sentencing judge within five business days of learning of the incident of noncompliance and, unless a judge rules otherwise, 30 days of credits will be rescinded from the offender.

Proposed law provides that credits may only be rescinded from a defendant for noncompliance.

Proposed law provides that DPSC is to develop policies and procedures for the implementation of discharge credits for probation offenders and is to collect data on the discharge credits including the names of offenders that earned credits, how many credits are applied to each offender, and reductions to supervision periods at the time of discharge.

Proposed law requires DPSC to notify each offender every six months from the date the offender is placed on probation of the offender's current discharge date and the offender's overall sentence.

Proposed law requires DPSC to notify the court no less than 60 days prior to the expected discharge date and allows DPSC to request that the court terminate a sentence prior to the discharge date.

Proposed law provides that the offender's supervising agency is to order the offender's discharge when the offender's total sentence is satisfied through a combination of time served and earned discharge credits.

Proposed law defines "calendar month of compliance" as any one of the 12 periods of time into which the calendar year is divided in which no violation report submitted by an offender's probation officer, no administrative sanctions are issued by an offender's probation officer, and the offender does not abscond from supervision.

Proposed law provides that an offender can abscond from supervision by failing to report within five business days after release from custody, failing to report for a scheduled meeting with a probation officer, failing to make contact with a probation officer within 30 days of a missed meeting, or serving a term of imprisonment for a violation of a condition of probation.

Proposed law provides that every offender on parole is to earn discharge credits for compliance with the terms of his parole at a rate of 30 days per full calendar month of compliance beginning after the first full month of compliance. Proposed law further provides that, notwithstanding any other provision of present law or proposed law to the contrary, discharge credits may not be earned in conjunction with any other credits received toward a defendant's term of probation, and if a defendant receives credit toward his term of probation for any other reason, he cannot receive discharge credits for that period of time.

Proposed law provides that if the chief probation and parole officer has reasonable cause to believe an offender on parole has not been compliant, he must notify the sentencing judge within five business days of learning of the incident of noncompliance and, unless a judge rules otherwise, 30 days of credits will be rescinded from the offender.

Proposed law provides that credits may only be rescinded from an offender for noncompliance.

Proposed law provides that DPSC is to develop policies and procedures for the implementation of discharge credits for parole offenders and is to collect data on the discharge credits including the names of offenders that earned credits, how many credits are applied to each offender, and reductions to supervision periods at the time of discharge.

Proposed law requires DPSC to notify each offender within six months from the date the offender is released on parole, of the offender's current discharge date, and the offender's overall sentence.

Proposed law requires DPSC to notify the court no less than 60 days prior to the expected discharge date and allows DPSC to request that the court terminate a sentence prior to the discharge date.

Proposed law provides that DPSC is to discharge the offender, without order by the committee on parole, when the offender's total sentence is satisfied through a combination of time served and earned discharge credits.

Proposed law defines "calendar month of compliance" as any one of the 12 periods of time into which the calendar year is divided in which no violation report submitted by an offender's probation officer, no administrative sanctions are issued by an offender's probation officer, and the offender does not abscond from supervision.

Proposed law provides that an offender can abscond from supervision by failing to report within five business days after release from custody, failing to report for a scheduled meeting with a parole officer, failing to make contact with a parole officer within 30 days of a missed meeting, or serving a term of imprisonment for a violation of a condition of parole.

Present law provides that at the time of sentencing, the court may make a determination as to whether an offender is eligible for the imposition of administrative sanctions.

Proposed law deletes present law and provides that, without authorization by the sentencing court, if an offender violates a condition of probation a probation agency is authorized to use administrative sanctions for technical violations if certain conditions exist.

Present law provides that DPSC is to promulgate rules to implement the provisions of administrative sanctions for technical violations.

