

2020 Regular Session

SENATE BILL NO. 347

BY SENATOR WARD

COURTS. Provides relative to mandatory drug court participation for certain first or second time offenders. (8/1/20)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 13:5304(A), (B), (D)(3)(b) and (G), and Code of Criminal Procedure Article 320(D) and (E), and to enact R.S. 13:5304(P) and 5306, and Code of Criminal Procedure Article 701(B)(3), relative to requirements of drug screening of arrestees and participation in drug division probation programs; to provide a mandatory drug court probation program for nonviolent offenders with a history of substance abuse or addiction; to provide for the Drug Court Fund for the creation and maintenance of drug divisions within each district; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5304(A), (B), (D)(3)(b) and (G) are hereby amended and reenacted and R.S. 13:5304(P) and 5306 are hereby enacted to read as follows:

§5304. The drug division probation program

A. Each district court by rule ~~may~~ **shall** designate as a drug division one or more divisions to which alcohol- or drug-related offenses are assigned and ~~may~~ **shall** establish a probation program to be administered by the presiding judge or judges thereof or by an employee designated by the court.

B. Participation in **the drug division** probation programs shall be subject to

1 the following provisions:

2 (1) The district attorney ~~may~~ **shall** propose to the court that an individual
3 defendant be screened for **mandatory** eligibility as a participant in the drug division
4 probation program if all of the following criteria are satisfied:

5 (a) ~~The individual~~ **defendant** is charged with a ~~violation of a statute of this~~
6 ~~state relating to the use and possession of or possession with intent to distribute any~~
7 ~~narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic~~
8 ~~drugs, or where there is a significant relationship between the use of alcohol or~~
9 ~~drugs, or both, and the crime before the court~~ **felony offense as set forth in Title 14**
10 **of the Louisiana Revised Statutes of 1950 or with a felony violation of the**
11 **Uniform Controlled Dangerous Substances Law.**

12 (b) ~~The district attorney has reason to believe that the individual who is~~
13 ~~charged suffers from alcohol or drug abuse or addiction.~~ **The following offenses**
14 **shall be excluded from mandatory eligibility for the drug division probation**
15 **program under this Section:**

16 (i) **Any offense defined as a crime of violence as set out in R.S. 14:2(B).**

17 (ii) **Any offense necessarily punishable at hard labor.**

18 (iii) **Any felony offense involving the use or presence of a firearm or**
19 **dangerous weapon.**

20 (iv) **Any offense involving death or serious bodily injury to a person.**

21 (v) **Any offense defined as an "aggravated offense", a "sex offense", or**
22 **as a "sex offense against a victim who is a minor" as defined in R.S. 15:541.**

23 (vi) **Any felony offense listed in Part II of Chapter 1 of Title 14 of the**
24 **Louisiana Revised Statutes of 1950.**

25 (vii) **Any felony offense listed in Subpart B Part VI of Chapter 1 of Title**
26 **14 of the Louisiana Revised Statutes of 1950.**

27 (viii) **Any felony offense listed in Part VII of Chapter 1 of Title 14 of the**
28 **Louisiana Revised Statutes of 1950.**

29 (ix) **Any offense listed in Chapter 2 of Title 14 of the Louisiana Revised**

1 **Statutes of 1950, with the exception of R.S. 14:402 and R.S. 14:402.1.**

2 (c) ~~It is in the best interest of the community and in the interest of justice to~~
3 ~~provide the defendant with treatment as opposed to incarceration or other sanctions.~~

4 **The defendant has tested positive on a pretrial drug test as set forth in the Code**
5 **of Criminal Procedure Article 320(D) and (E).**

6 **(d) The defendant is a first offender or a subsequent offender who has**
7 **not previously participated in the drug division probation program.**

8 **(e) The defendant cannot have any prior felony conviction defined as a**
9 **homicide in R.S. 14:29.**

10 **(f) The defendant cannot have any other criminal proceeding currently**
11 **pending against him which involves an offense excluded by Subparagraph**
12 **(B)(1)(b) of this Subsection.**

