2016 Regular Session

HOUSE BILL NO. 802

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BY REPRESENTATIVE JACKSON

2 To amend and reenact Code of Criminal Procedure Article 893(A) and (E)(1)(b) and R.S. 3 13:5304(B)(10)(b) and R.S. 15:574.2(C)(2)(a) and 574.4(B)(1), and to enact Code 4 of Criminal Procedure Article 890.3 and R.S. 15:824.2, and to repeal R.S. 5 15:827.1(E)(3)(b), relative to crimes of violence and parole eligibility; to provide a 6 procedure by which certain crimes of violence are designated as such in the court 7 minutes; to provide relative to certain benefits and restrictions based upon this 8 designation; to provide with respect to deferral of sentences; to provide for 9 participation in certain programs; to provide relative to parole eligibility for persons 10 convicted of crimes of violence; to change the number of votes required to grant 11 parole for offenders convicted of a crime of violence who meet certain conditions; 12 to provide relative to the eligibility to participate in reentry preparation programs; 13 to create the Programs to Reduce Recidivism Fund; to provide for the purposes of 14 the fund; to provide for the appropriation of monies into the fund; to provide for the 15 administration of the fund; to provide for the distribution of monies from the fund; 16 to provide relative to the calculation of savings realized by the Department of Public 17 Safety and Corrections; and to provide for related matters. 18 Be it enacted by the Legislature of Louisiana: 19 Section 1. Code of Criminal Procedure Article 893(A) and (E)(1)(b) are hereby 20 amended and reenacted and Code of Criminal Procedure Article 890.3 is hereby enacted to 21 read as follows: 22 Art. 890.3. Sentencing for crimes of violence 23 A. Except as provided in Paragraph B of this Article, when a defendant is 24 sentenced for any offense, or the attempt to commit any offense, defined or

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enumerated as a crime of violence in R.S. 14:2(B), upon the written recommendation

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	of the district attorney, the court may designate in the infinites whether such offense			
2	is a crime of violence only for the following purposes:			
3	(1) To determine a defendant's eligibility for suspension or deferral of			
4	sentence pursuant to Code of Criminal Procedure Article 893.			
5	(2) To determine a defendant's eligibility for participation in a drug division			
6	probation program pursuant to R.S. 13:5304.			
7	B. The following crimes of violence enumerated in R.S. 14:2(B) shall be			
8	designated by the court in the minutes as a crime of violence:			
9	(1) Solicitation for murder.			
10	(2) First degree murder.			
11	(3) Second degree murder.			
12	(4) Manslaughter.			
13	(5) Aggravated or first degree rape.			
14	(6) Forcible or second degree rape.			
15	(7) Simple or third degree rape.			
16	(8) Sexual battery.			
17	(9) Second degree sexual battery.			
18	(10) Intentional exposure to AIDS virus.			
19	(11) Aggravated kidnapping.			
20	(12) Second degree kidnapping.			
21	(13) Aggravated arson.			
22	(14) Armed robbery.			
23	(15) Assault by drive-by shooting.			
24	(16) Carjacking.			
25	(17) Terrorism.			
26	(18) Aggravated second degree battery.			
27	(19) Aggravated assault with a firearm.			
28	(20) Armed robbery; use of firearm; additional penalty.			
29	(21) Second degree robbery.			
30	(22) Disarming of a peace officer.			

(23) Second degree cruelty to juveniles.

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2	(24) Aggravated crime against nature.
3	(25) Trafficking of children for sexual purposes.
4	(26) Human trafficking.
5	(27) Home invasion.
6	* * *
7	Art. 893. Suspension and deferral of sentence and probation in felony cases
8	A. When it appears that the best interest of the public and of the defendant
9	will be served, the court, after a first or second conviction of a noncapital felony,
10	may suspend, in whole or in part, the imposition or execution of either or both
11	sentences, where suspension is allowed under the law, and in either or both cases
12	place the defendant on probation under the supervision of the division of probation
13	and parole. The court shall not suspend the sentence of a conviction for an offense
14	that is designated in the court minutes as a crime of violence as defined in R.S.
15	14:2(B)(1), (2), (3), (4), (5), (9), (10), (11), (12), (13), (14), (15), (16), (18), (20),
16	(21), (22), (26), (27), or (28) pursuant to Article 890.3, or of a second conviction if
17	the second conviction is for a violation of R.S. 14:73.5, 81.1, or 81.2. The period of
18	probation shall be specified and shall not be less than one year nor more than five
19	years. The suspended sentence shall be regarded as a sentence for the purpose of
20	granting or denying a new trial or appeal. Supervised release as provided for by
21	Chapter 3-E of Title 15 of the Louisiana Revised Statutes of 1950 shall not be
22	considered probation and shall not be limited by the five-year period for probation
23	provided for by the provisions of this Paragraph.
24	* * *
25	E.(1)
26	* * *
27	(b) The court shall not defer a sentence under this provision for an offense
28	or an attempted offense which that is designated in the court minutes as a crime of
29	violence pursuant to Article 890.3 or that is defined or enumerated as a crime of
30	violence under R.S. 14:2(B) or a sex offense as defined by R.S. 15:541(14.1) R.S.