Proposed law retains present law and adds that DPSC is to promulgate rules to implement the provisions of administrative sanctions with the following additional considerations:

- (1) Incarceration not to be used for first or second lowest-level violations.
- (2) Incarceration not to be used for first or second violations of alcohol use or admission, except for offenders convicted of operating a vehicle while intoxicated or certain convictions of domestic abuse battery or violation of a protective order.

Present law defines "technical violation", as it pertains to administrative sanctions for technical violations of probation, as any violation of a condition of probation, except for an allegation of a subsequent criminal act unless the allegation is a violation of possession of marijuana or tetrahydrocannabinol or chemical derivatives thereof.

Proposed law defines "technical violation", as it pertains to administrative sanctions for technical violations of probation, as any violation of a condition of probation, except:

- (1) A new felony conviction.
- (2) A conviction for an intentional misdemeanor directly affecting the person.
- (3) An allegation of a subsequent criminal act that if proven would be a crime of violence.
- (4) An allegation of a subsequent criminal act that if proven would be a sex offense.
- (5) An allegation of domestic abuse battery that if proven would be a violation committed by one family member, household member, or dating partner against another.
- (6) An allegation of violation of a protective order that if proven would be a violation committed by one family member, household member, or dating partner against another.

Present law provides that after an arrest for violation of probation, the court is to conduct a hearing within 30 days to determine if an offender violated or was about to violate his probation and may impose sanctions.

Present law provides that the court may revoke an offender's probation. In the event of revocation, the offender must serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court.

Proposed law provides that in the event of revocation, the offender must serve the sentence suspended subject to credit for time served on probation or in a substance abuse program.

Present law provides that an offender who has been placed on probation for a conviction other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation is required to serve a sentence of not more than 90 days without diminution of sentence.

Proposed law deletes present law and decreases the sentences that offenders who have their probation revoked for a technical violation must serve, without diminution of sentence, to the following terms:

- (1) For the first technical violation, not more than 15 days.
- (2) For the second technical violation, not more than 30 days.
- (3) For the third technical violation, not more than 45 days.

Present law provides that, only for the first revocation for a technical violation, the offender is to be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation.

Present law provides that the term of the revocation is to begin on the date the court orders the revocation and upon completion of the imposed sentence for the technical revocation, the offender must return to probation for a period equal to the remainder of the original period of probation, subject to any additional conditions imposed by the court.

Proposed law removes the applicability of present law only to an offender's first revocation for a technical violation and otherwise retains present law.

Proposed law provides that if an offender completes 90 days of court-recommended substance abuse treatment, he will receive 90 days credit toward his term of probation.

Present law defines "technical violation", as it pertains to a defendant who has been placed on probation for any offense other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) A violation of certain provisions of present law (Title 40 of the Louisiana Revised Statutes of 1950), except for misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof, which is considered a "technical violation."
 - (c) Any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.

- (e) At the discretion of the court, any attempt to commit any other misdemeanor.
- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.
- (4) Absconding from the jurisdiction of the court.
- (5) Failing to satisfactorily complete a drug court program if ordered to do so as a special condition of probation.
- (6) At the discretion of the court, failing to report to the probation officer for more than 120 consecutive days.

Proposed law defines "technical violation", as it pertains to a defendant who has been placed on probation for any offense other than a crime of violence or sex offense and who has had his probation revoked for his first technical violation, as any violation except a felony conviction.

Present law allows the court to extend the period of probation as a sanction for violation of probation.

Proposed law deletes present law.

Present law provides that in order to be eligible for the substance abuse probation program within DPSC, an offender cannot be convicted of a crime of violence or sex offense, cannot have participated in or declined to participate in a drug division probation program, and must be charged with felony possession of a controlled dangerous substance, possession with intent to distribute a controlled dangerous substance where the offense involves less than 28 grams, possession with intent to distribute marijuana or synthetic cannabinoids where the offense involves less than one pound.

Proposed law provides that to be eligible for the substance abuse program within DPSC an offender must be charged with a violation of a statute relating to the use and possession of or possession with intent to distribute any narcotic drugs, coco 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.

