

HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

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

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line, delete lines 3 through 6
3 in their entirety and insert the following:

4 "Code of Criminal Procedure Article 893(E)(2), (3)(a), and (4) and to enact
5 Code of Criminal Procedure Article 893(I), relative to sentencing of a
6 multiple offender; to provide relative to the suspension or deferral of
7 sentence in felony cases; to provide relative to the effect of a deferral of
8 sentence for purposes of prosecuting a person as a multiple offender; and to"

9 AMENDMENT NO. 2

10 On page 1, delete lines 9 through 20 in their entirety, and insert the following:

11 "Section 1. Code of Criminal Procedure Article 893(E)(2), (3)(a),
12 and (4) are hereby amended and reenacted and Code of Criminal Procedure
13 Article 893(I) is hereby enacted to read as follows:

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

15 * * *

16 E.

17 * * *

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

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

39 * * *

40 (4) When a defendant, who has been committed to the custody of the
41 Department of Public Safety and Corrections to serve a sentence in the
42 intensive incarceration program pursuant to the provisions of Article
43 895(B)(3), has successfully completed the intensive incarceration program
44 as well as successfully completed all other conditions of parole or probation,
45 and if the defendant is otherwise eligible, the court with the concurrence of
46 the district attorney may set aside the conviction and dismiss prosecution,

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

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."

17 AMENDMENT NO. 3

18 Delete pages 2 through 5 in their entirety