

SENATE BILL NO. 139

BY SENATORS MARTINY AND BISHOP AND REPRESENTATIVES BAGNERIS, BILLIOT, BOUIE, CARPENTER, GARY CARTER, CONNICK, COX, DWIGHT, GAINES, GLOVER, HALL, JIMMY HARRIS, HOFFMANN, HUNTER, JACKSON, JAMES, JORDAN, TERRY LANDRY, LEGER, LYONS, MAGEE, MARCELLE, MARINO, MORENO, NORTON, PIERRE AND SMITH

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

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 893(A) and (B), 899.1(A)(introductory paragraph), 900(A)(5) and (6), 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)(introductory paragraph) and (D)(1),(6)(introductory paragraph), (8)(a), and (9), 574.4(A)(1), (B)(1), and (C)(2)(a)(introductory paragraph) and (b), 574.4.1(A)(1), 574.6, 574.7(B)(1)(introductory paragraph) and (C), 574.9(D), (E), (F), and (G), 574.20, and 828(B) and (C) and to enact Code of Criminal Procedure Articles 893(G), 895.6, and 899.2 and R.S. 15:574.2(C)(4), 574.4(F), 574.6.1, 574.7(D), 574.9(H), 827(A)(7), and 828(D), 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 probation and of parole; to authorize use of administrative sanctions; to provide for a system of administrative rewards; to provide for probation and for parole revocation; to provide for sentences imposed for technical violations

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

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. Code of Criminal Procedure Articles 893(A) and (B),  
 22 899.1(A)(introductory paragraph), 900(A)(5) and (6), and 903.1 are hereby amended and  
 23 reenacted and Code of Criminal Procedure Articles 893(G), 895.6, and 899.2 are hereby  
 24 enacted to read as follows:

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

26 A.**(1)(a)** When it appears that the best interest of the public and of the  
 27 defendant will be served, the court, after a first, ~~or second,~~ **or third** conviction of a  
 28 noncapital felony, may suspend, in whole or in part, the imposition or execution of  
 29 either or both sentences, where suspension is allowed under the law, and in either or  
 30 both cases place the defendant on probation under the supervision of the division of

1 probation and parole. The court shall not suspend the sentence of a second or  
 2 third conviction of R.S. 14:73.5. Except as provided in Paragraph G of this  
 3 Article, the period of probation shall be specified and shall not be more than  
 4 three years.

5 (b) The court shall not suspend the sentence of a second or third  
 6 conviction of R.S. 14:81.1 or 81.2. If the court suspends the sentence of a first  
 7 conviction of R.S. 14:81.1 or 81.2, the period of probation shall be specified and  
 8 shall not be more than five years.

9 (2) The court shall not suspend the sentence of a conviction for an offense  
 10 that is designated in the court minutes as a crime of violence pursuant to Article  
 11 890.3, ~~or of a second conviction if the second conviction is for a violation of R.S.~~  
 12 ~~14:73.5, 81.1, or 81.2.~~ except a first conviction for an offense with a maximum  
 13 prison sentence of ten years or less that was not committed against a family  
 14 member or household member as defined by R.S. 14:35.3, or dating partner as  
 15 defined by R.S. 46:2151. The period of probation shall be specified and shall not be  
 16 less than one year nor more than five years.

17 (3) The suspended sentence shall be regarded as a sentence for the purpose  
 18 of granting or denying a new trial or appeal.

19 (4) Supervised release as provided for by Chapter 3-E of Title 15 of the  
 20 Louisiana Revised Statutes of 1950 shall not be considered probation and shall not  
 21 be limited by the five-year or three-year period for probation provided for by the  
 22 provisions of this Paragraph.

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

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

1                   ~~(aa) A noncapital felony for which a defendant could have his sentence~~  
2                   ~~suspended under Paragraph A of this Article had the conviction been for a first or~~  
3                   ~~second offense.~~

4                   ~~(bb) A violation of the Uniform Controlled Dangerous Substances Law.~~

5                   ~~(cc) A third conviction of operating a vehicle while intoxicated in violation~~  
6                   ~~of R.S. 14:98.~~

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

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

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

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

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

30                  ~~(ee)(iii)~~ **(iii)** Reside for a minimum period of one year in a facility which

1 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.  
2 ~~40:2852~~ **40:2851 et seq.**

3 ~~(dd)(iv)~~ **(iv)** Enter and complete the Swift and Certain Probation Pilot Program  
4 established pursuant to R.S. 13:5371 et seq. ~~When a case is assigned to this pilot~~  
5 ~~program, with the consent of the district attorney, the court may place the defendant~~  
6 ~~on probation for a period of not less than one year and not more than eight years if~~  
7 ~~the court determines that successful completion of the program may require that~~  
8 ~~period of probation to exceed the five-year limit. If necessary to ensure successful~~  
9 ~~completion of the program, the court may extend the duration of the probation~~  
10 ~~period. The period of probation as initially fixed or as extended shall not exceed~~  
11 ~~eight years.~~

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

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

24 \* \* \*

25 **G. If the court, with the consent of the district attorney, orders a**  
26 **defendant, upon a third conviction or fourth felony conviction, to enter and**  
27 **complete a program provided by the drug division of the district court pursuant**  
28 **to R.S. 13:5301, an established driving while intoxicated court or sobriety court**  
29 **program, a mental health court program established pursuant to R.S. 13:5351**  
30 **et seq., a Veterans Court program established pursuant to R.S. 13:5361 et seq.,**

1 a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain  
 2 Probation Pilot Program established pursuant to R.S. 13:5371, the court may  
 3 place the defendant on probation for a period of not more than eight years if the  
 4 court determines that successful completion of the program may require that  
 5 period of probation to exceed the three-year limit. The court may not extend the  
 6 duration of the probation period solely due to unpaid fees and fines. The period  
 7 of probation as initially fixed or as extended shall not exceed eight years.

