
SENATE FLOOR AMENDMENTS

2017 Regular Session

Amendments proposed by Senator Martiny to Engrossed Senate Bill No. 139 by Senator Martiny

1 AMENDMENT NO. 1

2 On page 1, line 2 delete "the introductory"

3 AMENDMENT NO. 2

4 On page 1, delete line 3, and insert "900(A)(5) and (6), and 903.1, R.S."

5 AMENDMENT NO. 3

6 On page 1, line 6, delete "574.4.3(A)(1),"

7 AMENDMENT NO. 4

8 On page 1, line 6, delete "574.7(B)," and insert "the introductory paragraph of 574.7(B)(1)
9 and (C),"

10 AMENDMENT NO. 5

11 On page 1, line 7, after "828(B) and (C)," delete "and"

12 AMENDMENT NO. 6

13 On page 1, delete line 8 and insert "895.7 and 899.2, and R.S. 15:574.2(C)(4), 574.4(F),
14 574.7(D), 574.9(H), 827(A)(7) and 828(D), and to repeal Code of Criminal Procedure
15 Article 900(A)(7),"

16 AMENDMENT NO. 7

17 On page 2, line 24, delete "the introductory"

18 AMENDMENT NO. 8

19 On page 2, delete line 25 and insert "900(A)(5) and (6) and 903.1 are hereby amended"

20 AMENDMENT NO. 9

21 On page 2, line 26, after "895.6" delete the remainder of the line and insert "895.7, and 899.2
22 are hereby"

23 AMENDMENT NO. 10

24 On page 2, line 29, after "A." insert "(1)"

25 AMENDMENT NO. 11

26 On page 3, line 5, after "parole." delete the remainder of the line and insert the following:

27 **"The court shall not suspend the sentence of a second or third conviction**
28 **of R.S. 14:73.5. Except as provided in Paragraph G of this Article, the period**
29 **of probation shall be specified and shall not be more than three years."**

1 AMENDMENT NO. 12

2 On page 3, delete lines 6 through 16 and insert the following:

3 **"(2)** The court shall not suspend the sentence of a conviction for an offense
4 that is designated in the court minutes as a crime of violence pursuant to Article
5 890.3, **except a first conviction for an offense with a maximum prison sentence**
6 **of ten years or less that was not committed against a family member, household**
7 **member, or dating partner,** or of a second **or third** conviction if the second **or**
8 **third** conviction is for a violation of R.S. 14:~~73.5~~; 81.1; or 81.2. The period of
9 probation shall be specified and shall not be ~~less than one year~~ nor more than five
10 years.

11 **(3)** The suspended sentence shall be regarded as a sentence for the purpose
12 of granting or denying a new trial or appeal.

13 **(4)** Supervised release as provided for by Chapter 3-E of Title 15 of the
14 Louisiana Revised Statutes of 1950 shall not be considered probation and shall not
15 be limited by the five-year **or three-year** periods for probation provided for by the
16 provisions of this Paragraph."

17 AMENDMENT NO. 13

18 On page 5, line 21, after "**court**" insert "**, with the consent of the district attorney,**"

19 AMENDMENT NO. 14

20 On page 5, at the end of line 25 delete " ; "

21 AMENDMENT NO. 15

22 On page 5, line 26, delete "**with the consent of the district attorney,**"

23 AMENDMENT NO. 16

24 On page 6, line 5, after "**Article 895**" insert "**for an offense other than a crime of violence**
25 **as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541**"

26 AMENDMENT NO. 17

27 On page 7, line 13, delete "**a sentence**" and insert "**the probation supervision**"

28 AMENDMENT NO. 18

29 On page 7, line 15, delete "**sentence**" and insert "**probation**"

30 AMENDMENT NO. 19

31 On page 7, lines 16 and 17, delete "**supervising agency shall order the discharge of the**
32 **sentence**" and insert "**court shall order the termination of the probation**"

33 AMENDMENT NO. 20

34 On page 8, line 2, after "**R.S. 15:574.4.2**" insert "**for an offense other than a crime of**
35 **violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541**"