13 **(2) To the extent that a defendant does not meet the eligibility**
14 **requirements set forth under Paragraph B(1)(b) of this Subsection, the district**
15 **attorney may propose to the court that the defendant be screened for eligibility**
16 **as a participant in the drug division probation program if all of the following**
17 **criteria are satisfied:**

18 **(a) The defendant cannot have any prior felony conviction for any**
19 **offense defined as a homicide in R.S. 14:29.**

20 **(b) The crime before the court cannot be a crime of violence as defined**
21 **in R.S. 14:2(B), except a first conviction of an offense with a maximum prison**
22 **sentence of ten years or less that was not committed against a family member**
23 **or household member as defined by R.S. 14:35.3, or against a dating partner as**
24 **defined by R.S. 46:2151(B), or an offense of domestic abuse battery that is**
25 **punishable by imprisonment at hard labor as provided in R.S. 14:35.3.**

26 **(c) The defendant cannot have any other criminal proceedings currently**
27 **pending against him which involves the commission of a crime of violence as**
28 **defined in R.S. 14:2(B).**

29 **(d) The crime before the court cannot be a charge of driving under the**

1 **influence of alcohol or any other drug or drugs that resulted in the death of a**
2 **person.**

3 **(e) A defendant previously convicted or adjudicated a delinquent for the**
4 **offense of simple battery shall not be deemed ineligible for the drug division**
5 **probation program on the sole basis of that status.**

6 ~~(2)~~(3) Upon receipt of the proposal provided for in Paragraph (1) **or (2)** of
7 this Subsection, the court shall advise the defendant that he or she may be eligible
8 for enrollment in a court-authorized treatment program through the drug division
9 probation program.

10 ~~(3)~~(4) In offering a defendant the opportunity to request treatment, the court
11 shall advise the defendant of the following:

12 (a) If the defendant is accepted into the drug division probation program, then
13 the defendant must waive the right to a trial. The defendant must enter a plea of
14 guilty to the charge, with the stipulation that sentencing be deferred or that sentence
15 be imposed, but suspended, and the defendant placed on supervised probation under
16 the usual conditions of probation and under certain special conditions of probation
17 related to the completion of such substance abuse treatment programs as are ordered
18 by the court.

19 (b) If the defendant requests to undergo treatment and is accepted, the
20 defendant will be placed under the supervision of the drug division probation
21 program for a period of not less than twelve months.

22 (c) During treatment the defendant may be confined in a treatment facility or,
23 at the discretion of the court, the defendant may be released on a probationary basis
24 for treatment or supervised aftercare in the community.

25 (d) The court may impose any conditions reasonably related to the complete
26 rehabilitation of the defendant.

27 (e) The defendant shall be required to participate in an alcohol and drug
28 testing program at his own expense, unless the court determines that he is indigent.

29 (f) If the defendant completes the drug division probation program, and

1 successfully completes all other requirements of his court-ordered probation, the
2 conviction may be set aside and the prosecution dismissed in accordance with the
3 provisions of Code of Criminal Procedure Articles 893 and 894. If the defendant was
4 sentenced at the time of the entry of the plea of guilty, the successful completion of
5 the drug division probation program and the other requirements of probation will
6 result in his discharge from supervision. If the defendant does not successfully
7 complete the drug division probation program, the judge may revoke the probation
8 and impose sentence, or the judge may revoke the probation and order the defendant
9 to serve the sentence previously imposed and suspended.

10 ~~(4)~~(5) The defendant has the right to be represented by counsel at all stages
11 of a criminal prosecution and in any court hearing relating to the drug division
12 probation program. The defendant shall be represented by counsel during the
13 negotiations to determine eligibility to participate in the drug division probation
14 program and shall be represented by counsel at the time of the execution of the
15 probation agreement, and at any hearing to revoke the defendant's probation and
16 discharge him from the program, unless the court finds and the record shows that the
17 defendant has knowingly and intelligently waived his right to counsel.

