

2019 Regular Session

HOUSE BILL NO. 518

BY REPRESENTATIVE GAINES

1 AN ACT

2 To amend and reenact R.S. 15:529.1(C) and Code of Criminal Procedure Article 893(E)(2),
3 (3)(a) and (c), and (4), relative to the habitual offender law; to provide relative to the
4 convictions to which the habitual offender law applies; to provide for the application
5 of the habitual offender law relative to a conviction that is subsequently dismissed
6 and set aside after a deferral of imposition of sentence; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:529.1(C) is hereby amended and reenacted to read as follows:

10 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
11 of court in the state of Louisiana as evidence

12 * * *

13 C.(1) Except as provided in ~~Paragraph~~ Paragraphs (2) and (3) of this
14 Subsection, the current offense shall not be counted as, respectively, a second, third,
15 fourth, or higher offense if more than five years have elapsed between the date of the
16 commission of the current offense or offenses and the expiration of the correctional
17 supervision, or term of imprisonment if the offender is not placed on supervision
18 following imprisonment, for the previous conviction or convictions, or between the

1 expiration of the correctional supervision, or term of imprisonment if the offender
2 is not placed on supervision following imprisonment, for each preceding conviction
3 or convictions alleged in the multiple offender bill and the date of the commission
4 of the following offense or offenses. In computing the intervals of time as provided
5 in this Paragraph, any period of parole, probation, or incarceration by a person in a
6 penal institution, within or without the state, shall not be included in the computation
7 of any of the five-year periods between the expiration of the correctional supervision,
8 or term of imprisonment if the offender is not placed on supervision following
9 imprisonment, and the next succeeding offense or offenses.

10 (2) ~~The~~ Except as provided in Paragraph (3) of this Subsection, the current
11 offense shall not be counted as, respectively, a second, third, fourth, or higher
12 offense if more than ten years have elapsed between the date of the commission of
13 the current offense or offenses and the expiration of correctional supervision, or term
14 of imprisonment if the offender is not placed on supervision following
15 imprisonment, for a crime of violence as defined in R.S. 14:2(B) or a sex offense as
16 defined in R.S. 15:541, or between the expiration of correctional supervision, or term
17 of imprisonment if the offender is not placed on supervision following
18 imprisonment, for each preceding conviction or convictions alleged in the multiple
19 offender bill for a crime of violence as defined in R.S. 14:2(B) or a sex offense as
20 defined in R.S. 15:541 and the date of the commission of the following offense or
21 offenses. In computing the intervals of time as provided in this Paragraph, any
22 period of parole, probation, or incarceration by a person in a penal institution, within
23 or without the state, shall not be included in the computation of any of the ten-year
24 periods between the expiration of correctional supervision, or term of imprisonment
25 if the offender is not placed on supervision following imprisonment, for a crime of
26 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and the
27 next succeeding offense or offenses.

28 (3) Notwithstanding any provision of law to the contrary, a conviction for
29 a felony offense that is not a crime of violence as defined by R.S. 14:2(B) and that
30 has been set aside and dismissed pursuant to Code of Criminal Procedure Article

1 conviction and dismiss prosecution, whether the defendant's sentence was suspended
 2 under Paragraph A of this Article or deferred under Subparagraph (1) of this
 3 Paragraph. The dismissal of prosecution shall have the same effect as an acquittal,
 4 except that the conviction may be considered as a first offense and provide the basis
 5 for subsequent prosecution of the party as a ~~multiple~~ habitual offender, ~~and shall~~
 6 except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a
 7 first prior offense for purposes of any other law or laws relating to cumulation of
 8 offenses.

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 10 (c) Dismissal under this Paragraph shall have the same effect as an acquittal
 11 for purposes of expungement under the provisions of ~~R.S. 44:9~~ Title XXXIV of the
 12 Code of Criminal Procedure and may occur only once with respect to any person.

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 14 (4) When a defendant, who has been committed to the custody of the
 15 Department of Public Safety and Corrections to serve a sentence in the intensive
 16 incarceration program pursuant to the provisions of Article 895(B)(3), has
 17 successfully completed the intensive incarceration program as well as successfully
 18 completed all other conditions of parole or probation, and if the defendant is
 19 otherwise eligible, the court with the concurrence of the district attorney may set
 20 aside the conviction and dismiss prosecution, whether the defendant's sentence was
 21 suspended under Paragraph A of this Article or deferred under Subparagraph (1) of
 22 this Paragraph. The dismissal of prosecution shall have the same effect as an
 23 acquittal, except that the conviction may be considered as a first offense and provide
 24 the basis for subsequent prosecution of the party as a ~~multiple~~ habitual offender, ~~and~~
 25 ~~shall~~ except as provided in R.S. 15:529.1(C)(3). The conviction may be considered
 26 as a first prior offense for purposes of any other law or laws relating to cumulation
 27 of offenses. Dismissal under this Subparagraph shall have the same effect as an
 28 acquittal for purposes of expungement under the provisions of ~~R.S. 44:9~~ Title