36 AMENDMENT NO. 21

37 On page 8, line 16, delete "**sentencing judge**" and insert "**committee on parole**"

38 AMENDMENT NO. 22

39 On page 8, line 18, delete "**judge**" and insert "**committee on parole**"

1 AMENDMENT NO. 23

2 On page 9, line 7, delete "court" and insert "committee on parole"

3 AMENDMENT NO. 24

4 On page 9, line 9, delete "court terminate a sentence" and insert "committee on parole
5 terminate parole supervision"

6 AMENDMENT NO. 25

7 On page 9, line 22, delete "court" and insert "committee on parole"

8 AMENDMENT NO. 26

9 On page 9, delete lines 28 and 29 and delete pages 10 and 11 in their entirety and on page
10 12, delete lines 1 through 15 and insert the following:

11 "Art. 899.2. Administrative sanctions for technical violations; offenses other
12 than crimes of violence or sex offenses

13 A. Each time a defendant on probation for a crime other than a crime of
14 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541(24)
15 violates a condition of his probation, a probation agency is authorized to use
16 administrative sanctions to address a technical violation committed by a
17 defendant when all of the following occur:

18 (1) The defendant, after receiving written notification of the right to a
19 hearing before a court and the right to counsel provides a written waiver of a
20 probation violation hearing.

21 (2) The defendant admits to the violation or affirmatively chooses not to
22 contest the violation alleged in the probation violation report.

23 (3) The defendant consents to the imposition of administrative sanctions
24 by the Department of Public Safety and Corrections.

25 B. The department shall promulgate rules to implement the provisions
26 of this Article to establish the following:

27 (1)(a) A system of structured, administrative sanctions which shall be
28 imposed for technical violations of probation and which shall take into
29 consideration the following factors:

30 (i) The severity of the violation behavior.

31 (ii) The prior violation history.

32 (iii) The severity of the underlying criminal conviction.

33 (iv) The criminal history of the probationer.

34 (v) Any special circumstances, characteristics, or resources of the
35 probationer.

36 (vi) Protection of the community.

37 (vii) Deterrence.

38 (viii) The availability of appropriate local sanctions, including but not
39 limited to jail, treatment, community service work, house arrest, electronic
40 surveillance, restitution centers, work release centers, day reporting centers, or
41 other local sanctions.

42 (b) Incarceration shall not be used for the first or second lowest-level
43 violations, including but not limited to a first positive drug test; association with
44 known felons or persons involved in criminal activity; changing residence
45 without permission, failure to initially report as required; failure to pay
46 restitution up to three months; failure to report as instructed; travel without
47 permission; and unemployment and failure to seek employment within ninety
48 days.

49 (c) Incarceration shall not be used for first or second violations of alcohol
50 use or admission, except for defendants convicted of operating a vehicle while
51 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse
52 battery pursuant to R.S. 14:35.3 committed by one family member, household
53 member, or dating partner against another; or defendants convicted of violation

of a protective order pursuant to R.S. 14:79 committed by one family member, household member, or dating partner against another.

(2) Procedures to provide a probationer with written notice of the right to a probation violation hearing to determine whether the probationer violated the conditions of probation alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.

(3) Procedures for a probationer to provide written waiver of the right to a probation violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the probation violation report, and to consent to the imposition of administrative sanctions by the department.

(4) The level and type of sanctions that may be imposed by probation officers and other supervisory personnel.

(5) The level and type of violation behavior that warrants a recommendation to the court that probation be revoked.

(6) Procedures notifying the probationer, the district attorney, the defense counsel of record, and the court of probation of a violation admitted by the probationer and the administrative sanctions imposed.

(7) Such other policies and procedures as are necessary to implement the provisions of this Article and to provide adequate probation supervision.

C. If the administrative sanction imposed pursuant to the provisions of this Article is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.

D. For purposes of this Article, "technical violation" means any violation of a condition of probation, except that it does not include any of the following:

(1) A new felony conviction.

(2) A conviction for an intentional misdemeanor directly affecting the person.

(3) An allegation of a subsequent criminal act pursuant to R.S. 14:2(B).

(4) An allegation of a subsequent criminal act pursuant to R.S. 15:541.

(5) An allegation of domestic abuse battery pursuant to R.S. 14:35.3 committed by one family member, household member, or dating partner against another.

(6) An allegation of violation of protective order pursuant to R.S. 14:79 committed by one family member, household member, or dating partner against another."