8 \* \* \*

9 Art. 895.6. Compliance credits; probation

10 A. Every defendant on felony probation pursuant to Article 893 for an  
 11 offense other than a crime of violence as defined in R.S. 14:2(B) or a sex offense  
 12 as defined in R.S. 15:541 shall earn a diminution of probation term, to be known  
 13 as "earned compliance credits", by good behavior. The amount of diminution  
 14 of probation term allowed under this Article shall be at the rate of thirty days  
 15 for every full calendar month on probation.

16 B. If the defendant's probation and parole officer has reasonable cause  
 17 to believe that a defendant on felony probation has not been compliant with the  
 18 conditions of his probation in a given calendar month, he may rescind thirty  
 19 days of earned compliance credits as an administrative sanction pursuant to  
 20 Article 899.2. Credits may be rescinded only for a month in which the defendant  
 21 is found not to be in compliance.

22 C. The Department of Public Safety and Corrections shall develop  
 23 written policies and procedures for the implementation of earned compliance  
 24 credits for defendants on felony probation supervision provided for by the  
 25 provisions of this Article. The policies and procedures shall include but not be  
 26 limited to written guidelines regarding the process to rescind earned compliance  
 27 credits, and the placement of these credits in the administrative sanctions grid.  
 28 The Department of Public Safety and Corrections shall also collect data on the  
 29 implementation of earned compliance credits, including the names of  
 30 defendants that earned credits, how many credits are applied to each defendant,

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

2 D. When a defendant's total probation term is satisfied through a  
3 combination of time served on felony probation and earned compliance credits,  
4 the Department of Public Safety and Corrections shall order the termination of  
5 the probation of the defendant.

6 \* \* \*

7 Art. 899.1. Administrative sanctions for technical violations; crimes of violence  
8 and sex offenses

9 A. At the time of sentencing for a crime of violence as defined by R.S.  
10 14:2(B) or a sex offense as defined by R.S. 15:541, the court may make a  
11 determination as to whether a defendant is eligible for the imposition of  
12 administrative sanctions as provided for in this Article. If authorized to do so by the  
13 sentencing court, each time a defendant violates a condition of his probation, a  
14 probation agency may use administrative sanctions to address a technical violation  
15 committed by a defendant when all of the following occur:

16 \* \* \*

17 Art. 899.2. Administrative sanctions for technical violations; offenses other  
18 than crimes of violence or sex offenses

19 A. Each time a defendant on probation for a crime other than a crime of  
20 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541  
21 violates a condition of his probation, a probation agency is authorized to use  
22 administrative sanctions to address a technical violation committed by a  
23 defendant when all of the following occur:

24 (1) The defendant, after receiving written notification of the right to a  
25 hearing before a court and the right to counsel provides a written waiver of a  
26 probation violation hearing.

27 (2) The defendant admits to the violation or affirmatively chooses not to  
28 contest the violation alleged in the probation violation report.

29 (3) The defendant consents to the imposition of administrative sanctions  
30 by the Department of Public Safety and Corrections.

1                    **B. The department shall promulgate rules to implement the provisions**  
2                    **of this Article to establish the following:**

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

6                    **(i) The severity of the violation behavior.**

7                    **(ii) The prior violation history.**

8                    **(iii) The severity of the underlying criminal conviction.**

9                    **(iv) The criminal history of the probationer.**

10                   **(v) Any special circumstances, characteristics, or resources of the**  
11                   **probationer.**

12                   **(vi) Protection of the community.**

13                   **(vii) Deterrence.**

14                   **(viii) The availability of appropriate local sanctions, including but not**  
15                   **limited to jail, treatment, community service work, house arrest, electronic**  
16                   **surveillance, restitution centers, work release centers, day reporting centers, or**  
17                   **other local sanctions.**

18                   **(b) Incarceration shall not be used for the lowest-tier violations including**  
19                   **the first positive drug test and the first or second violation for the following:**

20                   **(i) Association with known felons or persons involved in criminal**  
21                   **activity.**

22                   **(ii) Changing residence without permission.**

23                   **(iii) Failure to initially report as required. However, incarceration may**  
24                   **be used if the court, after a contradictory hearing, finds that the probationer**  
25                   **wilfully failed to report as required and instructed for the purpose of**  
26                   **permanently avoiding probation supervision.**

27                   **(iv) Failure to pay restitution for up to three months.**

28                   **(v) Failure to report as instructed. However, incarceration may be used**  
29                   **if the court, after a contradictory hearing, finds that the probationer wilfully**  
30                   **failed to report as required and instructed for the purpose of permanently**

1 avoiding probation supervision.

2 (vi) Traveling without permission.

3 (vii) Occasion of unemployment and failure to seek employment within  
4 ninety days.

5 (c) Incarceration shall not be used for first or second violations of alcohol  
6 use or admission, except for defendants convicted of operating a vehicle while  
7 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse  
8 battery pursuant to R.S. 14:35.3 committed by one family member or household  
9 member against another; defendants convicted of battery by one dating partner  
10 as defined by R.S. 46:2151 against another; or defendants convicted of violation  
11 of a protective order, pursuant to R.S. 14:79, issued against the defendant to  
12 protect a family member or household member as defined by R.S. 14:35.3, or  
13 a dating partner as defined by R.S. 46:2151.

