

2018 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVE MARINO

PROBATION: Provides relative to probation for fourth noncapital felony offenses under certain circumstances

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AN ACT

To amend and reenact Code of Criminal Procedure Article 893(B)(1)(introductory paragraph) and (b)(iii) and (iv) and (G) and to enact Code of Criminal Procedure Article 893(B)(1)(b)(v), (vi), and (vii), relative to probation; to authorize probation for persons convicted of a fourth noncapital felony offense upon approval by the district attorney and under certain circumstances; to provide relative to the circumstances under which the sentence of a fourth conviction for a noncapital felony may be suspended; to provide relative to the duration of probation when a defendant is placed in a court program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 893(B)(1)(introductory paragraph) and (b)(iii) and (iv) and (G) are hereby amended and reenacted and Code of Criminal Procedure Article 893(B)(1)(b)(v), (vi), and (vii) are hereby enacted to read as follows:

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

* * *

B.(1) Notwithstanding any other provision of law to the contrary, when it appears that the best interest of the public and of the defendant will be served, the court, after a fourth conviction of ~~operating a vehicle while intoxicated pursuant to R.S. 14:98~~ of a noncapital felony, may suspend, in whole or in part, the imposition or execution of the sentence when ~~the defendant was not offered such alternatives~~

1 ~~prior to his fourth conviction of operating a vehicle while intoxicated~~ and the
2 following conditions exist:

3 * * *

4 (b) The court orders the defendant to do any of the following:

5 * * *

6 (iii) Enter and complete a mental health court program established pursuant
7 to R.S. 13:5351 et seq.

8 (iv) Enter and complete a Veterans Court program established pursuant to
9 R.S. 13:5361 et seq.

10 (v) Enter and complete a reentry court program established pursuant to R.S.
11 13:5401.

12 ~~(iii)~~(vi) Reside for a minimum period of one year in a facility which
13 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.
14 40:2851 et seq.

15 ~~(iv)~~(vii) Enter and complete the Swift and Certain Probation Pilot Program
16 established pursuant to R.S. 13:5371 et seq.

17 * * *

18 G. If the court, with the consent of the district attorney, suspends a sentence
19 as authorized by the provisions of this Article and orders a defendant, ~~upon a third~~
20 ~~conviction or fourth felony conviction~~, to enter and complete a program provided by
21 the drug division of the district court pursuant to R.S. 13:5301, an established driving
22 while intoxicated court or sobriety court program, a mental health court program
23 established pursuant to R.S. 13:5351 et seq., a Veterans Court program established
24 pursuant to R.S. 13:5361 et seq., a reentry court established pursuant to R.S.
25 13:5401, or the Swift and Certain Probation Pilot Program established pursuant to
26 R.S. 13:5371, the court may place the defendant on probation for a period of not
27 more than eight years if the court determines that successful completion of the
28 program may require that period of probation to exceed the three-year limit. The
29 court may not extend the duration of the probation period solely due to unpaid fees

1 and fines. The period of probation as initially fixed or as extended shall not exceed
2 eight years.

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)]

HB 537 Original

2018 Regular Session

Marino

Abstract: Authorizes suspension of sentence for noncapital felony offenses when certain conditions are met, and authorizes the extension of probation periods for persons ordered to enter and complete certain court programs.

Present law authorizes the court to suspend sentence and place a defendant on probation after a first, second, or third conviction for a noncapital felony. The period of probation shall be specified and shall not be more than three years.

Present law further provides that the court, under certain circumstances, may suspend the sentence and place a defendant on probation after a fourth conviction of operating a vehicle while intoxicated if certain conditions are met:

- (1) The defendant was not offered such alternatives prior to his fourth conviction of operating a vehicle while intoxicated.
- (2) The district attorney consents to the suspension of the sentence.
- (3) The court orders the defendant to do any of the following:
 - (a) Enter and complete a program provided by the drug division of the district court pursuant to present law.
 - (b) Enter and complete an established driving while intoxicated court or sobriety court program.
 - (c) Reside for a minimum period of one year in a facility which conforms to the present law Judicial Agency Referral Residential Facility Regulatory Act.
 - (d) Enter and complete the Swift and Certain Probation Pilot Program established pursuant to present law.

In this regard, present law provides that the period of probation shall be specified and shall not exceed three years, unless the court determines that successful completion of the program may require the period of probation to exceed the three-year limit, up to eight years.

Proposed law amends present law to authorize the court to suspend the sentence and a place a defendant on probation for a fourth conviction of any noncapital felony offense when the conditions provided in present law are met. In addition, proposed law adds the following to the list of programs that the court may order the defendant to enter and complete: a mental health court program, a Veterans Court program, and a reentry court program.

Present law provides that if the court, with the consent of the district attorney, orders a defendant, upon a third conviction or fourth felony conviction, to enter and complete any of the following present law programs, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the

program may require that period of probation to exceed the three-year limit: a program provided by the drug division of the district court, an established driving while intoxicated court or sobriety court program, a mental health court program, a Veterans Court program, a reentry court program, or the Swift and Certain Probation Pilot Program.

Proposed law expands present law to allow the court to extend the period of probation beyond the three-year limit, up to eight years, for a first, second, third, or fourth conviction, for which present law allows the suspension of sentence, if the defendant is ordered to complete any of the programs set forth in present law.

(Amends C.Cr.P. Art. 893(B)(1)(intro. para,) and (b)(iii) and (iv) and (G); Adds C.Cr.P. Art. 893(B)(1)(b)(v), (vi), and (vii))