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1	15:541, involving a child under the age of seventeen years or for a violation of the
2	Uniform Controlled Dangerous Substances Law that is punishable by a term of
3	imprisonment of more than five years or for a violation of R.S. 40:966(A), 967(A),
4	968(A), 969(A), or 970(A).
5	* * *
6	Section 2. R.S. 13:5304(B)(10)(b) is hereby amended and reenacted to read as
7	follows:
8	§5304. The drug division probation program
9	* * *
10	B. Participation in probation programs shall be subject to the following
11	provisions:
12	* * *
13	(10) In order to be eligible for the drug division probation program, the
14	defendant must satisfy each of the following criteria:
15	* * *
16	(b) The crime before the court cannot be <u>an offense that is designated</u>
17	in the court minutes as a crime of violence as defined in R.S. 14:2(B)
18	pursuant to Code of Criminal Procedure Article 890.3 or an offense of
19	domestic abuse battery which that is punishable by imprisonment at hard
20	labor as provided in R.S. 14:35.3.
21	* * *
22	Section 3. R.S. 15:574.2(C)(2)(a) and 574.4(B)(1) are hereby amended and
23	reenacted to read as follows:
24	§574.2. Committee on parole, Board of Pardons; membership; qualifications;
25	vacancies; compensation; domicile; venue; meetings; quorum; panels:

vacancies; compensation; domicile; venue; meetings; quorum; panels; powers and duties; transfer of property to committee; representation of applicants before the committee; prohibitions

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29 C.

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(2) The committee may grant parole with two votes of a three-member panel,
or, if the number exceeds a three-member panel, a majority vote of those present if
all of the following conditions are met:

(a) The offender has not been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or convicted of or an offense which would constitute a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

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§574.4. Parole; eligibility

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B.(1) No person shall be eligible for parole consideration who has been convicted of armed robbery and denied parole eligibility under the provisions of R.S. 14:64. Except as provided in Paragraph (2) of this Subsection, and except as provided in Subsections D and E of this Section, no prisoner serving a life sentence shall be eligible for parole consideration until his life sentence has been commuted to a fixed term of years. No prisoner sentenced as a serial sexual offender shall be eligible for parole. No prisoner may be paroled while there is pending against him any indictment or information for any crime suspected of having been committed by him while a prisoner. Notwithstanding any other provisions of law to the contrary, a person convicted of a crime of violence and not otherwise ineligible for parole shall serve at least eighty-five seventy-five percent of the sentence imposed, before being eligible for parole. The victim or victim's family shall be notified whenever the offender is to be released provided that the victim or victim's family has completed a Louisiana victim notice and registration form as provided in R.S. 46:1841 et seq., or has otherwise provided contact information and has indicated to the Department of Public Safety and Corrections, Crime Victims Services Bureau, that they desire such notification.

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Section 4. R.S. 15:824.2 is hereby enacted to read as follows:

8824 2	Programs 1	to Reduce	Recidivism	Fund
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A. The Programs to Reduce Recidivism Fund, hereinafter referred to as the
"fund", is hereby created in the state treasury. Interest earned on the investment of
monies in the fund shall be deposited in and credited to the fund. Unexpended and
unencumbered monies in the fund at the close of each fiscal year shall remain in the
fund. Monies in the fund shall be appropriated, administered, and used solely and
exclusively for the purposes provided by this Section.

- B. The fund shall be comprised of all monies appropriated, donated, or otherwise made available to provide funding for the purposes set forth in the provisions of this Section. Any funds realized from a reduction in the amount of time a person convicted of a crime of violence is required to serve prior to being eligible for parole consideration as provided for in R.S. 15:574.4(B) shall also be appropriated to the fund. All of such monies required to be deposited in the state treasury in accordance with Article VII, Section 9(A) of the Constitution of Louisiana shall be deposited in the fund after first meeting the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.
- C. Monies in the fund shall be appropriated and used for the following purposes:
- (1) To defray the operational expenses of probation and parole and reentry initiatives.
- (2) To assist in establishing and reimbursing the operational expenses of local corrections rehabilitative programs that do the following:
- (a) Provide inmates housed in local facilities with fundamental resources in the areas of employment, life skills training, and job placement.
- (b) Provide the inmates with access to as many support services as possible to appreciably increase the likelihood of successful reentry into society and to reduce recidivism.
- D. The fund shall be administered by the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice and the Department of

1 Public Safety and Corrections, hereinafter referred to as "the administrators". 2 Monies in the fund shall be distributed to probation and parole, reentry initiatives, 3 and local prison facilities through a grant program established by the administrators. 4 The administrators shall allocate funds as necessary for the purposes provided in 5 Subsection C of this Section. The administrators shall promulgate such rules, 6 regulations, and procedures as are necessary in administering the provisions of this 7 Section. 8 Section 5. R.S. 15:827.1(E)(3)(b) is hereby repealed in its entirety. 9 Section 6. The provisions of Sections 3 and 5 of this Act shall have prospective 10 application only and shall apply only to persons convicted on or after the effective date of 11 this Act. 12 Section 7. The Department of Public Safety and Corrections shall measure and 13 document cost savings from the implementation of this Act. The Department of Public 14 Safety and Corrections shall establish a baseline for measurement using the average number 15 of inmates incarcerated at each type of penal or correctional institution as defined in R.S. 16 15:824 and at local parish jails or institutions in Fiscal Year 2015-2016. The Department 17 of Public Safety and Corrections shall provide information regarding the estimated savings 18 to the legislature. The Louisiana Legislature shall appropriate the savings realized by the 19 provisions of this Act to be deposited in the fund created by, and for the purposes set forth 20 in, R.S. 15:824.2 enacted in Section 4 of this Act. 21 Section 8. The provisions of Sections 1, 2, 6, 7 and this Section of this Act shall be 22 effective August 1, 2016. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE GOVERNOR OF THE STATE OF LOUISIANA APPROVED: ____

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