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

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

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

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

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

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

1                    **C. If the administrative sanction imposed pursuant to the provisions of**  
 2                    **this Article is jail confinement, the confinement shall not exceed ten days per**  
 3                    **violation and shall not exceed a total of sixty days per year.**

4                    **D. For purposes of this Article, "technical violation" means any violation**  
 5                    **of a condition of probation, except that it does not include any of the following:**

6                    **(1) An allegation of a criminal act that is subsequently proven to be a**  
 7                    **felony.**

8                    **(2) An allegation of a criminal act that is subsequently proven to be an**  
 9                    **intentional misdemeanor directly affecting the person.**

10                   **(3) An allegation of a criminal act pursuant to R.S. 14:2(B).**

11                   **(4) An allegation of a criminal act pursuant to R.S. 15:541.**

12                   **(5) An allegation of domestic abuse battery pursuant to R.S. 14:35.3**  
 13                   **committed by one family member or household member against another, or**  
 14                   **battery committed by one dating partner as defined by R.S. 46:2151 against**  
 15                   **another.**

16                   **(6) An allegation of a violation of a protective order, pursuant to R.S.**  
 17                   **14:79, issued against the offender to protect a family member or household**  
 18                   **member as defined by R.S. 14:35.3, or a dating partner as defined by R.S.**  
 19                   **46:2151.**

20                   **(7) Being in possession of a firearm or other prohibited weapon.**

21                   **(8) Absconding from the jurisdiction of the court by leaving the state**  
 22                   **without the prior approval of the probation and parole officer.**

23                   Art. 900. Violation hearing; sanctions

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

\* \* \*

1  
2 (5)(a) Order that the probation be revoked. In the event of revocation the  
3 defendant shall serve the sentence suspended, with or without credit for the time  
4 served on probation at the discretion of the court. If the imposition of sentence was  
5 suspended, the defendant shall serve the sentence imposed by the court at the  
6 revocation hearing.

7 **(b) Notwithstanding the provisions of Subsubparagraph (a) of this**  
8 **Subparagraph, in the event of revocation for a defendant placed on probation**  
9 **for the conviction of an offense other than a crime of violence as defined in R.S.**  
10 **14:2(B) or a sex offense as defined in R.S. 15:541, the defendant shall serve the**  
11 **sentence suspended with credit for time served on probation.**

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

28 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,  
29 any defendant who has been placed on probation by the court for the conviction of  
30 an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex

1 offense as defined in ~~R.S. 15:541(24)~~ **by R.S. 15:541**, and who has had his probation  
 2 revoked under the provisions of this Article for ~~his first~~ **a** technical violation of his  
 3 probation as determined by the court, shall be required to serve ~~a sentence of not~~  
 4 ~~more than ninety days without diminution of sentence,~~ **without diminution of**  
 5 **sentence, as follows:**

6 **(i) For a first technical violation, not more than fifteen days.**

7 **(ii) For a second technical violation, not more than thirty days.**

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

10 **(iv) For custodial substance abuse treatment programs, not more than**  
 11 **ninety days.**

12 **(c)** The defendant shall be given credit for time served prior to the revocation  
 13 hearing for time served in actual custody while being held for a technical violation  
 14 in a local detention facility, state institution, or out-of-state institution pursuant to  
 15 Article 880. The term of the revocation for a technical violation shall begin on the  
 16 date the court orders the revocation. Upon completion of the imposed sentence for  
 17 the technical revocation, the defendant shall return to active and supervised probation  
 18 for a period equal to the remainder of the original period of probation subject to any  
 19 additional conditions imposed by the court. ~~The provisions of this Paragraph shall~~  
 20 ~~apply only to the defendant's first revocation for a technical violation.~~

21 ~~(e)~~**(d)** A "technical violation", as used in this Paragraph, means any violation  
 22 except it shall not include any of the following:

23 ~~(i) Being arrested, charged, or convicted of any of the following:~~ **An**  
 24 **allegation of a criminal act that is subsequently proven to be a felony.**

25 ~~(aa) A felony.~~

26 ~~(bb) A violation of any provision of Title 40 of the Louisiana Revised~~  
 27 ~~Statutes of 1950, except for misdemeanor possession of marijuana or~~  
 28 ~~tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S.~~  
 29 ~~40:966(E)(1), which shall be considered a "technical violation".~~

30 ~~(ee)~~**(ii) Any An allegation of a criminal act that is subsequently proven**

1 to be an intentional misdemeanor directly affecting the person.

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

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

6 (iii) An allegation of a criminal act that is subsequently proven to be a  
7 violation of a protective order, pursuant to R.S. 14:79, issued against the  
8 offender to protect a family member or household member as defined by R.S.  
9 14:35, or dating partner as defined by R.S. 46:2151.

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

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

12 ~~(iv)(v)~~ Absconding from the jurisdiction of the court by leaving the state  
13 without the prior approval of the court or the probation and parole officer.

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

16 ~~(vi)~~ At the discretion of the court, failing to report to the probation officer  
17 for more than one hundred twenty consecutive days.

18 \* \* \*

19 Art. 903.1. Substance abuse probation program; eligibility

20 A. In order to be eligible for the substance abuse probation program, the  
21 defendant must be charged with a violation of a statute of this state relating to  
22 the use and possession of or possession with intent to distribute any narcotic  
23 drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs,  
24 or where there is a significant relationship between the use of alcohol or drugs  
25 and the crime before the court. shall not be excluded from participation pursuant  
26 to the provisions of Paragraph B of this Article and shall be charged with any of the  
27 following offenses:

28 (1) ~~Felony possession of a controlled dangerous substance as defined in R.S.~~  
29 ~~40:966(C), 967(C), 968(C), or 969(C).~~

30 (2) ~~Except as provided in Subparagraph (3) of this Paragraph, possession with~~

1 ~~intent to distribute a controlled dangerous substance as defined in R.S. 40:966(A),~~  
2 ~~967(A), 968(A), or 969(A) where the offense involves less than twenty-eight grams~~  
3 ~~of the controlled dangerous substance.~~

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

7 B. The provisions of this Article shall not apply to any defendant who has  
8 been convicted of a crime of violence as defined in R.S. 14:2(B), **except for a first**  
9 **conviction of an offense with a maximum prison sentence of ten years or less**  
10 **that was not committed against a family member or household member as**  
11 **defined by R.S. 14:35.3, or against a dating partner as defined by R.S. 46:2151,**  
12 or a sex offense as defined in R.S. 15:541, or any defendant who has participated in  
13 or declined to participate in a drug division probation program as provided for in  
14 R.S. 13:5301 et seq.

