## SENATE FLOOR AMENDMENTS

2018 Regular Session

Amendments proposed by Senator Claitor to Engrossed Senate Bill No. 389 by Senator Claitor

## 1 AMENDMENT NO. 1

Delete the set of Senate Floor Legislative Bureau amendments proposed by Senator Martiny
 (designated as SFLBSB389 ELLISB 2839) and adopted by the Senate on April 18, 2018

- 4 AMENDMENT NO. 2
- 5 On page 1, delete lines 2 through 11 and insert the following:

6 "To amend and reenact Code of Criminal Procedure Art. 875.1(F) and 894.4, as enacted by 7 Section 1 of Act 260 of the 2017 Regular Session, effective August 1, 2018, 8 893(A)(1)(a), 895.6(A) and (B), 899.2(B)(1), and 900(A)(5), the introductory 9 paragraph of (6)(b) and (6)(b)(iv), and (d)(v) and R.S. 15:574.6.1(B) and the introductory paragraph of 574.9(H)(1)(a) and to enact Code of Criminal Procedure 10 11 Art. 875.1(G), 893(H), and 900(A)(6)(b)(v), relative to felony probation; to provide relative to termination of probation under certain circumstances; to provide relative 12 13 to extensions of probation; to provide relative to financial hardship hearings; to 14 provide relative to administrative sanctions for certain violations of probation; to remove the prohibition of incarceration under certain circumstances; and to provide 15 16 for related matters."

- 17 AMENDMENT NO. 3
- 18 On page 1, delete lines 13 through 17 and insert the following:

"Section 1. Code of Criminal Procedure Art. 875.1(F) and 894.4, as enacted by
Section 1 of Act 260 of the 2017 Regular Session, effective August 1, 2018, 893(A)(1)(a),
895.6(A) and (B), 899.2(B)(1), and 900(A)(5), the introductory paragraph of (6)(b) and
(6)(b)(iv) and (d)(v) are hereby amended and reenacted and Code of Criminal Procedure Art.
875.1(G), 893(H), and 900(A)(6)(b)(v) are"

- 24 AMENDMENT NO. 4
- 25 On page 2, delete lines 4 through 29
- 26 AMENDMENT NO. 5
- 27 Delete page 3
- 28 AMENDMENT NO. 6
- 29 On page 4, delete lines 23 through 29 and insert the following:

30	"H.(1) If a defendant is placed on supervised probation, the division of
31	probation and parole shall submit to the court a compliance report when
32	requested by the court, or when the division of probation and parole deems it
33	necessary to have the court make a determination with respect to "earned
34	compliance credits", modification of terms or conditions of probation,
35	termination of probation, revocation of probation, or other purpose proper
36	under any provision of law.
37	(2) For purposes of this Paragraph:
38	(a) "Compliance" means the full completion of the terms and conditions
39	of probation as imposed by the sentencing judge, except for inability to pay
40	fines, fees, and restitution.