18 ~~(5)~~(6) The defendant must agree to the drug division probation program. ~~If~~
19 ~~the defendant elects to undergo treatment and participate in the drug division~~
20 ~~probation program, the~~ The court shall order an examination of the defendant by one
21 of the court's designated licensed treatment professionals. Treatment professionals
22 shall possess sufficient experience in working with criminal justice clients with
23 alcohol or drug abuse or addictions, or both, **or mental illness**, and shall be certified
24 and approved by the state of Louisiana. The designated treatment professionals shall
25 utilize standardized testing and evaluation procedures to determine whether or not
26 the defendant is an appropriate candidate for a treatment program and shall report
27 such findings to the court and the district attorney.

28 ~~(6)~~(7) The designated treatment professionals shall examine the defendant,
29 using standardized testing and evaluation procedures, and shall report to the court

1 and the district attorney the results of the examination and evaluation along with its
2 recommendation as to whether or not the individual is a suitable candidate for the
3 drug division probation program. Only ~~those~~ defendants who suffer from alcoholism
4 or a drug abuse or addiction, or both, or who are in danger of becoming dependent
5 on alcohol or drugs, **or who suffer from mental illness,** and who are likely to be
6 rehabilitated through treatment shall be considered for treatment.

7 ~~(7)~~**(8)** The court shall inform the defendant that the treatment program
8 examiner or district attorney may request that the defendant provide the following
9 information to the court:

- 10 (a) Information regarding prior criminal charges.
- 11 (b) Education, work experience, and training.
- 12 (c) Family history, including residence in the community.
- 13 (d) Medical and mental history, including any psychiatric or psychological
14 treatment or counseling.
- 15 (e) Any other information reasonably related to the success of the treatment
16 program.

17 ~~(8)~~**(9)** The designated program **examiner** shall recommend to the court a
18 preliminary length of stay and level of care for the defendant.

19 ~~(9)~~**(10)** Besides the report submitted by the examiner, the judge and district
20 attorney shall consider the following factors in determining whether drug court
21 probation would be in the interests of justice and of benefit to the defendant and the
22 community:

- 23 (a) The nature of the crime charged and the circumstances surrounding the
24 crime.
- 25 (b) Any special characteristics or circumstances of the defendant.
- 26 (c) Whether the defendant is a first-time offender of an alcohol- or drug-
27 related offense, and, if the defendant has previously participated in this or a similar
28 program, the degree of success attained.
- 29 (d) Whether there is a probability that the defendant will cooperate with and

1 benefit from probation and treatment through the drug division probation program.

2 (e) Whether the available drug division probation program is appropriate to
3 meet the needs of the defendant.

4 (f) The impact of the defendant's probation and treatment upon the
5 community.

6 (g) Recommendations, if any, of the involved law enforcement agency.

7 (h) Recommendations, if any, of the victim.

8 (i) Provisions for and the likelihood of obtaining restitution from the
9 defendant over the course of his probation.

10 (j) Any mitigating circumstances.

11 (k) Any other circumstances reasonably related to the individual defendant's
12 case.

13 **(l) The consideration and factors set forth in Paragraph (B)(10) of this**
14 **Subsection shall not be applicable to a defendant who meets the mandatory**
15 **eligibility requirements set forth in Paragraph (B)(1) of this Subsection.**

16 ~~(10) In order to be eligible for the drug division probation program, the~~
17 ~~defendant must satisfy each of the following criteria:~~

18 ~~(a) The defendant cannot have any prior felony conviction for any offense~~
19 ~~defined as a homicide in R.S. 14:29.~~

20 ~~(b) The crime before the court cannot be a crime of violence as defined in~~
21 ~~R.S. 14:2(B), except a first conviction of an offense with a maximum prison sentence~~
22 ~~of ten years or less that was not committed against a family member or household~~
23 ~~member as defined by R.S. 14:35.3, or against a dating partner as defined by R.S.~~
24 ~~46:2151, or an offense of domestic abuse battery that is punishable by imprisonment~~
25 ~~at hard labor as provided in R.S. 14:35.3.~~

26 ~~(c) Other criminal proceedings alleging commission of a crime of violence~~
27 ~~as defined in R.S. 14:2(B) cannot be pending against the defendant.~~