AMENDMENT NO. 27

On page 12, delete lines 25 through 29 and insert the following:

"(5)(a) Order that the probation be revoked. In the event of revocation the defendant shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court. If the imposition of sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing.

(b) Notwithstanding the provisions of Item(a) of this Subparagraph, in the event of revocation for a defendant placed on probation for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, the defendant shall serve the sentence suspended with credit for time served on probation."

AMENDMENT NO. 28

On page 13, line 18, after "court" delete the remainder of the line and delete line 19 and on line 20 delete "~~offense as defined in R.S. 15:541(24)~~" and insert "for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541(24),"

AMENDMENT NO. 29

On page 15, delete lines 2 through 4

1 AMENDMENT NO. 30

2 On page 16, line 20, delete "574.4.3(A)(1)" and after "574.6," delete "574.7(B)," and insert
3 "the introductory paragraph of 574.7(B)(1) and (C),"

4 AMENDMENT NO. 31

5 On page 16, line 21, after "574.4(F)," insert "574.7(D),"

6 AMENDMENT NO. 32

7 On page 17, line 29, delete "**classified as both**"

8 AMENDMENT NO. 33

9 On page 20, line 28, after "**convicted**" insert "**of an offense other than a crime of violence**
10 **as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541**"

11 AMENDMENT NO. 34

12 On page 21, line 4, after "**(i)**" delete "**The**" and insert "**Beginning January 1, 2021, the**"

13 AMENDMENT NO. 35

14 On page 21, line 6, after "**(ii)**" delete the remainder of the line and delete line 7 and insert
15 the following:

16 **"The offender's charge or amended charge on the bill of information was**
17 **a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S.**
18 **15:541 and the district attorney of the parish in which the conviction occurred**
19 **or a victim of the offender has not requested that the committee on parole**
20 **conduct a hearing.**"

21 AMENDMENT NO. 36

22 On page 21, delete lines 14 through 16

23 AMENDMENT NO. 37

24 On page 21, line 17 after "**Items**" delete the remainder of the line and insert "**(ii), (iii), and**
25 **(iv)**"

26 AMENDMENT NO. 38

27 On page 21, line 18, delete "**and (v)**"

28 AMENDMENT NO. 39

29 On page 22, line 11, after "**date.**" insert "**If the offender's charge or amended charge on**
30 **the bill of information was a crime of violence as defined in R.S. 14:2(B) or a sex offense**
31 **as defined in R.S. 15:541, the district attorney of the parish in which the conviction**
32 **occurred shall have thirty days from the date of notification to object to the offender's**
33 **release on administrative parole and may request that the committee on parole conduct**
34 **a hearing.**"

35 AMENDMENT NO. 40

36 On page 23, line 5, after "**date.**" insert "**If the offender's charge or amended charge on**
37 **the bill of information was a crime of violence as defined in R.S. 14:2(B) or a sex offense**
38 **as defined in R.S. 15:541, the victim, or the spouse or next of kin of a deceased victim**
39 **shall have thirty days from the date of notification to object to the offender's release**

1 on administrative parole and may request that the committee on parole conduct a
2 hearing."

3 AMENDMENT NO. 41

4 On page 23, line 18, delete "**revoked of probation or parole**" and insert "**persons that have**
5 **had probation or parole revoked**"

6 AMENDMENT NO. 42

7 On page 24, line 1, delete "**first or**"

8 AMENDMENT NO. 43

9 On page 24, line 4, after "**imposed.**" delete the remainder of the line and delete lines 5
10 through 8

11 AMENDMENT NO. 44

12 On page 24, line 9, delete "**and the date of the commission of the following offense.**"

13 AMENDMENT NO. 45

14 On page 24, line 15, after "**R.S.**" delete "**15:541**" and insert "**14:2(B)**"

15 AMENDMENT NO. 46

16 On page 24, line 23, delete "**July**" and insert "**November**"

17 AMENDMENT NO. 47

18 On page 26, line 29, delete "**August 1**" and insert "**July 2**"

19 AMENDMENT NO. 48

20 On page 27, line 2, delete "**thirty**" and insert "**forty**"

21 AMENDMENT NO. 49

22 On page 27, line 3, after "**(3)**" delete the remainder of the line and insert "**The committee**
23 **on parole has granted parole with a unanimous vote of those present.**"