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

17 §5304. The drug division probation program

18 \* \* \*

19 B. Participation in probation programs shall be subject to the following  
20 provisions:

21 \* \* \*

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

24 \* \* \*

25 (b) The crime before the court cannot be a crime of violence as defined in  
26 R.S. 14:2(B), **except a first conviction of an offense with a maximum prison**  
27 **sentence of ten years or less that was not committed against a family member**  
28 **or household member as defined by R.S. 14:35.3, or against a dating partner as**  
29 **defined by R.S. 46:2151,** or an offense of domestic abuse battery which is  
30 punishable by imprisonment at hard labor as provided in R.S. 14:35.3.

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Section 3. R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2)(introductory paragraph), and (D)(1), (6)(introductory paragraph), (8)(a), and (9), 574.4(A)(1), (B)(1), and (C)(2)(a)(introductory paragraph) and (b), 574.4.1(A)(1), 574.6, 574.7(B)(1)(introductory paragraph) and (C), 574.9(D), (E), (F), and (G), 574.20, and 828(B) and (C) are hereby amended and reenacted and R.S. 15:574.2(C)(4), 574.4(F), 574.6.1, 574.7(D), 574.9(H), 827(A)(7), and 828(D) are hereby enacted to read as follows:

§571.3. Diminution of sentence for good behavior

\* \* \*

B.(1)(a) Unless otherwise prohibited, every **inmate offender** in the custody of the department who has been convicted of a felony, except an **inmate offender** convicted a second time of a crime of violence as defined by R.S. 14:2(B), and sentenced to imprisonment for a stated number of years or months, may earn, in lieu of incentive wages, a diminution of sentence by good behavior and performance of work or self-improvement activities, or both, to be known as "good time". Those **inmates offenders** serving life sentences will be credited with good time earned which will be applied toward diminution of their sentences at such time as the life sentences might be commuted to a specific number of years. The secretary shall establish regulations for awarding and recording of good time and shall determine when good time has been earned toward diminution of sentence. The amount of diminution of sentence allowed under the provisions of this Section shall be at the rate of ~~one and one half day for every one day~~ **thirteen days for every seven days** in actual custody served on the imposed sentence, including time spent in custody with good behavior prior to sentencing for the particular sentence imposed as authorized by the provisions of Code of Criminal Procedure Article 880.

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

- (i) A sex offense as defined in R.S. 15:541.
- (ii) A crime of violence as defined in R.S. 14:2(B).

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

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

11 **(b) The provisions of this Paragraph shall not apply to an offender if his**  
 12 **instant conviction is for a crime that is listed both as a crime of violence**  
 13 **pursuant to R.S. 14:2(B) and sex offense pursuant to R.S. 15:541.**

14 **(c) The provisions of this Paragraph shall apply only to offenders who**  
 15 **commit an offense or whose probation or parole is revoked on or after**  
 16 **November 1, 2017.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(4) Diminution of sentence shall not be allowed an inmate in the custody of the Department of Public Safety and Corrections if the inmate has been convicted one or more times under the laws of this state, any other state, or the federal government of any one or more of the following crimes or attempts to commit any of the following crimes:~~

~~(a) Felony carnal knowledge of a juvenile.~~

~~(b) Indecent behavior with juveniles.~~

~~(c) Molestation of a juvenile or a person with a physical or mental disability.~~

~~(d) Crime against nature as defined by R.S. 14:89(A)(2).~~

~~(e) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).~~

\* \* \*

D.(1) Diminution of sentence shall not be allowed an inmate **offender** in the custody of the Department of Public Safety and Corrections if the instant offense is a second offense crime of violence as defined by R.S. 14:2(B).

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

\* \* \*

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

\* \* \*

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

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

\* \* \*

**(4)(a) Notwithstanding any provision of law to the contrary, each offender who commits an offense on or after November 1, 2017, other than a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, and eligible for parole pursuant to R.S. 15:574.4(A)(1), except those sentenced under R.S. 15:529.1 or R.S. 13:5401, shall be released on administrative parole on the offender's parole eligibility date without a hearing before the committee if all of the following conditions are met:**

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

**(ii) For any offender whose charge or amended charge on the bill of information was a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S. 15:541, the following conditions are met:**

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

**(bb) The district attorney of the parish in which the conviction occurred has been notified pursuant to Subsection D of this Section and has not requested that the committee conduct a hearing.**

1                    (iii) The offender has not committed any major disciplinary offenses in  
 2                    the twelve consecutive months prior to the administrative parole eligibility date.  
 3                    A major disciplinary offense is an offense identified as a Schedule B offense by  
 4                    the Department of Public Safety and Corrections in the Disciplinary Rules and  
 5                    Procedures for Adult Offenders.

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

7                    (b)(i) Except as provided in Item (ii) of this Subsection, if the offender  
 8                    has met the conditions provided in Items (a)(ii), (iii), and (iv) of this Paragraph,  
 9                    he shall still be released on administrative parole if the case plan was not  
 10                    created for him or the incomplete case plan was not the fault of the offender.

11                    (ii) The provisions of Item (i) of this Subparagraph shall not apply to  
 12                    persons who commit the offense on or after January 1, 2021.

