

Regular Session, 2014

SENATE BILL NO. 237

BY SENATOR MORRELL

CRIME/PUNISHMENT. Prohibits application of habitual offender law to nonviolent offenders. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:529.1(A)(1), (3) and (4), and (G), relative to habitual  
3 offenders; to provide relative to penalties for nonviolent offenders sentenced as  
4 habitual offenders; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 15:529.1(A)(1), (3) and (4), and (G) are hereby amended and  
7 reenacted to read as follows:

8 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk  
9 of court in the state of Louisiana as evidence

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

15 (1) If the second felony is such that upon a first conviction the offender  
16 would be punishable by imprisonment for any term less than his natural life, then the  
17 sentence to imprisonment shall be for a determinate term ~~not less than one-half the~~

1 ~~longest term and~~ not more than twice the longest term prescribed for a first  
2 conviction.

3 \* \* \*

4 (3) If the third felony is such that upon a first conviction, the offender would  
5 be punishable by imprisonment for any term less than his natural life then:

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

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

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

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

24 (b) If the fourth felony and two of the prior felonies are felonies defined as  
25 a crime of violence under R.S. 14:2(B); or a sex offense as defined in R.S. 15:540  
26 et seq. when the victim is under the age of eighteen at the time of commission of the  
27 offense, ~~or as a violation of the Uniform Controlled Dangerous Substances Law~~  
28 ~~punishable by imprisonment for ten years or more, or of any other crime punishable~~  
29 ~~by imprisonment for twelve years or more, or any combination of such crimes;~~ the

1 person shall be imprisoned for the remainder of his natural life, without benefit of  
2 parole, probation, or suspension of sentence.

3 \* \* \*

4 G. Any sentence imposed under the provisions of this Section **for a crime of**  
5 **violence under R.S. 14:2(B) or a sex offense as defined in R.S. 15:540 et seq.**  
6 **when the victim is under the age of eighteen at the time of commission of the**  
7 **offense** shall be at hard labor without benefit of probation or suspension of sentence.

8 \* \* \*

9 Section 2. This Act shall become effective upon signature by the governor or, if not  
10 signed by the governor, upon expiration of the time for bills to become law without signature  
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
13 effective on the day following such approval.

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

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#### DIGEST

Morrell (SB 237)

Present law (Habitual Offender Law) provides that a person convicted of a felony in this state or convicted under the laws of another jurisdiction of a crime that if committed in this state would be a felony, who commits any subsequent felony within this state, upon conviction is to 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 is to be for a determinate term not less than one-half the longest term and not more than twice the longest term prescribed for a first conviction.
- (2) If the third 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 person is to be sentenced to imprisonment for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than twice the longest possible sentence prescribed for a first conviction.
- (3) If the third felony and the two prior felonies are felonies defined as a crime of violence under present law, or a sex offense as defined in present law, when the victim is under the age of 18 years at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for 10 years or more, or any other crimes punishable by imprisonment for 12 years or more, or any combination of such crimes, the person is to be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

- (4) If the fourth or subsequent 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 person is to be sentenced to imprisonment for the fourth or subsequent felony for a determinate term not less than the longest prescribed for a first conviction but in no event less than 20 years and not more than his natural life.
- (5) If the fourth felony and two of the prior felonies are felonies defined as a crime of violence under present law, or a sex offense as defined in present law when the victim is under the age of 18 at the time of commission of the offense, or as a violation of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for 10 years or more, or of any other crime punishable by imprisonment for 12 years or more, or any combination of such crimes, the person is to be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

Proposed law deletes from present law the mandatory minimum sentences for second, third, and fourth offenses that are not crimes of violence, sex offenses, or violations of the Uniform Controlled Dangerous Substances Law. Proposed law further deletes mandatory life sentences for third and fourth offenses that are violations of the Uniform Controlled Dangerous Substances Law punishable by imprisonment for 10 years or more, or any other crimes punishable by imprisonment for 12 years or more, or any combination thereof.

Proposed law otherwise retains present law.

Present law provides that any sentence imposed on a habitual offender under present law must be at hard labor without benefit of probation or suspension of sentence.

Proposed law provides that only a sentence imposed on a habitual offender for a crime of violence under present law or a sex offense as defined in present law when the victim is under the age of 18 at the time of commission of the offense must be at hard labor.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:529.1(A)(1), (3) and (4), and (G))