24 AMENDMENT NO. 50

25 On page 27, delete lines 13 through 24

26 AMENDMENT NO. 51

27 On page 28, delete lines 13 through 29 and delete pages 29 and 30 in their entirety and insert
28 the following:

29 "B.(1) At the time a defendant is released on parole **for a crime of violence**
30 **as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541**, the
31 committee on parole may make a determination as to whether a defendant is eligible
32 for the imposition of administrative sanctions as provided for in this Section. If
33 authorized to do so by the committee, each time a parolee violates a condition of
34 parole, a parole officer may use administrative sanctions to address a technical
35 violation committed by a parolee when all of the following occur:
36 * * *

37 C. **(1) Each time a parolee on parole for a crime other than a crime of**
38 **violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541**

1 violates a condition of parole, a parole officer is authorized to use
 2 administrative sanctions to address a technical violation committed by a parolee
 3 when all of the following occur:

4 (a) The parolee, after receiving written notification of his right to a
 5 hearing before a court and right to counsel, provides a written waiver of a
 6 parole violation hearing.

7 (b) The parolee admits to the violation or affirmatively chooses not to
 8 contest the violation alleged in the parole violation report.

9 (c) The parolee consents to the imposition of administrative sanctions by
 10 the Department of Public Safety and Corrections.

11 (2) The department shall promulgate rules to implement the provisions
 12 of this Subsection to establish the following:

13 (a) A system of structured, administrative sanctions which shall be
 14 imposed for technical violations of parole and which shall take into
 15 consideration the following factors:

16 (i) The severity of the violation behavior.

17 (ii) The prior violation history.

18 (iii) The severity of the underlying criminal conviction.

19 (iv) The criminal history of the parolee.

20 (v) Any special circumstances, characteristics, or resources of the
 21 parolee.

22 (vi) Protection of the community.

23 (vii) Deterrence.

24 (viii) The availability of appropriate local sanctions, including but not
 25 limited to jail, treatment, community service work, house arrest, electronic
 26 surveillance, restitution centers, work release centers, day reporting centers, or
 27 other local sanctions.

28 (ix) Incarceration shall not be used for first or second lowest-level
 29 violations, including but not limited to first positive drug test; association with
 30 known felons or persons involved in criminal activity; changing residence
 31 without permission; failure to initially report as required; failure to pay
 32 restitution up to three months; failure to report as instructed; travel without
 33 permission; and unemployment and failure to seek employment within ninety
 34 days.

35 (x) Incarceration shall not be used for first or second violations of alcohol
 36 use or admission, except for defendants convicted of operating a vehicle while
 37 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse
 38 battery pursuant to R.S. 14:35.3 committed by one family member, household
 39 member, or dating partner against another; or defendants convicted of violation
 40 of a protective order pursuant to R.S. 14:79 committed by one family member,
 41 household member, or dating partner against another.

42 (b) Procedures to provide a parolee with written notice of the right to a
 43 parole violation hearing to determine whether the parolee violated the
 44 conditions of parole alleged in the violation report and the right to be
 45 represented by counsel at state expense at that hearing if financially eligible.

46 (c) Procedures for a parolee to provide written waiver of the right to a
 47 parole violation hearing, to admit to the violation or affirmatively choose not to
 48 contest the violation alleged in the parole violation report, and to consent to the
 49 imposition of administrative sanctions by the department.

50 (d) The level and type of sanctions that may be imposed by parole
 51 officers and other supervisory personnel.

52 (e) The level and type of violation behavior that warrants a
 53 recommendation to the board that parole be revoked.

54 (f) Procedures notifying the parolee and the committee on parole of a
 55 violation admitted by the parolee and the administrative sanctions imposed.

56 (g) Such other policies and procedures as are necessary to implement the
 57 provisions of this Subsection and to provide adequate parole supervision.

58 (3) If the administrative sanction imposed pursuant to the provisions of
 59 this Subsection is jail confinement, the confinement shall not exceed ten days
 60 per violation and shall not exceed a total of sixty days per year.