28 ~~(d) The crime before the court cannot be a charge of driving under the~~
29 ~~influence of alcohol or any other drug or drugs that resulted in the death of a person.~~

1 ~~(10.1) A defendant previously convicted or adjudicated a delinquent for the~~
2 ~~offense of simple battery shall not be deemed ineligible for the drug division~~
3 ~~probation program on the sole basis of such status.~~

4 **(11)(a) If the defendant meets the eligibility requirements set forth in**
5 **Paragraph (B)(1) of this Subsection and the treatment program examiner**
6 **recommends that the defendant is suitable for the program, the court shall**
7 **accept the defendant's guilty plea and suspend or defer the imposition of**
8 **sentence and place the defendant on probation under the terms and conditions**
9 **of the drug division probation program. The court also may impose sentence**
10 **and suspend its execution, placing the defendant on probation under the terms**
11 **and conditions of the drug division probation program.**

12 **(b) If the defendant does not meet the mandatory eligibility requirements**
13 **set forth in Paragraph (B)(1) of this Subsection,** ~~The~~ ~~the~~ judge shall make the final
14 determination of eligibility. If, based on the examiner's report and the
15 recommendations of the district attorney and the defense counsel, the judge
16 determines that the defendant should be enrolled in the drug division probation
17 program, the court shall accept the defendant's guilty plea and suspend or defer the
18 imposition of sentence and place the defendant on probation under the terms and
19 conditions of the drug division probation program. The court also may impose
20 sentence and suspend ~~the~~ ~~its~~ ~~execution~~ ~~thereof~~, placing the defendant on probation
21 under the terms and conditions of the drug division probation program.

22 ~~(b)(c)~~ If the judge determines that the defendant is not qualified for
23 enrollment, the judge shall state for the record the reasons for that determination.

24 ~~(e)(d)~~ A treatment professional may petition the court to reject a referral
25 through the drug division probation program if the treatment professional deems the
26 defendant to be inappropriate for admission to the treatment program. Additionally,
27 a treatment professional may petition the court for immediate discharge of any
28 individual who fails to comply with treatment program rules and treatment
29 expectations or who refuses to constructively engage in the treatment process.

1 * * *

2 D. * * *

3 (3) * * *

4 (b) If the court finds that the probationer has violated a condition of probation
5 or a provision of the probation agreement and that the probationer should be
6 removed from the probation program, then the court may revoke the probation and
7 sentence the individual in accordance with the guilty plea or, if the individual has
8 been sentenced and the sentence suspended, order the individual to begin serving the
9 sentence. **If the court revokes probation, the court shall sentence the defendant**
10 **in accordance with the guilty plea, except that one year of the sentence shall be**
11 **served at hard labor without benefit of parole, probation, or suspension of**
12 **sentence, or credit for good time, and the defendant shall be required to**
13 **continue mandatory drug treatment for no less than nine months while in the**
14 **custody of the Department of Public Safety and Corrections.**

15 * * *

16 G. Discharge and dismissal under this Chapter, as provided in Code of
17 Criminal Procedure Articles 893 and 894, shall have the same effect as acquittal;
18 ~~except that the conviction may be considered in order to provide the basis for~~
19 ~~subsequent prosecution of the party as a multiple offender and shall be considered~~
20 ~~as an offense for the purposes of any other law or laws relating to cumulation of~~
21 ~~offenses.~~ Dismissal under this Chapter shall occur only once with respect to any
22 person. Nothing herein shall be construed as a basis for the destruction of records of
23 the arrest and prosecution of the person.

24 * * *

25 **P. If an individual who meets the mandatory eligibility under Paragraph**
26 **(B)(1) of this Section and has been recommended suitable for the drug court**
27 **probation program by the designated treatment professional does not enter a**
28 **guilty plea, but is found guilty at trial, the court shall sentence the individual to**
29 **not less than one year at hard labor, without benefit of parole, probation,**

1 suspension of sentence, or credit for good time, and the court shall order the
2 defendant to participate in mandatory drug treatment program for at least nine
3 months while in the custody of the Department of Public Safety and
4 Corrections.