Proposed law provides that an offender convicted a first time for an offense with a maximum prison sentence of 10 years or less that was not committed against a family member, household member, or dating partner is eligible to participate in the substance abuse probation program within DPSC.

Proposed law otherwise retains present law.

Present law provides that each district court may designate as a drug division one or more divisions to which alcohol or drug related offenses are assigned and may establish a probation program.

Present law provides that in order to be eligible for the drug division probation program, an offender must satisfy certain criteria, including that the crime before the court cannot be a crime of violence or an offense of domestic abuse battery which is punishable at hard labor and that no other criminal proceedings alleging commission of a crime of violence are pending against the offender.

Proposed law retains present law and adds that offenders may be eligible for the drug division probation program if the crime before the court is a first conviction of an offense with a maximum prison sentence of 10 years or less that was not committed against a family member, household member, or dating partner.

Present law provides that every offender in a parish prison convicted of an offense and sentenced to imprisonment without hard labor, except those convicted a second time of a crime of violence, may earn a diminution of sentence to be known as "good time." Good time is to be earned at the rate of three days for every 17 days in actual custody.

Proposed law retains present law.

Present law provides that every offender in the custody of DPSC who has been convicted of a felony, except those convicted a second time of a crime of violence, and sentenced to imprisonment for a stated number of years or months, may earn good time diminution of sentence at the rate of 1.5 days for every one day in actual custody.

Proposed law retains present law and changes the rates at which offenders convicted of a felony, except those convicted a second time of a crime of violence, may earn good time at a rate of 13 days for every seven days served.

Present law provides that only offenders convicted on or after 1/1/1992 who are not serving a sentence for a sex offense, crime of violence, or any offense which would constitute a sex offense or crime of violence are eligible to receive good time diminution of sentence.

Proposed law retains present law and provides that offenders convicted of offenses or revoked on probation or parole on or after 1/1/1992 who are not serving a sentence for a sex offense, crime of violence, or any offense which would constitute a sex offense or crime of violence are eligible to receive good time diminution of sentence.

Present law provides that an offender convicted a first time of a crime of violence is to earn good time at a rate of three days for every 17 served in actual custody.

Proposed law provides that an offender convicted of a crime of violence without a prior conviction of a crime of violence or a prior conviction of a sex offense is to earn good time at a rate of one day for every three in actual custody. Proposed law further provides that this provision applies only to offenders convicted of offenses or revoked on probation or parole on or after 11/1/2017. Proposed law further provides that this provision does not apply to an offender if his instant conviction is for a crime of violence that is classified as both a crime of violence and a sex offense.

Present law provides that good time is not allowed an offender if the instant offense is a second offense crime of violence.

Proposed law deletes present law and allows good time for an offender if the instant offense is a crime of violence unless the offender has two or more prior convictions for a crime of violence or a sex offense.

Proposed law provides that good time is not allowed to an offender if the instant offense is a sex offense.

Present law provides that there is a committee on parole which is to enforce the rules, regulations, and orders of parole.

Present law requires the parole committee to meet in a minimum of three person panels and requires a unanimous vote for parole to be granted. Present law provides that the committee may grant parole with two votes of a three member panel, or a majority vote if the number exceeds a three member panel, if certain conditions are met.

Proposed law retains present law.

Proposed law creates administrative parole for all offenders who are eligible for parole, except those sentenced under the Habitual Offender Law.

Proposed law provides that an offender is to be released on administrative parole, without a hearing before the committee, if all the following conditions are met:

- (1) The offender has completed a case plan.
- (2) A victim of the offender has been notified and has not requested that the committee conduct a hearing.
- (3) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the administrative parole eligibility date. A major disciplinary offense is an offense identified as a Schedule B offense by the DPSC in the Disciplinary Rules and Procedures for Adult Offenders.
- (4) The offender has agreed to the conditions of supervision.
- (5) For any offender convicted of a sex offense the committee and the offender have completed the requirements of parole for sex offenders.

