

Regular Session, 2014

HOUSE BILL NO. 745

BY REPRESENTATIVE MORENO

CRIMINAL/SENTENCING: Provides sentencing options with respect to certain offenses

1 AN ACT

2 To enact Code of Criminal Procedure Article 890.3, relative to criminal sentencing; to
3 authorize the court to impose sentences for certain crimes with the benefit of parole,
4 probation, or suspension; to authorize the court to impose a reduced fine or term of
5 confinement; to provide for applicability; to provide for limitations; to provide for
6 exceptions; to provide for reporting; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 890.3 is hereby enacted to read as
9 follows:

10 Art. 890.3. Waiver of minimum mandatory sentences by the court; procedure;
11 exceptions

12 A. Notwithstanding any other provision of law to the contrary, if a felony or
13 misdemeanor offense specifies a sentence with a minimum term of confinement or
14 a minimum fine, or that the sentence shall be served without benefit of parole,
15 probation, or suspension of sentence, the court, upon conviction, is authorized to do
16 any of the following in sentencing the offender:

17 (1) Impose the sentence as provided in the penalty provisions for that
18 offense.

1 (2) Impose the sentence as provided in the penalty provisions for that
2 offense, but specify that the sentence shall be served with benefit of parole,
3 probation, or suspension of sentence.

4 (3) Impose a reduced fine or reduced term of imprisonment from the amount
5 and term provided in the penalty provisions for that offense.

6 B. The provisions of this Article shall not apply to any of the following:

7 (1) The sentence for a crime of violence as defined in R.S. 14:2(B).

8 (2) The sentence for a sex offense as defined in R.S. 15:541.

9 (3) A defendant who has a prior conviction for the same offense during the
10 ten-year period prior to the commission of the current offense.

11 (4) The sentence for an offense involving the intentional use of a firearm in
12 a manner that causes physical injury.

13 (5) A defendant who is the leader, manager, or supervisor of others in a
14 continuing criminal enterprise.

15 C.(1) The court shall only depart from the sentence provided in the penalty
16 provision for the offense if the court finds substantial and compelling reasons on the
17 record that imposition of the sentence provided in the penalty provisions for the
18 offense would result in substantial injustice to the defendant, and the defendant
19 would not pose a threat to public safety.

20 (2) In making this determination, the court shall consider the nature of the
21 crime, the history and character of the defendant, and the likelihood of a successful
22 rehabilitation.

23 D. The provisions of this Article do not authorize the court to provide for
24 parole eligibility at a time earlier than that provided in R.S. 15:574.4.

25 E.(1) At the time the sentence is imposed pursuant to the provisions of this
26 Article, the Uniform Sentencing Commitment Order shall specify that the sentence
27 is imposed pursuant to the provisions of this Article.

28 (2) Any court that imposes a sentence pursuant to the provisions of this
29 Article shall provide a copy of the Uniform Sentencing Commitment Order to the

1 Louisiana Sentencing Commission. Beginning one year from the effective date of
 2 this Article and annually thereafter, the Louisiana Sentencing Commission shall
 3 report the number of times this Article was utilized in the previous year. This report
 4 shall be made available in electronic form and published on the website of the
 5 Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Moreno

HB No. 745

Abstract: Authorizes the court to waive minimum mandatory sentences for certain offenses.

Present law provides that sentences for certain offenses shall be served without benefit of parole, probation, or suspension of sentence (minimum mandatory sentences).

Present law provides that for certain nonviolent and non-sex offenses, the court may waive the minimum mandatory sentence if either of the following occur:

- (1) The defendant enters a guilty plea pursuant to a negotiated plea agreement with the prosecution and the court, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.
- (2) In cases resulting in trial, the prosecution, the defendant, and the court enter into a postconviction agreement, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.

Proposed law retains present law and provides that if a felony or misdemeanor offense specifies a sentence with a minimum term of confinement or a minimum fine, or that the sentence shall be served without benefit of parole, probation, or suspension of sentence, the court, upon conviction, is authorized to do any of the following in sentencing the offender:

- (1) Impose the sentence as provided in the penalty provisions for that offense.
- (2) Impose the sentence as provided in the penalty provisions for that offense, but specify that the sentence shall be served with benefit of parole, probation, or suspension of sentence.
- (3) Impose a reduced fine or reduced term of imprisonment from the amount and term provided in the penalty provisions for that offense.

Proposed law does not apply to the following:

- (1) Sentences for a crime of violence or a sex offense.
- (2) To a defendant who has a prior conviction for the same offense during the 10-year period prior to the commission of the current offense.

- (3) The sentence for an offense involving the intentional use of a firearm in a manner that causes physical injury.
- (4) A defendant who is the leader, manager, or supervisor of others in a continuing criminal enterprise.

Proposed law provides that the court, taking into consideration the nature of the crime, the history and character of the defendant, and the likelihood of a successful rehabilitation, shall only depart from the sentence provided in the penalty provision for the offense if the court finds substantial and compelling reasons on the record that imposition of the sentence provided in the penalty provisions for the offense would result in substantial injustice to the defendant and would not pose a threat to public safety.

Proposed law provides that the court shall not set eligibility for parole consideration earlier than what is provided in present law provisions regarding eligibility for parole.

Proposed law provides that the Uniform Sentencing Commitment Order shall specify that the sentence is imposed pursuant to the provisions of proposed law, and a copy of the Uniform Sentencing Commitment Order shall be provided to the La. Sentencing Commission.

Beginning one year from the effective date of proposed law and annually thereafter, proposed law requires the La. Sentencing Commission to report the number of times proposed law was utilized in the previous year. Proposed law provides that this report shall be made available in electronic form and published on the website of the La. Commission on Law Enforcement and Administration of Criminal Justice.

(Adds C.Cr.P. Art. 890.3)