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

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

19                    \*           \*           \*

20                    (6) ~~To~~ Except as provided in Paragraph (C)(4) of this Section, to consider  
 21                    all pertinent information with respect to each ~~prisoner~~ offender who is incarcerated  
 22                    in any penal or correctional institution in this state at least one month prior to the  
 23                    parole eligible date and thereafter at such other intervals as it may determine, which  
 24                    information shall be a part of the ~~inmate's~~ offender's consolidated summary record  
 25                    and which shall include:

26                    \*           \*           \*

27                    (8)(a) To notify the district attorney of the parish where the conviction  
 28                    occurred. The notification shall be in writing and shall be issued at least ~~thirty~~ sixty  
 29                    days prior to the hearing date. For offenders eligible for release pursuant to  
 30                    Paragraph (C)(4) of this Section, the notification shall be in writing and shall be

1 issued at least ninety days prior to the offender's administrative parole  
 2 eligibility date. If the offender's charge or amended charge on the bill of  
 3 information was a crime of violence as defined in R.S. 14:2(B) or a sex offense  
 4 as defined in R.S. 15:541, the district attorney of the parish in which the  
 5 conviction occurred shall have thirty days from the date of notification to object  
 6 to the offender's release on administrative parole and may request that the  
 7 committee on parole conduct a hearing. The district attorney of the parish where  
 8 the conviction occurred shall be allowed to review the record of the offender since  
 9 incarceration, including but not limited to any educational or vocational training,  
 10 rehabilitative program participation, disciplinary conduct, and risk assessment score.  
 11 The district attorney shall be allowed to present testimony to the committee on parole  
 12 and submit information relevant to the proceedings, except as provided in  
 13 Paragraph (C)(4) of this Section.

14 \* \* \*

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

25 (b) To notify the victim, or the spouse or next of kin of a deceased victim  
 26 of those offenders eligible for release pursuant to Paragraph (C)(4) of this  
 27 Section. The notification shall meet all requirements set forth in Subparagraph  
 28 (9)(a) of this Section except that it shall give notice of the offender's  
 29 administrative parole eligibility date and be sent no less than ninety days prior  
 30 to the offender's administrative parole eligibility date. If the offender's charge

1 or amended charge on the bill of information was a crime of violence as defined  
 2 in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, the victim, or the  
 3 spouse or next of kin of a deceased victim, shall have thirty days from the date  
 4 of notification to object to the offender's release on administrative parole and  
 5 may request that the committee on parole conduct a hearing.

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 prior to and on or after November 1, 2017.** ~~thirty-three and one-third~~  
 19 ~~percent of the sentence imposed. Upon conviction of a second felony offense, such~~  
 20 ~~person shall be eligible for parole consideration upon serving fifty percent of the~~  
 21 ~~sentence imposed. A person convicted of a third or subsequent felony offense shall~~  
 22 ~~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**  
 30 **eligible for parole, whose instant offense is a second conviction of a crime of**

1 violence as defined in R.S. 14:2(B) or a first or second conviction of a sex offense  
2 as defined in R.S. 15:541 shall be eligible for parole consideration upon serving  
3 seventy-five percent of the sentence imposed. A person convicted a third or  
4 subsequent time of a crime of violence as defined in R.S. 14:2(B) or a third or  
5 subsequent time of a sex offense as defined in R.S. 15:541 shall not be eligible  
6 for parole.

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

15 (iii) The provisions of this Subparagraph shall be applicable only to  
16 persons who commit an offense or whose probation or parole is revoked on or  
17 after November 1, 2017.

18 ~~(ii) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a~~  
19 ~~person, otherwise eligible for parole, convicted of a second felony offense shall be~~  
20 ~~eligible for parole consideration upon serving thirty-three and one-third percent of~~  
21 ~~the sentence imposed. The current offense shall not be counted as a second or~~  
22 ~~subsequent offense if more than ten years have lapsed between the date of the~~  
23 ~~commission of the current offense or offenses and the expiration of the person's~~  
24 ~~maximum sentence or sentences of the previous conviction or convictions, or~~  
25 ~~between the expiration of his maximum sentence or sentences of each preceding~~  
26 ~~conviction and the date of the commission of the following offense or offenses. In~~  
27 ~~computing the intervals of time, any period of parole, probation, or incarceration by~~  
28 ~~a person in a penal institution, within or without the state shall not be included in the~~  
29 ~~computation of any of the ten-year periods between the expiration of the person's~~  
30 ~~maximum sentence or sentences and the next succeeding offense or offenses. The~~

1 provisions of this Item shall not apply to any person who has been convicted of a  
2 crime of violence as defined in R.S. 14:2(B), has been convicted of a sex offense as  
3 defined in R.S. 15:541, has been sentenced as a habitual offender pursuant to R.S.  
4 15:529.1, or is otherwise ineligible for parole.

5 (iii) Any person eligible for parole pursuant to the provisions of this  
6 Subparagraph shall not be eligible for parole pursuant to the provisions of  
7 Subparagraph (a) of this Paragraph.

8 (iv) Nothing in this Subparagraph shall prevent a person from reapplying for  
9 parole as provided by rules adopted in accordance with the Administrative Procedure  
10 Act.

11 \* \* \*

12 B.(1) No person shall be eligible for parole consideration who has been  
13 convicted of armed robbery and denied parole eligibility under the provisions of R.S.  
14 14:64. Except as provided in Paragraph (2) of this Subsection, and except as  
15 provided in Paragraph (A)(5) and Subsections ~~D<sub>2</sub> and E<sub>2</sub>~~ **and F** of this Section, no  
16 prisoner serving a life sentence shall be eligible for parole consideration until his life  
17 sentence has been commuted to a fixed term of years. No prisoner sentenced as a  
18 serial sexual offender shall be eligible for parole. No prisoner may be paroled while  
19 there is pending against him any indictment or information for any crime suspected  
20 of having been committed by him while a prisoner. Notwithstanding any other  
21 provisions of law to the contrary, a person convicted of a crime of violence and not  
22 otherwise ineligible for parole shall serve at least ~~seventy~~ **sixty**-five percent of the  
23 sentence imposed, before being eligible for parole. The victim or victim's family  
24 shall be notified whenever the offender is to be released provided that the victim or  
25 victim's family has completed a Louisiana victim notice and registration form as  
26 provided in R.S. 46:1841 et seq., or has otherwise provided contact information and  
27 has indicated to the Department of Public Safety and Corrections, Crime Victims  
28 Services Bureau, that they desire such notification.