Proposed law provides that if the offender has met all the conditions for administrative parole except the completion of a case plan, he cannot be prohibited from release on administrative parole if the case plan was not created for him or the case plan is incomplete through no fault of the offender.

Present law provides that the committee is to notify, in writing, the district attorney of the parish where the conviction occurred at least 30 days prior to a hearing.

Proposed law retains present law and adds that for offenders eligible for release on administrative parole the committee is to notify, in writing, the district attorney of the parish where the conviction occurred at least 90 days prior to the offender's administrative parole eligibility date.

Present law provides that the committee is to notify, in writing, the victim or spouse or next of kin of a deceased victim no less than 30 days prior to an offender's scheduled hearing date and advise the victim of their rights with regard to the hearing.

Proposed law retains present law and adds that for offenders eligible for release on administrative parole the committee is to notify, in writing, the victim or spouse or next of kin of a deceased victim no less than 60 days prior to the offender's administrative parole eligibility date.

Present law provides that an offender convicted of a first felony offense is eligible for parole upon serving 33 1/3% of the sentence imposed, an offender convicted of a second felony offense is eligible upon serving 50% of the sentence imposed, and an offender convicted of a third or subsequent felony offense is not eligible for parole.

Present law further provides that an offender convicted of a first felony offense is eligible for parole upon serving 25% of the sentence imposed if the conviction is not for a crime of violence, a sex offense, or the offender was sentenced as a habitual offender.

Proposed law deletes present law and provides that an offender is eligible for parole upon serving 25% of the sentence imposed if the instant conviction is not for a crime of violence, sex offense, or any offense which would constitute a crime of violence or sex offense, regardless of the date of conviction. Proposed law further provides that applicability of these

provisions is both retroactive and prospective.

Proposed law provides that an offender whose instant offense is a first or second conviction of a crime of violence or a first or second conviction of a sex offense is eligible for parole upon serving 75% of the sentence imposed. Proposed law further provides that an offense is not counted as a second or subsequent offense if more than 10 years have lapsed between the date of the instant offense and the expiration of the offenders maximum sentence for the previous conviction. Proposed law further provides that this provision applies to offenders convicted or revoked of probation or parole on or after 11/1/17.

Proposed law provides that an offender convicted a third or subsequent time of a crime of violence or third or subsequent time of a sex offense is not eligible for parole. Proposed law further provides that this applies to offenders convicted or revoked of probation or parole on or after 11/1/17.

Proposed law provides that an offender convicted of a crime of violence who does not have a prior felony conviction for a crime of violence or sex offense is eligible for parole consideration upon serving 65% of the sentence imposed. Proposed law further provides that this applies to offenders convicted or revoked of probation or parole on or after 11/1/17.

Present law provides that an offender sentenced for a term or terms with or without benefit of parole for 30 years or more is eligible for parole upon serving at least 20 years of the term in actual custody and upon reaching the age of 45 except when:

- (1) The offender is serving a life sentence that has not been commuted to a fixed term of years.
- (2) The offender has been convicted of armed robbery.
- (3) The offender has been convicted of a crime of violence.
- (4) The offender has been convicted of a sex offense.

Proposed law provides that an offender sentenced for a term or terms with or without benefit of parole for 30 years or more is eligible for parole upon serving at least 20 years of the term in actual custody and upon reaching the age of 45 except when the offender is serving a life sentence that has not been commuted to a fixed term of years.

Proposed law further provides that applicability of these provisions is both retroactive and prospective.

Present law provides that, except in certain instances, an offender serving a life sentence is not eligible for parole until his life sentence has been commuted to a fixed term of years.

Proposed law provides that an offender serving a life sentence, except an offender serving a life sentence for a conviction of first degree murder, is eligible for parole upon serving at least 30 years of the term and upon reaching age 50 if all of the following conditions are met:

- (1) The offender has obtained a low risk level designation determined by a validated risk assessment instrument approved by the secretary of the DPSC.
- (2) The offender has not committed any major disciplinary offenses in the 12 consecutive months prior to the parole hearing date.
- (3) The offender has completed the mandatory minimum of 100 hours of prerelease programming if such programming is available at the facility where the offender is incarcerated.