5 * * *

6 §5306. Drug Court Fund

7 There is hereby created a fund within the state treasury known as the
8 "Drug Court Fund" which shall consist of those revenues collected or derived
9 from the current pharmaceutical-opioid litigation. The monies in this fund shall
10 be used solely for the purpose of awarding grants to the district courts to create
11 or maintain the drug division within each district court. The Supreme Court
12 Drug and Specialty Court Office shall award such funds to the district courts,
13 the Department of Public Safety and Corrections, as well as any other state or
14 local entity tasked with compliance with the provisions of R.S. 13:5304 as are
15 appropriate in its discretion and based upon the individual needs of each entity
16 with respect to compliance with the provisions of R.S. 13:5304.

17 Section 2. Code of Criminal Procedure Article 320(D) and (E) are hereby amended
18 and reenacted and Code of Criminal Procedure Article 701(B)(3) is hereby enacted to read
19 as follows:

20 Art. 320. Conditions of bail undertaking

21 * * *

22 ~~D. Drug offenses and crimes of violence~~ **Offenses requiring pretrial drug**
23 **testing.** Every person arrested for a violation of the Uniform Controlled Dangerous
24 Substances Law or a crime of violence as provided in R.S. 14:2(B) shall be required
25 to submit to a pretrial drug test for the presence of designated substances in
26 accordance with the provisions of this Article and rules of court governing such
27 testing. Every person arrested for any other felony ~~may~~ **shall** be required to submit
28 to a pretrial drug test for the presence of designated substances in accordance with
29 the provisions of this Article and rules of court governing such testing. Every person

1 arrested for a misdemeanor may be required to submit to a pretrial drug test for the
2 presence of designated substances in accordance with the provisions of this Article
3 and rules of court governing such testing.

4 E. Pretrial drug testing program. The court may implement a pretrial drug
5 testing program. All persons released under the provisions of the pretrial drug testing
6 program must submit to continued random testing and refrain from the use or
7 possession of any controlled dangerous substance or any substance designated by the
8 court. A pretrial drug testing program shall provide for the following:

9 (1) Mandatory participation for all persons arrested for violations of state
10 law. Additionally, all persons testing positive for the presence of one or more of the
11 designated substances set forth in Subparagraph (2) of this Paragraph, who are not
12 otherwise required to participate, shall submit to a pretrial drug testing program.

13 (2) Drug testing to determine the presence of any controlled dangerous
14 substance identified in the Uniform Controlled Substances Law ~~prior to first court~~
15 ~~appearance~~ **within twenty-four hours of the booking of the person** and random
16 testing thereafter to verify that the person is drug free.

17 **(3) The presence of a positive drug test result during the booking process**
18 **shall require the assessment of a drug treatment professional within twenty-four**
19 **hours of the positive drug test result to determine whether the person suffers**
20 **from alcoholism or drug abuse or addiction, or both, or whether the person is**
21 **in danger of becoming dependent on alcohol or drugs.**

22 **(a) The positive drug test result and an assessment by a drug treatment**
23 **professional that the person suffers from alcoholism or drug abuse or addiction,**
24 **or both, or is in danger of becoming dependent on alcohol or drugs shall be**
25 **considered by the court as significant factors in its determination under Code**
26 **of Criminal Procedure Article 316 as to whether the person poses a risk to the**
27 **safety of any other person or the community, and the presence of these factors**
28 **may be sufficient to hold a defendant without bail.**

29 **(b) If the court determines that bail is appropriate for a person who, has**

1 a positive drug test result and an assessment by a drug treatment professional
2 that the person suffers from alcoholism or drug abuse or addiction, or both, or
3 is in danger of becoming dependent on alcohol or drugs, the court shall require,
4 as a mandatory condition of bail, that the person submit to random drug testing
5 at least once every seven days.

6 (c) Notwithstanding any other conditions on bail, a refusal to submit to
7 a drug test or a positive test result on any of the random drug testing shall be
8 considered a violation of a condition of bail under Paragraph K of this Article
9 which shall result in the revocation of bail and issuance of a bench warrant for
10 the defendant's arrest or remanding the defendant to custody.

