
HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to
Original House Bill No. 518 by Representative GainesAMENDMENT NO. 1

On page 1, line 4, after "(J)" and before the comma "," insert "and Code of Criminal Procedure Article 893(E)(2), (3)(a), and (4) and to enact Code of Criminal Procedure Article 893(I)"

AMENDMENT NO. 2

On page 1, line 6, after "violence;" and before "to provide" insert "to provide relative to the effect of a deferral of sentence for purposes of prosecuting a person as a multiple offender;"

AMENDMENT NO. 3

On page 5, after line 12, add the following:

"Section 2. Code of Criminal Procedure Article 893(E)(2), (3)(a), and (4) are hereby amended and reenacted and Code of Criminal Procedure Article 893(I) is hereby enacted to read as follows:

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

* * *

E.

* * *

(2) Upon motion of the defendant, if the court finds at the conclusion of the probationary period that the probation of the defendant has been satisfactory, the court may set the conviction aside and dismiss the prosecution. The dismissal of the prosecution shall have the same effect as acquittal, ~~except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender, and further shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses.~~ Dismissal under this Paragraph shall occur only once with respect to any person.

(3)(a) When a case is accepted into a drug court division probation program pursuant to the provisions of R.S. 13:5304 and at the conclusion of the probationary period the court finds that the defendant has successfully completed all conditions of probation, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution, whether the defendant's sentence was suspended under Paragraph A of this Article or deferred under Subparagraph (1) of this Paragraph. The dismissal of prosecution shall have the same effect as an acquittal, ~~except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender, and shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses.~~

* * *

(4) When a defendant, who has been committed to the custody of the Department of Public Safety and Corrections to serve a sentence in the intensive incarceration program pursuant to the provisions of Article 895(B)(3), has successfully completed the intensive incarceration program as well as successfully completed all other conditions of parole or probation, and if the defendant is otherwise eligible, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution,

1 whether the defendant's sentence was suspended under Paragraph A of this
2 Article or deferred under Subparagraph (1) of this Paragraph. The dismissal
3 of prosecution shall have the same effect as an acquittal, ~~except that the~~
4 ~~conviction may be considered as a first offense and provide the basis for~~
5 ~~subsequent prosecution of the party as a multiple offender, and shall be~~
6 ~~considered as a first offense for purposes of any other law or laws relating to~~
7 ~~cumulation of offenses.~~ Dismissal under this Subparagraph shall have the
8 same effect as an acquittal for purposes of expungement under the provisions
9 of R.S. 44:9 and may occur only once with respect to any person.

10 * * *

11 I. Notwithstanding any other provision of law, when a court sets the
12 conviction aside and dismisses prosecution pursuant to the provisions of this
13 Article, that conviction shall not be considered as a first offense and shall not
14 provide the basis for subsequent prosecution of the party as a multiple
15 offender, and further shall not be considered as a first offense for purposes
16 of any other law or laws relating to cumulation of offenses."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.