- (4) The offender has completed substance abuse treatment, if applicable, and such treatment is available at the facility where the person is incarcerated.
- (5) The offender has obtained a GED credential unless the offender has previously obtained a high school diploma or is deemed by a certified teacher as being incapable of obtaining a GED credential due to a learning disability or because such programming is not available.

Proposed law decreases the time an offender convicted of a crime of violence must serve before being eligible for parole from at least 75% to at least 60% of the sentence imposed.

Present law provides that before the parole of any offender is ordered, the offender must appear before and be interviewed by the committee.

Proposed law provides that offenders eligible for administrative parole are not required to appear before and be interviewed by the committee prior to release on administrative parole.

Present law provides that the committee, before having a parole hearing for an offender convicted of a sex offense, is to give written notice to the victim or victim's parent or guardian of the date and time of the parole hearing at least three days prior to the hearing.

Proposed law provides that parole is to not be granted for any offender convicted of a sex offense unless the committee has given sufficient notice to the victim or victim's parent or guardian.

Present law provides that the parole term, when the committee orders an offender released on parole, is to be for the remainder of offender's sentence without diminution of sentence for good behavior.

Proposed law provides that the parole term, when the committee orders an offender released on parole, is to be for the remainder of the offender's sentence with earned discharge credits for compliance.

Present law provides that when an offender is released on parole, the committee may make a determination as to whether an offender is eligible for the imposition of administrative sanctions to be used to address technical violations.

Proposed law provides that each time an offender violates a condition of parole, a parole officer is authorized to use administrative sanctions without a prior determination by the committee, if certain conditions exist.

Present law provides that DPSC is to promulgate rules to implement a system of structured, administrative sanctions for technical violations of parole that take into consideration the following:

- (1) The severity of the violation behavior.
- (2) The prior violation history.
- (3) The severity of the underlying criminal conviction.
- (4) The criminal history of the parolee.
- (5) Any special circumstances, characteristics, or resources of the parolee.
- (6) Protection of the community.
- (7) Deterrence.

- (8) The availability of appropriate local sanctions.

Proposed law retains present law and adds the following parameters for DPSC when promulgating rules to implement a system of structured administrative sanctions for technical violations of parole:

- (1) Incarceration must not be used for the first or second lowest-level violations.
- (2) Incarceration must not be used for first or second violations of alcohol use or admission, except for defendants convicted of operating a vehicle while intoxicated; convicted of domestic abuse battery committed by one family member, household member, or dating partner against another; or convicted of violation of protective order committed by one family member, household member, or dating partner against another.

Proposed law provides that DPSC is to establish a system of structured administrative rewards for compliance with conditions and positive behavior that exceeds conditions of parole.

Present law defines "technical violation", as it pertains to the use of administrative sanctions to address a technical violation of parole, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) Any intentional misdemeanor directly affecting the person.
 - (c) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the committee on parole, any attempt to commit any other misdemeanor.
- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.
- (4) Absconding from the jurisdiction of the committee on parole.

Proposed law defines "technical violation", as it pertains to the use of administrative sanctions to address a technical violation of parole, as any violation of a condition of parole except the following:

- (1) A new felony conviction.
- (2) A conviction for an intentional misdemeanor directly affecting the person.
- (3) An allegation of a subsequent criminal act that if proven would be a crime of violence.
- (4) An allegation of a subsequent criminal act that if proven would be a sex offense.
- (5) An allegation of domestic abuse battery committed by one family member, household member, or dating partner against another.
- (6) An allegation of violation of protective order committed by one family member, household member, or dating partner against another.

Present law provides that when a detainer is issued by a parole officer, the running of the period of parole ceased as of the time the detainer is issued.