11 ~~(3)~~(4) Restrictions on the use of any and all test results to ensure that they are
12 used only for the benefit of the court to determine appropriate conditions of release,
13 monitoring compliance with court orders, and assisting in determining appropriate
14 sentences. A form statement shall be signed by the law enforcement agency and the
15 person in custody stipulating that under no circumstances shall the information be
16 used as evidence or as the basis for additional charges.

17 ~~(4)~~(5) Reasonable testing procedures to ensure the fair administration of the
18 test and protection for the chain of custody for any evidence obtained.

19 * * *

20 Art. 701. Right to a speedy trial

21 * * *

22 B. The time period for filing a bill of information or indictment after arrest
23 shall be as follows:

24 * * *

25 (3) When the defendant is arrested and meets the criteria set forth in
26 R.S. 13:5304(B)(1) an indictment or information shall be filed within thirty days
27 of the arrest regardless of whether the defendant is or is not continued in
28 custody subsequent to an arrest.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

SB 347 Original

2020 Regular Session

Ward

Present law authorizes each district court to designate a drug division to which alcohol- or drug-related offenses are assigned and to establish a probation program to be administered by the presiding judge or judges, or by an employee designated by the court.

Proposed law requires each district court to designate a drug division to which alcohol- or drug-related offenses are assigned to establish a probation program to be administered by the presiding judge or judges, or by an employee designated by the court.

Present law authorizes the district attorney to propose to the court that an individual defendant be screened for eligibility as a participant in the drug division probation program if all of the following criteria are satisfied:

- (1) The individual is charged with a violation of a statute of this state relating to the use and possession of or possession with intent to distribute any narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs, or where there is a significant relationship between the use of alcohol or drugs, or both, and the crime before the court.
- (2) The district attorney has reason to believe that the individual who is charged suffers from alcohol or drug abuse or addiction.
- (3) It is in the best interest of the community and in the interest of justice to provide the defendant with treatment as opposed to incarceration or other sanctions.

Proposed law requires the district attorney to propose to the court that an individual defendant be screened for mandatory eligibility as a participant in the drug division probation program if all of the following criteria are satisfied:

- (1) The defendant is charged with a felony offense as set forth in the Louisiana Criminal Code or with a felony violation of the Uniform Controlled Dangerous Substances Law, except the following:
 - (a) Any offense defined as a crime of violence.
 - (b) Any offense necessarily punishable at hard labor.
 - (c) Any felony offense involving the use or presence of a firearm or dangerous weapon.
 - (d) Any offense involving death or serious bodily injury to a person.
 - (e) Any offense defined as an "aggravated offense", a "sex offense", or as a "sex offense against a victim who is a minor".
 - (f) Any felony offense listed as an offense against a person.
 - (g) Any felony offense listed as an offense affecting the public's sensibilities.
 - (h) Any felony offense listed as an offense against organized government.
 - (i) Any offense listed as a miscellaneous crime or offense with the exception of

offenses pertaining to contraband.

- (2) The defendant is a first offender or a subsequent offender who has not previously participated in the drug division probation program.
- (3) The defendant cannot have any prior felony conviction defined as a homicide.
- (4) The defendant cannot have any other criminal proceeding currently pending against him which involves an offense excluded by proposed law.

Present law provides that the defendant must agree to the drug division probation program. If the defendant elects to undergo treatment and participate in the drug division probation program, then the court is required to order an examination of the defendant by one of the court's designated licensed treatment professionals. Treatment professionals are required to possess sufficient experience in working with criminal justice clients with alcohol or drug abuse or addictions, or both, and be certified and approved by the state of Louisiana. The designated treatment professionals are required to utilize standardized testing and evaluation procedures to determine whether or not the defendant is an appropriate candidate for a treatment program and shall report such findings to the court and the district attorney.

Proposed law retains present law but also requires that treatment professionals are also required to possess sufficient experience in working with mental illness.