1 **(4) For purposes of this Subsection, "technical violation" means any**
2 **violation of a condition of parole, that does not include any of the following:**

3 **(a) A new felony conviction.**

4 **(b) A conviction for an intentional misdemeanor directly affecting the**
5 **person.**

6 **(c) An allegation of a subsequent criminal act that if proven would be a**
7 **crime of violence as defined in R.S. 14:2(B).**

8 **(d) An allegation of a subsequent criminal act that if proven would be a**
9 **sex offense as defined in R.S. 15:541.**

10 **(e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3**
11 **committed by one family member, household member, or dating partner**
12 **against another.**

13 **(f) An allegation of violation of protective order pursuant to R.S. 14:79**
14 **committed by one family member, household member, or dating partner**
15 **against another.**

16 **D.**(1) If the chief probation and parole officer, upon recommendation by a
17 parole officer, has reasonable cause to believe that a parolee has violated the
18 conditions of parole, he shall notify the committee, and shall cause the appropriate
19 parole officer to submit the parolee's record to the committee. After consideration of
20 the record submitted, and after such further investigation as it may deem necessary,
21 the committee may order:

22 (a) The issuance of a reprimand and warning to the parolee.

23 (b) That the parolee be required to conform to one or more additional
24 conditions of parole which may be imposed in accordance with R.S. 15:574.4.

25 (c) That the parolee be arrested, and upon arrest be given a prerevocation
26 hearing within a reasonable time, at or reasonably near the place of the alleged parole
27 violation or arrest, to determine whether there is probable cause to detain the parolee
28 pending orders of the parole committee.

29 (2) Upon receiving a summary of the prerevocation proceeding, the
30 committee may order the following:

31 (a) The parolee's return to the physical custody of the Department of Public
32 Safety and Corrections, corrections services, to await a hearing to determine whether
33 his parole should be revoked.

34 (b) As an alternative to revocation, that the parolee, as a condition of parole,
35 be committed to a community rehabilitation center or a substance abuse treatment
36 program operated by, or under contract with, the department, for a period of time not
37 to exceed six months, without benefit of good time, provided that such commitment
38 does not extend the period of parole beyond the full parole term. Upon written
39 request of the department that the offender be removed for violations of the rules or
40 regulations of the community rehabilitation center or substance abuse program, the
41 committee shall order that the parole be revoked, with credit for time served in the
42 community rehabilitation center."

43 AMENDMENT NO. 52

44 On page 31, delete lines 1 through 3

45 AMENDMENT NO. 53

46 On page 32, delete lines 24 through 29 and on page 33, delete lines 1 and 2 and insert the
47 following:

48 "~~(b)~~**(e)** The provisions of Subparagraph (a) of this Paragraph shall not apply
49 to the following offenders:

50 (i) Any offender released on parole for the conviction of a crime of violence
51 as defined in R.S. 14:2(B).

52 (ii) Any offender released on parole for the conviction of a sex offense as
53 defined in R.S. 15:541.

54 (iii) Any offender released on parole who is subject to the sex offender
55 registration and notification requirements of R.S. 15:541 et seq."

1 AMENDMENT NO. 54

2 On page 33, line 26, after "**or medical**" and before "**furlough**" insert "**treatment**"

3 AMENDMENT NO. 55

4 On page 35, line 10, delete "**confinement and level of**" and insert "**monitoring, security,**
5 **and**"

6 AMENDMENT NO. 56

7 On page 35, line 11, after "**secured**" insert "**by the division of probation and parole**"

8 AMENDMENT NO. 57

9 On page 37, line 5, delete "**required**" and insert "**sentenced**"

10 AMENDMENT NO. 58

11 On page 37, delete line 6 and insert "**to one hundred eighty days or more in the custody**
12 **of the Department of Public Safety and Corrections,**"

13 AMENDMENT NO. 59

14 On page 37, lines 13 and 14, delete "**beginning on November 1, 2017, and only**"

15 AMENDMENT NO. 60

16 On page 38, between lines 20 and 21, insert the following:

17 "Section 4. Code of Criminal Procedure Article 900(A)(7) is hereby repealed in its
18 entirety."

19 AMENDMENT NO. 61

20 On page 38, at the beginning of line 21, change "Section 4." to "Section 5."