

Regular Session, 2008

ACT No. 104

HOUSE BILL NO. 292

BY REPRESENTATIVES WHITE, BOBBY BADON, BALDONE, HENRY BURNS, GALLOT, GISCLAIR, ELBERT GUILLORY, HARDY, HARRISON, HAZEL, HENDERSON, HINES, LAFONTA, MARCHAND, NORTON, NOWLIN, PETERSON, RICHARDSON, RICHMOND, ROY, SIMON, GARY SMITH, JANE SMITH, ST. GERMAIN, TRAHAN, TUCKER, WADDELL, AND WILLIAMS

1 AN ACT

2 To enact Code of Criminal Procedure Article 893(E)(3), relative to the drug court division
3 probation program; to provide for the dismissal of prosecutions upon successful
4 completion; to provide for exceptions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 893(E)(3) is hereby enacted to read
7 as follows:

8 Art. 893. Suspension and deferral of sentence and probation in felony cases

9 * * *

10 E.

11 * * *

12 (3)(a) When a case is accepted into a drug court division probation program
13 pursuant to the provisions of R.S. 13:5304 and at the conclusion of the probationary
14 period the court finds that the defendant has successfully completed all conditions
15 of probation, the court with the concurrence of the district attorney may set aside the
16 conviction and dismiss prosecution, whether the defendant's sentence was suspended
17 under Paragraph A of this Article or deferred under Subparagraph (1) of this
18 Paragraph. The dismissal of prosecution shall have the same effect as an acquittal,
19 except that the conviction may be considered as a first offense and provide the basis
20 for subsequent prosecution of the party as a multiple offender, and shall be
21 considered as a first offense for purposes of any other law or laws relating to
22 cumulation of offenses.

4 (c) Dismissal under this Paragraph shall have the same effect as an acquittal
5 for purposes of expungement under the provisions of R.S. 44:9 and may occur only
6 once with respect to any person.

8 Section 2. The provisions of this Act are deemed to be remedial and therefore shall
9 apply retroactively.

GOVERNOR OF THE STATE OF LOUISIANA

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.