

Regular Session, 2014

SENATE BILL NO. 229

BY SENATOR MARTINY

CRIME/PUNISHMENT. Provides relative to reducing certain habitual offender sentences.
(8/1/14)

1 AN ACT
2 To enact Code of Criminal Procedure Article 881.8, relative to habitual offenders; to provide
3 for the reduction of certain habitual offender sentences under certain circumstances;
4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 881.8 is hereby enacted to read as
7 follows:

8 **Art. 881.8. Reducing a life sentence ameliorated by R.S. 15:308**
9 **Notwithstanding any provision of law to the contrary, upon motion of the**
10 **defendant, the sentencing court may reduce the defendant's sentence in**
11 **accordance with the provisions of R.S. 15:308, notwithstanding the prospective**
12 **application requirement of R.S. 15:308(A)(1), when the defendant is in the**
13 **actual custody of the Department of Public Safety and Corrections serving a**
14 **sentence of life imprisonment that was imposed under the provisions of R.S.**
15 **15:529.1(A)(1)(b)(ii) or (c)(ii) as those provisions existed after amendment by**
16 **Act No. 1245 of the 1995 Regular Session of the Legislature.**

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

DIGEST

Martiny (SB 229)

Present law (Habitual Offender Law) provides relative to sentences for second and subsequent offenses. Present law further provides that an offender who has already been convicted of two felonies and thereafter commits a third or fourth felony is to be punished as follows:

- (1) If the third felony is such that upon a first conviction the offender could be punished by any term less than life imprisonment, and if the third felony is a crime of violence under present law, or a sex offense under present law when the victim is under the age of 18, or a violation of the Uniform Controlled Dangerous Substances Law punishable by at least 10 years imprisonment, or any other crime punishable by at least 12 years imprisonment, or any combination thereof, then the offender is to be imprisoned for life without benefit of parole, probation, or suspension of sentence.
- (2) If the fourth or subsequent felony is such that upon a first conviction the offender could be punished by any term less than life imprisonment, and if the fourth felony and two of the prior felonies are crimes of violence under present law, or sex offenses under present law when the victim is under the age of 18, or violations of the Uniform Controlled Dangerous Substances Law punishable by at least 10 years imprisonment, or any other crimes punishable by at least 12 years imprisonment, or any combination thereof, then the offender is to be imprisoned for life without benefit of parole, probation, or suspension of sentence.

Proposed law retains present law.

Present law provides more lenient penalty provisions for certain enumerated crimes than did prior provisions of the Habitual Offender Law (Acts 1995, No. 1245). Present law further provides that these more lenient penalty provisions are to apply to persons who committed certain crimes, were convicted of certain crimes, or were sentenced according to certain penalty provisions before 6/15/01, if such application of present law ameliorates the person's circumstances.

Proposed law retains present law.

Proposed law provides that any person whose circumstances might be ameliorated by the application of present law may apply to the sentencing court to have a life sentence reduced if the person is in the actual custody of the Dept. of Public Safety and Corrections and is serving a life sentence imposed pursuant to the Habitual Offender Law as it existed before 6/15/01.

Proposed law otherwise retains present law.

Effective August 1, 2014.

(Adds C.Cr.P. Art. 881.8)