

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 later ameliorated**

9 **A. Notwithstanding any provision of law to the contrary, a defendant in**
10 **the actual custody of the Department of Public Safety and Corrections serving**
11 **a sentence of life imprisonment that was imposed under the provisions of R.S.**
12 **15:529.1(A)(1)(b)(ii) or (c)(ii) as those provisions existed after amendment by**
13 **Act No. 1245 of the 1995 Regular Session shall be eligible for parole**
14 **consideration after serving the maximum term of imprisonment that would**
15 **have been imposed had the defendant been sentenced under the provisions of**
16 **R.S. 15:529.1(A)(1)(b)(ii) or (c)(ii) as those provisions existed after amendment**
17 **by Act No. 403 of the 2001 Regular Session.**

- 1 **B. For the purposes of this Section, the maximum term of imprisonment**
 2 **shall be calculated by the secretary of the Department of Public Safety and**
 3 **Corrections.**

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

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 will be eligible for parole consideration after serving the maximum term of imprisonment that would have been imposed had the defendant been sentenced under the provisions of present law.

Proposed law otherwise retains present law.

Effective August 1, 2014.

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Changes from authorizing a sentencing court to reduce a defendant's sentence based on ameliorative penalty provisions to mandating parole eligibility for a defendant based on ameliorative penalty provisions.