

2016 Regular Session

HOUSE BILL NO. 802

BY REPRESENTATIVE JACKSON

1 AN ACT

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

1 of the district attorney, the court may designate in the minutes 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.

1                   (23) Second degree cruelty to juveniles.

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.





1           §824.2. Programs to Reduce Recidivism Fund

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

8                   B. The fund shall be comprised of all monies appropriated, donated, or  
9                   otherwise made available to provide funding for the purposes set forth in the  
10                  provisions of this Section. Any funds realized from a reduction in the amount of  
11                  time a person convicted of a crime of violence is required to serve prior to being  
12                  eligible for parole consideration as provided for in R.S. 15:574.4(B) shall also be  
13                  appropriated to the fund. All of such monies required to be deposited in the state  
14                  treasury in accordance with Article VII, Section 9(A) of the Constitution of  
15                  Louisiana shall be deposited in the fund after first meeting the requirements of  
16                  Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond  
17                  Security and Redemption Fund.

18                  C. Monies in the fund shall be appropriated and used for the following  
19                  purposes:

20                         (1) To defray the operational expenses of probation and parole and reentry  
21                         initiatives.

22                         (2) To assist in establishing and reimbursing the operational expenses of  
23                         local corrections rehabilitative programs that do the following:

24                                 (a) Provide inmates housed in local facilities with fundamental resources in  
25                                 the areas of employment, life skills training, and job placement.

26                                 (b) Provide the inmates with access to as many support services as possible  
27                                 to appreciably increase the likelihood of successful reentry into society and to reduce  
28                                 recidivism.

29                   D. The fund shall be administered by the Louisiana Commission on Law  
30                   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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_