29 \* \* \*

30 C.

\* \* \*

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

\* \* \*

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

\* \* \*

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

**(1) The offender committed the offense after July 2, 1973, and prior to June 29, 1979.**

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

**(3) The committee on parole has granted parole with a unanimous vote of those present.**

§574.4.1. Parole consideration and hearings

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

\* \* \*

§574.6. Parole term; automatic discharge

The parole term, when the committee orders a ~~prisoner~~ **an offender** released on parole, shall be for the remainder of the ~~prisoner's~~ **offender's** sentence, ~~without any diminution of sentence for good behavior~~ **with credits for compliance with the terms and conditions of parole supervision pursuant to R.S. 15:574.6.1.** When the parolee has completed his full parole term, he shall be discharged from parole by the Department of Public Safety and Corrections without order by the committee, provided that:

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

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

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

**§574.6.1. Compliance credits; parole**

**A. Every offender on parole for an offense other than a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S. 15:541 shall earn a diminution of parole term, to be known as "earned compliance credits", by good behavior on parole. The amount of diminution of parole term allowed under this Section shall be at the rate of thirty days for every full calendar month on parole.**

**B. If the probation and parole officer has reasonable cause to believe that an offender on parole has not been compliant with the conditions of his parole in a given calendar month, he may rescind thirty days of earned compliance credits as an administrative sanction under R.S. 15:574.7. Credits may be rescinded only for a month in which the offender is found not to be in compliance.**

**C. The Department of Public Safety and Corrections shall develop written policies and procedures for the implementation of earned compliance credits for offenders on parole supervision provided by the provisions of this**



1 parole violation hearing.

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

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

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

8 (a) A system of structured, administrative sanctions which shall be  
9 imposed for technical violations of parole and which shall take into  
10 consideration the following factors:

11 (i) The severity of the violation behavior.

12 (ii) The prior violation history.

13 (iii) The severity of the underlying criminal conviction.

14 (iv) The criminal history of the parolee.

15 (v) Any special circumstances, characteristics, or resources of the  
16 parolee.

17 (vi) Protection of the community.

18 (vii) Deterrence.

19 (viii) The availability of appropriate local sanctions, including but not  
20 limited to jail, treatment, community service work, house arrest, electronic  
21 surveillance, restitution centers, work release centers, day reporting centers, or  
22 other local sanctions.

23 (ix) Incarceration shall not be used for the lowest-tier violations  
24 including the first positive drug test and the first or second violation for the  
25 following:

26 (aa) Association with known felons or persons involved in criminal  
27 activity.

28 (bb) Changing residence without permission.

29 (cc) Failure to initially report as required.

30 (dd) Failure to pay restitution for up to three months.

1                    (ee) Failure to report as instructed.

2                    (ff) Traveling without permission.

3                    (gg) Occasion of unemployment and failure to seek employment within  
4                    ninety days.

5                    (x) Incarceration shall not be used for first or second violations of alcohol  
6                    use or admission, except for defendants convicted of operating a vehicle while  
7                    intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse  
8                    battery pursuant to R.S. 14:35.3 committed by one family member or household  
9                    member against another; defendants convicted of battery by one dating partner  
10                   as defined by R.S. 46:2151 against another; or defendants convicted of a  
11                   violation of a protective order, pursuant to R.S. 14:79, issued against the  
12                   defendant to protect a family member or household member as defined by R.S.  
13                   14:35.3, or a dating partner as defined by R.S. 46:2151.

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

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

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

24                   (e) The level and type of violation behavior that warrants a  
25                   recommendation to the board that parole be revoked.

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

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

30                   (3) If the administrative sanction imposed pursuant to the provisions of

1 this Subsection is jail confinement, the confinement shall not exceed ten days  
2 per violation and shall not exceed a total of sixty days per year.

3 (4) For purposes of this Subsection, "technical violation" means any  
4 violation of a condition of parole, that does not include any of the following:

5 (a) An allegation of a criminal act that is subsequently proven to be a  
6 felony.

7 (b) An allegation of a criminal act that is subsequently proven to be an  
8 intentional misdemeanor directly affecting the person.

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

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

13 (e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3  
14 committed by one family member or household member against another, or an  
15 allegation of battery committed by one dating partner as defined by R.S.  
16 46:2151 against another.

17 (f) An allegation of violation of a protective order, pursuant to R.S.  
18 14:79, issued against the offender to protect a family member or household  
19 member as defined by R.S. 14:35.3, or a dating partner as defined by R.S.  
20 46:2151.

21 (g) Being in possession of a firearm or other prohibited weapon.

22 (h) Absconding from the jurisdiction of the court by leaving the state  
23 without the prior approval of the committee on parole or the probation and  
24 parole officer.

25 D.(1) If the chief probation and parole officer, upon recommendation by a  
26 parole officer, has reasonable cause to believe that a parolee has violated the  
27 conditions of parole, he shall notify the committee, and shall cause the appropriate  
28 parole officer to submit the parolee's record to the committee. After consideration of  
29 the record submitted, and after such further investigation as it may deem necessary,  
30 the committee may order:

1 (a) The issuance of a reprimand and warning to the parolee.

2 (b) That the parolee be required to conform to one or more additional  
3 conditions of parole which may be imposed in accordance with R.S. 15:574.4.

4 (c) That the parolee be arrested, and upon arrest be given a prerevocation  
5 hearing within a reasonable time, at or reasonably near the place of the alleged parole  
6 violation or arrest, to determine whether there is probable cause to detain the parolee  
7 pending orders of the parole committee.

8 (2) Upon receiving a summary of the prerevocation proceeding, the  
9 committee may order the following:

10 (a) The parolee's return to the physical custody of the Department of Public  
11 Safety and Corrections, corrections services, to await a hearing to determine whether  
12 his parole should be revoked.