2division of probation and parole that contains clear and concise informat3relating to the defendant's performance relative to "earned complian4credits", and may contain a recommendation as to early termination.5(3) After a review of the compliance report, if it is the recommendati6of the division of probation and parole that the defendant is in compliance we the conditions of probation, in accordance with the compliance report, the co8shall grant "earned compliance credit" for the time, absent a showing of ca9for a denial.10(4) The court may terminate probation at any time as "satisfactor11completed" upon the final determination that the defendant is in complian12with the terms and conditions of probation.13(5) If the court determines that the defendant has failed to successful14complete the terms and conditions of probation, the court may extend15probation for a period not to exceed two years, for the purpose of allowing16defendant additional time to complete the terms of probation.17(6) Absent extension of probation, or the revocation of probation.18receipt of the compliance report, make an initial determination as to the iss20presented and shall transmit the decision to the probation of ficer. The co21shall disseminate the decision to the defendant, the division of probation a22parole, and the prosecuting agency within ten days, the court is and23have ten days from receipt of the initial determination of the courd seek22expedited contradictory hearing f	1	
3       relating to the defendant's performance relative to "earned complianc requits", and may contain a recommendation as to early termination.         3       (3) After a review of the compliance report, if it is the recommendat of the division of probation, in accordance with the compliance report, the cost shall grant "earned compliance credit" for the time, absent a showing of cator a denial.         10       (4) The court may terminate probation at any time as "satisfactor completed" upon the final determination that the defendant is in compliance with the compliance report, the cost of the terms and conditions of probation.         11       (5) If the court determines that the defendant has failed to successful probation for a period not to exceed two years, for the purpose of allowing defendant additional time to complete the terms of probation.         12       (6) Absent extenuating circumstances, the court shall, within ten day receipt of the compliance report, make an initial determination as to the iss presented and shall transmit the decision to the defendant, the division of probation.         13       (6) Absent extenuating circumstances, the court shall, within ten days presented and shall transmit the decision to the officer. The constant administer the decision to the defendant, the division of probation.         14       parole, and the prosecuting geney within ten days of receipt. The constant shall disceminate the decision to the defendant, the division of probation.         15       parole, and the prosecuting for the purpose of challenging the court seek expedited contradictory hearing for the purpose of challenging the courd determination shall become final and shall constitute a valid order of the courd w		(b) "Compliance report" means a report generated and signed by the
4       credits", and may contain a recommendation as to early termination.         5       (3) After a review of the compliance report, if it is the recommendate         6       of the division of probation, in accordance with the compliance report, the co         8       shall grant "earned compliance credit" for the time, absent a showing of ca         9       for a denial.         10       (4) The court may terminate probation at any time as "satisfactor         11       completed" upon the final determination that the defendant is in complian         12       with the terms and conditions of probation.         13       (5) If the court determines that the defendant has failed to successfit         14       complete the terms and conditions of probation, the court may extend         15       probation for a period not to exceed two years, for the purpose of allowing         16       defendant additional time to complete the terms of probation.         17       conditions, the extension of probation, or the revocation of probation.         18       (6) Absent extenuating circumstances, the court shall, within ten days         19       receipt of the compliance report, make an initial determination as to the iss         20       parole, and the prosecuting agency within ten days of receipt. The parties sh         21       shall disseminate the decision to the defendant, the division of probation at <tr< td=""><td></td><td></td></tr<>		
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51 <u>AMENDMENT NO. 7</u>	51	AMENDMENT NO. 7
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52 Delete page 5	52	Delete page 5
53 <u>AMENDMENT NO. 8</u>	53	AMENDMENT NO. 8
54 On page 6, delete lines 1 through 23	54	On page 6, delete lines 1 through 23

- 1 AMENDMENT NO. 9
- 2 On page 7, line 1, after "**provided in**" delete "**Code of Criminal Procedure**"
- 3 AMENDMENT NO. 10
- 4 On page 7, between lines 3 and 4, insert the following:

