

SENATE BILL NO. 221

BY SENATOR ALARIO AND REPRESENTATIVES BAGNERIS, BILLIOT, BOUIE, CARPENTER, GARY CARTER, COX, 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 R.S. 15:529.1(A)(1), (3), and (4) and (C) and to enact R.S. 15:529.1(I) and (J), relative to the habitual offender law; to amend penalties provided for in the habitual offender law; to provide relative to the amount of time that must elapse between the current and prior offense for the habitual offender law not to apply; to provide for the reduction by the court of a sentence under the habitual offender law under certain circumstances; to define "correctional supervision"; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:529.1(A)(1), (3), and (4) and (C) are hereby amended and reenacted and R.S. 15:529.1(I) and (J) are hereby enacted to read as follows:

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

A. Any person who, after having been convicted within this state of a felony, or who, after having been convicted under the laws of any other state or of the United States, or any foreign government of a crime which, if committed in this state would be a felony, thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows:

(1) If the second felony is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment shall be for a determinate term not less than ~~one-half~~ **one-third** the longest term and not more than twice the longest term prescribed for a first conviction.

* * *

1 (3) If the third felony is such that upon a first conviction, the offender would
 2 be punishable by imprisonment for any term less than his natural life then **the**
 3 **following sentences apply:**

4 (a) The person shall be sentenced to imprisonment for a determinate term not
 5 less than ~~two-thirds~~ **one-half** of the longest possible sentence for the conviction and
 6 not more than twice the longest possible sentence prescribed for a first conviction;
 7 ~~or.~~

8 (b) If the third felony and the two prior felonies are felonies defined as a
 9 crime of violence under R.S. 14:2(B), ~~or a sex offense as defined in R.S. 15:540 et~~
 10 ~~seq.~~ **R.S. 15:541** when the victim is under the age of eighteen at the time of
 11 commission of the offense, ~~or as a violation of the Uniform Controlled Dangerous~~
 12 ~~Substances Law punishable by imprisonment for ten years or more, or any other~~
 13 ~~crimes punishable by imprisonment for twelve years or more, or any combination of~~
 14 such crimes, the person shall be imprisoned for the remainder of his natural life,
 15 without benefit of parole, probation, or suspension of sentence.

16 (4) If the fourth or subsequent felony is such that, upon a first conviction the
 17 offender would be punishable by imprisonment for any term less than his natural life
 18 then **the following sentences apply:**

19 (a) The person shall be sentenced to imprisonment for the fourth or
 20 subsequent felony for a determinate term not less than the longest prescribed for a
 21 first conviction but in no event less than twenty years and not more than his natural
 22 life; ~~or.~~

23 (b) **If the fourth felony and no prior felony is defined as a crime of**
 24 **violence under R.S. 14:2(B) or as a sex offense under R.S. 15:541, the person**
 25 **shall be imprisoned for not less than twenty years nor more than twice the**
 26 **longest possible sentence prescribed for a first conviction. If twice the possible**
 27 **sentence prescribed for a first conviction is less than twenty years, the person**
 28 **shall be imprisoned for twenty years.**

29 (c) If the fourth felony and two of the prior felonies are felonies defined as
 30 a crime of violence under R.S. 14:2(B), a sex offense as defined in R.S. ~~15:540 et~~

1 of correctional supervision, or term of imprisonment if the offender is not
 2 placed on supervision following imprisonment, for each preceding conviction
 3 or convictions alleged in the multiple offender bill for a crime of violence as
 4 defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and the date
 5 of the commission of the following offense or offenses. In computing the
 6 intervals of time as provided in this Paragraph, any period of parole, probation,
 7 or incarceration by a person in a penal institution, within or without the state,
 8 shall not be included in the computation of any of the ten-year periods between
 9 the expiration of correctional supervision, or term of imprisonment if the
 10 offender is not placed on supervision following imprisonment, for a crime of
 11 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and
 12 the next succeeding offense or offenses.

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14 I. If the court finds that a sentence imposed under the provisions of this
 15 Section would be constitutionally excessive pursuant to the criteria set forth in
 16 *State v. Dorthey*, 623 So.2d 1276 (La. 1993), then the court shall state for the
 17 record the reasons for such finding and shall impose the most severe sentence
 18 that is not constitutionally excessive.

19 J. For purposes of this Section, "correctional supervision" means any
 20 period of parole, probation, or incarceration of a person in a penal institution,
 21 either within the state of Louisiana or outside of the state.

22 Section 2. This Act shall become effective November 1, 2017, and shall have
 23 prospective application only to offenders whose convictions became final on or after
 24 November 1, 2017.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____