Proposed law retains present law and provides that when a detainer is issued by the parole officer for an allegation of the commission of another crime, it is enforceable until bond is set by the judge for the new crime. Proposed law further provides that when the bond is set, the detainer expires and the parolee may be released upon the posting of the bond.

Present law provides that any offender who has been released on parole and whose parole supervision is being revoked for a technical violation is required to serve a sentence without diminution of sentence or credit for time served prior to the technical violation.

Proposed law decreases the length of sentence any offender who has been released on parole and whose parole supervision is being revoked for a technical violation is required to serve without diminution of sentence as follows:

- (1) For the first technical violation, from not more than 90 days to not more than 15 days.
- (2) For a second technical violation, from not more than 120 days to not more than 30 days.
- (3) For a third or subsequent technical violation, from not more than 180 days to not more than 45 days.

Proposed law provides that if an offender that completes 90 days of committee-recommended substance abuse treatment, he will receive 90 days of credit towards his term of parole.

Proposed law provides that an offender is to 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 in a local detention facility, state institution, or out-of-state institution.

Proposed law provides that an offender serving a life sentence for second degree murder is eligible for parole consideration pursuant to the provisions of proposed law if all of the following conditions are met:

- (1) The offender committed the offense after August 1, 1973, and prior to June 29, 1979.
- (2) The offender has served at least thirty years of the sentence imposed.
- (3) The offender has reached the age of fifty.

Present law defines "technical violation", as it pertains to revocation of parole for a technical violation, as any violation except the following:

- (1) Being arrested, charged, or convicted of any of the following:
 - (a) A felony.
 - (b) Any intentional misdemeanor directly affecting the person.
 - (c) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.
 - (d) At the discretion of the committee on parole, any attempt to commit any other misdemeanor.

- (2) Being in possession of a firearm or other prohibited weapon.
- (3) Failing to appear at any court hearing.
- (4) Absconding from the jurisdiction of the committee on parole.

Proposed law deletes present law and defines "technical violation", as it pertains to revocation of parole for a technical violation, as any violation except a new felony conviction.

Present law provides for medical parole eligibility for offenders who are permanently disabled or terminally ill and not serving a sentence for first degree murder, second degree murder, or awaiting execution.

Proposed law retains present law.

Proposed law creates the medical treatment furlough program to be administered by DPSC. Offenders who are ineligible for medical parole, not awaiting execution, and determined by DPSC to be a limited mobility offender or a terminally ill offender is eligible for medical treatment furlough.

Proposed law provides that the committee on parole is to establish the medical treatment furlough program to be administered by DPSC for the purpose of utilizing off site medical facilities for an eligible offender's medical treatment. Proposed law further provides that medical treatment furlough is not to be available to any offender who is awaiting execution.

Proposed law provides that an offender eligible for consideration for release under the medical treatment furlough program is any offender who is ineligible for release on medical parole pursuant to proposed law and is determined by the department to be a limited mobility offender.

Proposed law defines a "limited mobility offender" as any offender who is unable to perform activities of daily living without help or is confined to a bed or chair, including but not limited to prolonged coma and medical ventilation.

Proposed law provides that, notwithstanding any provision of present law or proposed law to the contrary, the committee on parole may authorize the release of an eligible offender on medical treatment furlough when all of the following conditions are met:

- (1) Placement in an acute care hospital, nursing home, or other appropriate medical facility able to meet the offender's medical and treatment needs is secured.
- (2) All confinement and level of supervision requirements that the committee deems necessary are secured.
- (3) The committee determines that the offender does not present a substantial flight risk.

Present law provides that no offender is to be recommended for medical parole by DPSC until full consideration has been given to the offender's criminal history, length of time served in custody, institutional conduct, and a medical assessment of the offender's condition.

Proposed law retains present law and requires the same consideration be given before an offender is recommended for medical treatment furlough by DPSC.

Present law provides that the authority to grant medical parole lies solely with the committee on parole and the committee may require additional evidence or that additional medical examinations be conducted.

Proposed law provides that present law also applies to medical treatment furlough.