Proposed law provides that if the defendant meets the eligibility requirements set forth in proposed law and the treatment program examiner recommends that the defendant is suitable for the program, the court shall accept the defendant's guilty plea and suspend or defer the imposition of sentence and place the defendant on probation under the terms and conditions of the drug division probation program. Proposed law also authorizes the court to impose sentence and suspend the execution thereof, placing the defendant on probation under the terms and conditions of the drug division probation program.

Proposed law provides that if the defendant does not meet the mandatory eligibility requirements in proposed law that the district attorney may propose that the court have the person screened for eligibility if certain criteria in proposed law are satisfied.

Present law provides that if the court finds that the probationer has violated a condition of probation or a provision of the probation agreement and that the probationer should be removed from the probation program, then the court is authorized to revoke the probation and sentence the individual in accordance with the guilty plea or, if the individual has been sentenced and the sentence suspended, order the individual to begin serving the sentence.

Proposed law retains present law but provides that if the court revokes probation, the court is required to sentence the defendant in accordance with the guilty plea, except that one year of the sentence shall be served at hard labor without benefit of parole, probation, or suspension of sentence, or credit for good time, and the defendant is required to continue mandatory drug treatment for no less than nine months while in the custody of the Dept. of Public Safety and Corrections.

Proposed law provides that if an individual who meets the mandatory eligibility under proposed law and has been recommended suitable for the drug court probation program by the designated treatment professional does not enter a guilty plea, but is found guilty at trial, the court is required to sentence the individual to not less than one year at hard labor, without benefit of parole, probation, suspension of sentence, or credit for good time, and the court is further required to order the defendant to participate in mandatory drug treatment program for at least nine months while in the custody of the Dept. of Public Safety and Corrections.

Proposed law seeks to create a fund within the state treasury known as the "Drug Court Fund" which will consist of those revenues collected or derived from the current

pharmaceutical-opioid litigation. The monies in this fund are required to be used solely for the purpose of awarding grants to the district courts to create or maintain the drug division within each district court. The Supreme Court Drug and Specialty Court Office is required to award such funds to the district courts, the Dept. of Public Safety and Corrections, as well as any other state or local entity tasked with compliance with the provisions of proposed law as are appropriate in its discretion and based upon the individual needs of each entity with respect to compliance with the provisions of proposed law.

Present law requires that the pre-trial drug testing program used to determine the presence of any controlled dangerous substance identified in the Uniform Controlled Substances Law to be performed prior to first court appearance and random testing thereafter to verify that the person is drug free.

Proposed law requires that the pre-trial drug testing program used to determine the presence of any controlled dangerous substance identified in the Uniform Controlled Substances Law to be performed within 24 hours of the booking of the person and random testing thereafter to verify that the person is drug free.

Proposed law provides that the presence of a positive drug test result during the booking process requires the assessment of a drug treatment professional within 24 hours of the positive drug test result to determine whether the person suffers from alcoholism or drug abuse or addiction, or both, or whether the person is in danger of becoming dependent on alcohol or drugs.

Proposed law requires that a positive drug test result and an assessment by a drug treatment professional that the person suffers from alcoholism or drug abuse or addiction, or both, or is in danger of becoming dependent on alcohol or drugs be considered by the court as significant factors in its determination under present law as to whether the person poses a risk to the safety of any other person or the community, and the presence of these factors may be sufficient to hold a defendant without bail.

Proposed law requires that if the court determines that bail is appropriate for a person who, has a positive drug test result and an assessment by a drug treatment professional that the person suffers from alcoholism or drug abuse or addiction, or both, or is in danger of becoming dependent on alcohol or drugs, then as a mandatory condition of bail, random drug testing is required at least once every seven days.

Proposed law provides that notwithstanding any other conditions on bail, a refusal to submit to a drug test or a positive test result on any of the random drug testing is considered a violation of a condition of bail, that results in the revocation of bail and issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody.

Effective August 1, 2020.

(Amends R.S. 13:5304(A), (B), (D)(3)(b) and (G), and C. Cr. P. Art. 320(D) and (E); adds R.S. 13:5304(P) and 5306, and C. Cr. P. Art. 701(B)(3))