13 (b) As an alternative to revocation, that the parolee, as a condition of parole,  
14 be committed to a community rehabilitation center or a substance abuse treatment  
15 program operated by, or under contract with, the department, for a period of time not  
16 to exceed six months, without benefit of good time, provided that such commitment  
17 does not extend the period of parole beyond the full parole term. Upon written  
18 request of the department that the offender be removed for violations of the rules or  
19 regulations of the community rehabilitation center or substance abuse program, the  
20 committee shall order that the parole be revoked, with credit for time served in the  
21 community rehabilitation center.

22 \* \* \*

23 §574.9. Revocation of parole for violation of condition; committee panels; return to  
24 custody hearing; duration of reimprisonment and reparole after  
25 revocation; credit for time served; revocation for a technical violation

26 \* \* \*

27 **D.(1) When a judge sets bond on allegations of a new felony offense for**  
28 **a parolee, the Department of Public Safety and Corrections, division of**  
29 **probation and parole and the committee on parole must be notified within three**  
30 **business days.**

1                    **(2) The parole detainer will expire ten days after the bond has been set,**  
 2                    **unless the division of probation and parole seeks to maintain the detainer.**

3                    ~~DE~~. Parole revocation shall require two votes of a three-member panel of  
 4 parole committee members or, if the number of members present exceeds a three-  
 5 member panel, a majority vote of those members present and voting, and the order  
 6 of revocation shall be reduced to writing and preserved.

7                    ~~EF~~. When the parole of a parolee has been revoked by the committee for  
 8 violation of the conditions of parole, the parolee shall be returned to the physical  
 9 custody of the Department of Public Safety and Corrections, corrections services,  
 10 and serve the remainder of his sentence as of the date of his release on parole, and  
 11 any credit for time served for good behavior while on parole. The parolee shall be  
 12 given credit for time served prior to the revocation hearing for time served in actual  
 13 custody while being held for a parole violation in a local detention facility, state  
 14 institution, or out-of-state institution pursuant to Code of Criminal Procedure Article  
 15 880.

16                    ~~FG~~. Any such prisoner whose parole has been revoked may be considered by  
 17 the committee for reparole in accordance with the provisions of this Part.

18                    ~~GH~~.(1)(a)(i) ~~Except as provided in Subparagraph (b) of this Paragraph, any~~  
 19 **Any** offender who has been released on parole and whose parole supervision is being  
 20 revoked pursuant to the provisions of this Subsection for a technical violation of the  
 21 conditions of parole as determined by the committee on parole, shall be required to  
 22 serve the following sentences:

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

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

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

29                    **(iv) For custodial substance abuse treatment programs, not more than**  
 30 **ninety days.**

1                    ~~(ii)(b)~~ The sentences imposed pursuant to ~~Item (i) of this Subparagraph (a)~~  
 2                    **of this Paragraph** shall be served without diminution of sentence ~~or credit for time~~  
 3                    ~~served prior to the revocation for a technical violation.~~ The term of the revocation  
 4                    for the technical violation shall begin on the date the committee on parole orders the  
 5                    revocation. Upon completion of the imposed technical revocation sentence, the  
 6                    offender shall return to active parole supervision for the remainder of the original  
 7                    term of supervision.

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

12                    ~~(b)(d)~~ The provisions of Subparagraph (a) of this Paragraph shall not apply  
 13                    to the following offenders:

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

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

18                    (iii) Any offender released on parole who is subject to the sex offender  
 19                    registration and notification requirements of R.S. 15:541 et seq.

20                    (2) A "technical violation", as used in this Subsection, means any violation  
 21                    except it shall not include any of the following:

22                    (a) ~~Being arrested, charged, or convicted of any of the following:~~

23                    ~~(i) A~~ **An allegation of a criminal act that is subsequently proven to be a**  
 24                    **felony.**

25                    ~~(ii) Repealed by Acts 2010, No. 510, §1.~~

26                    ~~(iii) Any~~ **(b) An allegation of a criminal act that is subsequently proven**  
 27                    **to be an** intentional misdemeanor directly affecting the person.

28                    ~~(iv) At the discretion of the committee on parole, any attempt to commit any~~  
 29                    ~~intentional misdemeanor directly affecting the person.~~

30                    ~~(v) At the discretion of the committee on parole, any attempt to commit any~~

1 other misdemeanor:

2 (c) An allegation of a criminal act that is subsequently proven to be a  
3 violation of a protective order, pursuant to R.S. 14:79, issued against the  
4 offender to protect a household member or family member as defined by R.S.  
5 14:35.3, or dating partner as defined by R.S. 46:2151.

6 ~~(b)(d)~~ Being in possession of a firearm or other prohibited weapon.

7 ~~(c)~~ Failing to appear at any court hearing.

8 ~~(d)(e)~~ Absconding from the jurisdiction of the committee on parole by  
9 leaving the state without the prior approval of the probation and parole officer.

10 \* \* \*

11 §574.20. Medical parole program; eligibility; revocation

12 A.~~(1)~~ Notwithstanding the provisions of this Part or any other law to the  
13 contrary, any person sentenced to the custody of the Department of Public Safety and  
14 Corrections may, upon referral by the department, be considered for medical parole  
15 or medical treatment furlough by the committee on parole. ~~Medical~~  
16 Consideration for medical parole ~~consideration~~ or medical treatment furlough  
17 pursuant to the provisions of this Section shall be in addition to any other parole  
18 for which an inmate may be eligible, ~~but shall not be available to any inmate who is~~  
19 ~~awaiting execution.~~

20 ~~(2)~~ Medical parole shall not be available to any inmate serving time for the  
21 violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.

22 B. Medical parole.

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

28 ~~(1)(a)~~ "Permanently disabled inmate offender" means any person offender  
29 who is unable to engage in any substantial gainful activity by reason of any  
30 medically determinable physical impairment which can be expected to result in death

1 or which is or can be expected to be permanently irreversible.

