

Regular Session, 2014

HOUSE BILL NO. 732

BY REPRESENTATIVE KATRINA JACKSON

CRIMINAL/PROCEDURE: Authorizes the waiver of minimum mandatory sentences for certain sex offenses and crimes of violence

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 890.1(D), relative to waiver of  
3 minimum mandatory sentences; to authorize the waiver of minimum mandatory  
4 sentences for certain crimes of violence; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 890.1(D) is hereby amended and  
7 reenacted to read as follows:

8 Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

9 \* \* \*

10 D. ~~Nothing in~~ The provisions of this Article shall not apply to ~~a crime of~~  
11 ~~violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 or to~~  
12 any of the following crimes of violence:

13 (1) R.S. 14:28.1 (Solicitation for murder).

14 (2) R.S. 14:30 (First degree murder).

15 (3) R.S. 14:30.1 (Second degree murder).

16 (4) R.S. 14:31 (Manslaughter).

17 (5) R.S. 14:34.6 (Disarming of a peace officer).

18 (6) R.S. 14:34.7 (Aggravated second degree battery).

19 (7) R.S. 14:37.1 (Assault by drive-by shooting).

20 (8) R.S. 14:37.4 (Aggravated assault with a firearm).

- 1                   (9) R.S. 14:42 (Aggravated rape).
- 2                   (10) R.S. 14:42.1 (Forcible rape).
- 3                   (11) R.S. 14:43 (Simple rape).
- 4                   (12) R.S. 14:43.1 (Sexual battery).
- 5                   (13) R.S.14:43.2 (Second degree sexual battery).
- 6                   (14) R.S. 14:43.5 (Intentional exposure to AIDS virus).
- 7                   (15) R.S. 14:44 (Aggravated kidnapping).
- 8                   (16) R.S. 14:44.1 (Second degree kidnapping).
- 9                   (17) R.S. 14:46.2 (Human trafficking).
- 10                  (18) R.S.14:46.3 (Trafficking of children for sexual purposes).
- 11                  (19) R.S.14:51 (Aggravated arson).
- 12                  (20) R.S. 14:62.8 (Home invasion).
- 13                  (21) R.S. 14:64 (Armed robbery).
- 14                  (22) R.S. 14:64.4 (Second degree robbery).
- 15                  (23) R.S. 14:64.3 (Armed robbery; use of firearm).
- 16                  (24) R.S. 14:64.2 (Carjacking).
- 17                  (25) R.S. 14:78.1 (Aggravated incest).
- 18                  (26) R.S. 14:93.2.3 (Second degree cruelty to juveniles).
- 19                  (27) R.S.14:128.1 (Terrorism).
- 20                  (28) R.S. 14:34 (Aggravated battery).
- 21                  (29) R.S. 14:37 (Aggravated assault).

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# 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)]

Katrina Jackson

HB No. 732

**Abstract:** Authorizes the waiver of minimum mandatory sentences for certain crimes of violence.

Present law 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, in sentencing the offender shall impose the sentence as provided in the penalty provisions for the offense unless 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) The prosecution, the defendant, and the court enter into a post-conviction 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.

Present law provides that these provisions shall not apply to a crime of violence or a sex offense.

Proposed law amends present law and authorizes the waiver of minimum mandatory sentences pursuant to present law for certain offenses that are defined by present law as a crime of violence.

(Amends C.Cr.P. Art. 890.1(D))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Deleted the proposed law provision which authorized the waiver of mandatory minimum sentences pursuant to present law for sex offenses.
2. Added aggravated battery and aggravated assault to the list of offenses for which the minimum mandatory sentence may be waived.

#### House Floor Amendments to the engrossed bill.

1. Made technical corrections.