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5	"B.(1) If the defendant's probation and parole officer has reasonable cause to believe that a defendent on follows metation has not been compliant with the
6	believe that a defendant on felony probation has not been compliant with the
7	conditions of his probation in a given calendar month, he may rescind thirty days of
8	earned compliance credits as an administrative sanction pursuant to Article 899.2.
9	Credits may be rescinded only for a month in which the defendant is found not to be
10	in compliance.
11	(2) Notwithstanding any other provision of law to the contrary, the
12	provisions of Article 899.2(A)(3) requiring consent of the defendant shall not
13	apply to the rescinding of earned compliance credits as an administrative
14	sanction under Article 899.2."
15	AMENDMENT NO. 11
16	On page 7, between lines 4 and 5, insert the following:
17	"Art. 899.2. Administrative sanctions for technical violations; offenses other than
18	crimes of violence or sex offenses
19	* * *
20	B. The department shall promulgate rules to implement the provisions of this
21	Article to establish the following:
22	(1)(a) A system of structured, administrative sanctions which shall be
23	imposed for technical violations of probation and which shall take into consideration
24	the following factors:
25	(i)(a) The severity of the violation behavior.
26	(ii)(b) The prior violation history.
27	(iii)(c) The severity of the underlying criminal conviction.
28	$\frac{(iv)}{(d)}$ The criminal history of the probationer.
29	(v)(e) Any special circumstances, characteristics, or resources of the
30	probationer.
31	(vi)(f) Protection of the community.
32	(vii)(g) Deterrence.
33	(viii)(h) The availability of appropriate local sanctions, including but not
34	limited to jail, treatment, community service work, house arrest, electronic
35	surveillance, restitution centers, work release centers, day reporting centers, or other
36	local sanctions.
37	(b) Incarceration shall not be used for the lowest-tier violations including the
38	first positive drug test and the first or second violation for the following:
39	(i) Association with known felons or persons involved in criminal activity.
40	(ii) Changing residence without permission.
41	(iii) Failure to initially report as required. However, incarceration may be
42	used if the court, after a contradictory hearing, finds that the probationer wilfully
43	failed to report as required and instructed for the purpose of permanently avoiding
44	probation supervision.
45	(iv) Failure to pay restitution for up to three months.
46	(v) Failure to report as instructed. However, incarceration may be used if the
47	court, after a contradictory hearing, finds that the probationer wilfully failed to report
48	as required and instructed for the purpose of permanently avoiding probation
49	supervision.
50	(vi) Traveling without permission.
51	(vii) Occasion of unemployment and failure to seek employment within
52	ninety days.
53	(c) Incarceration shall not be used for first or second violations of alcohol
54	use or admission, except for defendants convicted of operating a vehicle while

1 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse battery 2 pursuant to R.S. 14:35.3 committed by one family member or household member 3 against another; defendants convicted of battery by one dating partner as defined by 4 R.S. 46:2151 against another; or defendants convicted of violation of a protective 5 order, pursuant to R.S. 14:79, issued against the defendant to protect a family member or household member as defined by R.S. 14:35.3, or a dating partner as 6 7 defined by R.S. 46:2151. \*" \* 8

- 9 AMENDMENT NO. 12
- On page 7, line 28, delete "Subparagraph (A)(5) of this Article" and insert "Subparagraph 10 11 (5) of this Paragraph"
- 12 AMENDMENT NO. 13
- 13 On page 8, delete lines 1 through 4 and insert the following:

14 "an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex 15 offense as defined by R.S. 15:541, and who has had his probation revoked under the 16 provisions of this Article for been determined by the court to have committed a 17 technical violation of his probation as determined by the court, shall be required to 18 serve, without diminution of sentence, as follows:"

19 AMENDMENT NO. 14

## 20 On page 8, line 7, after "in accordance with" delete "Subsubparagraph (5)(a) of this 21 Subparagraph" and insert "Subparagraph (5) of this Paragraph"

- 22 AMENDMENT NO. 15
- 23 On page 8, delete lines 16 and 17
- 24 AMENDMENT NO. 16

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25 On page 8, after line 18, insert the following:

26 "Section 2. R.S. 15:574.6.1(B) and the introductory paragraph of 574.9(H)(1)(a) are 27 hereby amended and reenacted to read as follows: 28

§574.6.1. Compliance credits; parole 29

> B.(1) If the probation and parole officer has reasonable cause to believe that an offender on parole has not been compliant with the conditions of his parole in a given calendar month, he may rescind thirty days of earned compliance credits as an administrative sanction under R.S. 15:574.7. Credits may be rescinded only for a month in which the offender is found not to be in compliance.

> (2) Notwithstanding any other provision of law to the contrary, the provisions of R.S. 15:574.7(B)(1)(c) requiring consent of the parolee shall not apply to the rescinding of earned compliance credits as an administrative sanction under R.S. 15:574.7.

§574.9. Revocation of parole for violation of condition; committee panels; return to custody hearing; duration of reimprisonment and reparole after revocation; credit for time served; revocation for a technical violation

44 H.(1)(a) Any offender who has been released on parole and whose parole 45 supervision is being revoked pursuant to the provisions of this Subsection for who 46 has been determined to have committed a technical violation of the conditions of 47 parole as determined by the committee on parole, shall be required to serve the 48 following sentences: 49 \*

\* \*"