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

6 **(2) Medical parole shall not be available to any offender serving a**  
7 **sentence for a conviction of first degree murder (R.S. 14:30) or second degree**  
8 **murder (R.S. 14:30.1) or an offender who is awaiting execution.**

9 C. **Medical treatment furlough.**

10 **(1)(a) The committee on parole shall establish the medical treatment**  
11 **furlough program to be administered by the Department of Public Safety and**  
12 **Corrections for the purpose of utilizing off-site medical facilities for an eligible**  
13 **offender's medical treatment. Medical treatment furlough shall not be available**  
14 **to any offender who is awaiting execution.**

15 **(b) For purposes of this Section, "off-site medical facility" means an**  
16 **acute care hospital, nursing home, or other licensed medical facility which**  
17 **complies with all state and federal laws and regulations and is appropriate to**  
18 **meet the offender's medical and treatment needs.**

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

23 **(b) For the purposes of this Section, "limited-mobility offender" means**  
24 **any offender who is unable to perform activities of daily living without help or**  
25 **is bedbound, including but not limited to prolonged coma and medical**  
26 **ventilation.**

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

30 **(a) Placement is secured in an acute care hospital, nursing home, or**

1 other appropriate medical facility able to meet the offender's medical and  
 2 treatment needs.

3 (b) All monitoring, security, and supervision requirements that the  
 4 committee deems necessary are secured by the division of probation and parole.

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

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

15 ~~D~~E. The authority to grant ~~medical parole~~ or medical treatment furlough  
 16 pursuant to this Section shall rest solely with the committee on parole, and the  
 17 committee shall establish additional conditions of the parole or medical treatment  
 18 furlough in accordance with the provisions of this Subpart. The Department of  
 19 Public Safety and Corrections shall identify those ~~inmates~~ offenders who may be  
 20 eligible for medical parole or medical treatment furlough based upon available  
 21 medical information. In considering an ~~inmate~~ offender for medical parole or  
 22 medical treatment furlough, the committee may require that additional medical  
 23 evidence be produced or that additional medical examinations be conducted. The  
 24 committee on parole shall determine the risk to public safety and shall grant medical  
 25 parole or medical treatment furlough only after determining that the ~~inmate~~  
 26 offender does not pose a threat to public safety.

27 ~~E~~F. The parole term of an ~~inmate~~ offender released on medical parole or  
 28 medical treatment furlough shall be for the remainder of the ~~inmate's~~ offender's  
 29 sentence, without diminution of sentence for good behavior. Supervision of the  
 30 ~~parolee~~ offender shall consist of periodic medical evaluations at intervals to be

determined by the committee at the time of release. Release of protected health information to the Department of Public Safety and Corrections or the committee on parole shall be in accordance with all state and federal laws and regulations.

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

~~G.H.~~ The committee on parole shall promulgate such rules as are necessary to effectuate this Subpart, including rules relative to the conduct of medical parole and medical treatment furlough hearings, and the conditions of medical parole and medical treatment furlough release.

\* \* \*

§827. Duties of Department of Public Safety and Corrections

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

\* \* \*

(7) Establish a procedure that provides for each offender who is sentenced to one hundred eighty days or more in the custody of the Department

1 of Public Safety and Corrections, a written case plan that is based on the results  
 2 of an assessment of the offender's risk and needs and includes participation in  
 3 programming that addresses the needs identified in that assessment. For  
 4 offenders eligible for administrative parole pursuant to R.S. 15:574.2(C)(4), the  
 5 case plan should be reasonably achievable prior to the offender's administrative  
 6 parole eligibility date and the department shall notify the committee in writing  
 7 of an offender's compliance or noncompliance with the case plan not less than  
 8 sixty days before an offender's administrative parole release date. The  
 9 provisions of this Paragraph shall be implemented to the extent that funds are  
 10 appropriated for this purpose and to the extent that it is consistent with the  
 11 available resources.

12 \* \* \*

13 §828. Classification and treatment programs; qualified sex offender programs;  
 14 reports; earned credits

15 \* \* \*

16 B. The secretary shall adopt rules and regulations for local jail facilities and  
 17 state correctional institutions to encourage voluntary participation by inmates  
 18 **offenders** in certified treatment and rehabilitation programs, including but not  
 19 limited to basic education, job skills training, values development and faith-based  
 20 initiatives, therapeutic programs, and treatment programs. When funds are provided,  
 21 such educational programs shall be available at each penal or correctional institution  
 22 under the jurisdiction of the department. The rules and regulations may include  
 23 provisions for furloughs or the awarding of earned credits toward the reduction of  
 24 the projected good time parole supervision date. Offenders may be awarded up to  
 25 ~~ninety days toward the reduction of the projected good time parole supervision date~~  
 26 ~~for satisfactory participation in each approved program pursuant to the provisions of~~  
 27 ~~this Subsection, but no offender shall receive more than three hundred sixty days~~  
 28 total earned credits toward the reduction of the projected good time parole  
 29 supervision date for program participation.

30 C. Notwithstanding any other provision of law to the contrary, any offender

1 in the custody of the Department of Public Safety and Corrections ~~who has been,~~  
 2 **including those** sentenced as an habitual offender pursuant to the provisions of R.S.  
 3 15:529.1, may earn additional good time for participation in certified treatment and  
 4 rehabilitation programs as provided for in Subsection B of this Section, unless the  
 5 offender was convicted of a sex offense as defined by R.S. 15:541 or a crime of  
 6 violence as defined by R.S. 14:2(B). **offender's instant offense is one of the**  
 7 **following:**

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

9 **(2) A crime of violence as defined in R.S. 14:2(B) and the offender has**  
 10 **more than one prior conviction of a crime of violence as defined in R.S. 14:2(B)**  
 11 **or a sex offense as defined in R.S. 15:541.**

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

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

\_\_\_\_\_  
 PRESIDENT OF THE SENATE

\_\_\_\_\_  
 SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_