

2025 Regular Session

HOUSE BILL NO. 79

BY REPRESENTATIVE BACALA

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 893.2 and 893.3(A) through (D)
3 and (E)(1)(a), relative to sentencing; to provide for the applicability of firearm
4 enhancement sentencing provisions to plea agreements; to provide for stipulations;
5 to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 893.2 and 893.3(A) through (D) and
8 (E)(1)(a) are hereby amended and reenacted to read as follows:

9 Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a
10 specifically enumerated misdemeanor; submission to jury

11 A.(1) If a motion was filed by the state in compliance with Article 893.1, a
12 determination shall be made as to all of the following:

13 (a) ~~whether~~ Whether a firearm was discharged, or used during the
14 commission of the felony or specifically enumerated misdemeanor, or actually
15 possessed during the commission of any of the following:

16 (i) ~~a~~ A felony which is a crime of violence as defined by R.S. 14:2(B);

17 (ii) ~~felony~~ Felony theft;

18 (iii) ~~simple~~ Simple burglary;

19 (iv) ~~simple~~ Simple burglary of an inhabited dwelling;

20 (v) ~~unauthorized~~ Unauthorized entry of an inhabited dwelling;

21 (vi) ~~production~~ Production, manufacturing, distribution, dispensing, or
22 possession with intent to produce, manufacture, distribute, or dispense a controlled

1 dangerous substance in violation of the Uniform Controlled Dangerous Substances
2 Law; ~~or,~~

3 (vii) A specifically enumerated misdemeanor.

4 (b) and whether Whether the mandatory minimum sentencing provisions of
5 Article 893.3 have been shown to be applicable.

6 (2) Such determination is a specific finding of fact to be submitted to the jury
7 and proven by the state beyond a reasonable doubt.

8 B. If a motion was filed by the state in compliance with Article 893.1 and the
9 case is resolved pursuant to a plea agreement, the district attorney and the defendant
10 may stipulate that the provisions of Article 893.3 are applicable. Any such
11 stipulation shall identify for the court all of the following:

12 (1) The specific provision of Article 893.3 that applies.

13 (2) The specific underlying felony or specifically enumerated misdemeanor
14 within Article 893.3 that applies.

15 Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in
16 which firearm was possessed, used, or discharged

17 A. If the finder of fact finds beyond a reasonable doubt or a plea agreement
18 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
19 actually possessed a firearm during the commission of the felony or specifically
20 enumerated misdemeanor for which he was convicted, the court shall impose a term
21 of imprisonment of not less than two years nor more than the maximum term of
22 imprisonment provided for the underlying offense; however, if the maximum
23 sentence for the underlying offense is less than two years, the court shall impose the
24 maximum sentence.

25 B. If the finder of fact finds beyond a reasonable doubt or a plea agreement
26 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
27 actually used a firearm in the commission of the felony or specifically enumerated
28 misdemeanor for which he was convicted, the court shall impose a term of
29 imprisonment of not less than five years nor more than the maximum term of
30 imprisonment provided for the underlying offense; however, if the maximum

1 sentence for the underlying offense is less than five years, the court shall impose the
2 maximum sentence.

3 C. If the finder of fact finds beyond a reasonable doubt or a plea agreement
4 is reached that includes a stipulation pursuant to Article 893.2(B) that the offender
5 actually discharged a firearm in the commission of the felony or specifically
6 enumerated misdemeanor for which he was convicted, the court shall impose a term
7 of imprisonment of not less than ten years nor more than the maximum term of
8 imprisonment provided for the underlying offense; however, if the maximum
9 sentence for the underlying offense is less than ten years, the court shall impose the
10 maximum sentence.

11 D. If the finder of fact finds beyond a reasonable doubt or a plea agreement
12 is reached that includes a stipulation pursuant to Article 893.2(B) that a firearm was
13 actually used or discharged by the defendant during the commission of the felony for
14 which he was convicted, and thereby caused bodily injury, the court shall impose a
15 term of imprisonment of not less than fifteen years nor more than the maximum term
16 of imprisonment provided for the underlying offense; however, if the maximum
17 sentence for the underlying felony is less than fifteen years, the court shall impose
18 the maximum sentence.

19 E.(1)(a) Notwithstanding any other provision of law to the contrary, if the
20 finder of fact has determined or a plea agreement is reached that includes a
21 stipulation pursuant to Article 893.2(B) that the defendant committed a felony with
22 a firearm as provided ~~for~~ in this Article, and the crime is considered a violent felony
23 as defined in this Paragraph, the court shall impose a minimum term of
24 imprisonment of not less than ten years nor more than the maximum term of
25 imprisonment provided for the underlying offense. In addition, if the firearm is
26 discharged during the commission of such a violent felony, the court shall impose
27 a minimum term of imprisonment of not less than twenty years nor more than the
28 maximum term of imprisonment provided for the underlying offense.

29 * * *

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____