Present law provides that the parole term of an offender released on medical parole is to be for the remainder of the offender's sentence without diminution of sentence for good behavior.

Proposed law provides that present law also applies to medical treatment furlough.

Present law provides that if the medical parolee's condition has improved such that he would no longer be eligible for medical parole, the committee may order that the offender be returned to the custody of DPSC to await a hearing to determine if his parole is to be revoked.

Proposed law provides that present law also applies to medical treatment furlough.

Present law provides that any offender whose medical parole is revoked due to an improvement in his condition is to resume serving the balance of his sentence with credit given for the duration of the medical parole.

Proposed law provides that present law also applies to medical treatment furlough.

Present law provides that medical parole may be revoked for violation of any condition of the parole as established by the committee on parole.

Proposed law provides that present law also applies to medical treatment furlough.

Present law provides that the committee is to promulgate rules necessary for the implementation of medical parole.

Proposed law provides that present law also applies to medical treatment furlough.

Proposed law provides that, in addition to other duties, DPSC is to establish a procedure that provides for each offender required to serve a term of 180 days or more, a written case plan based on the results of an assessment of the offender's risk and needs. Proposed law further provides that implementation of such a procedure will only be to the extent funds are appropriated for this purpose and resources are available.

Proposed law provides that for offender's eligible for administrative parole, DPSC is to notify the committee in writing of the offender's compliance or noncompliance with the case plan not less than 60 days before an offender's administrative parole release date. Proposed law further provides that implementation of such a procedure will only be to the extent funds are appropriated for this purpose and resources are available.

Present law provides that, when funds are provided, educational, job skills training, values development, and other programs are to be made available at each institution under DPSC and offenders may be awarded up to 90 days toward the reduction the projected good time parole supervision date for satisfactory participation, but no offender is to receive more than 360 days total credit.

Present law provides that any offender sentenced as a habitual offender may earn additional good time credit for participation in programs provided for in present law unless the offender was convicted of a sex offense or a crime of violence.

Proposed law provides that any offender sentenced as a habitual offender may earn additional good time credit for participation in programs provided for in present law unless the offender's instant offense is one of the following:

- (1) A sex offense.

- (2) A crime of violence and the offender has two or more prior convictions of a crime of violence or a sex offense.

Proposed law provides that offenders who are eligible to participate in the work release program are eligible to earn an additional 180 days of credit towards the reduction of the projected good time parole supervision date.

Effective November 1, 2017.

(Amends C.Cr.P. Arts. 893(A) and (B), 899.1(A)(intro para), (B) and (D), 900(A)(5), (6), and (7), and 903.1, R.S. 13:5304(B)(10)(b), R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2) and (D)(1), (6)(intro para), (8)(a) and (9), 574.4(A)(1) and (C)(2), 574.4.1(A)(1), 574.4.3(A)(1), 574.6, 574.7(B), 574.9(D), (E), (F) and (G), 574.20, and 828(B) and (C); adds C.Cr.P. Arts. 893(G), 895.6 and 895.7 and R.S. 15:574.2(C)(4), 574.4(F), 574.9(H), 827(A)(7) and 828(D))

Summary of Amendments Adopted by Senate

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

1. Delete proposed law references to a felony class system.
2. Add that discharge credits may not be earned in conjunction with any other credits received toward a defendant's term of probation, and if a defendant receives credit toward his term of probation for any other reason, he cannot receive discharge credits for that period of time.
3. Add that an offender serving a life sentence for second degree murder is eligible for parole consideration under certain circumstances.
4. Change proposed law references from "medical furlough" to "medical treatment furlough".
5. Make changes to specific provisions of the medical treatment furlough program provided for by proposed law.
6. Add system of structured administrative rewards for compliance with conditions and positive behavior that exceeds the conditions of parole.
7. Change certain proposed law references and proposed law effective date from 7/1/17 to 11/1/17.
8. Delete provision relative to effective contingent on other proposed law.