

Regular Session, 2007

ACT No. 402

HOUSE BILL NO. 423

BY REPRESENTATIVE JANE SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 900(A)(5) and (6) and R.S.
3 15:574.9(B) and to enact Code of Criminal Procedure Article 900(A)(7) and R.S.
4 15:574.9(G), relative to probation and parole; to provide with respect to revocation
5 for probation or parole for a technical violation; to clarify that those offenders whose
6 probation or parole is revoked for a technical violation shall return to probation or
7 parole after completing the sentence for the technical violation; to provide for a
8 commencement date for the term of the revocation; to amend the definition of
9 "technical violation"; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 900(A)(5) and (6) are hereby
12 amended and reenacted and Code of Criminal Procedure Article 900(A)(7) is hereby enacted
13 to read as follows:

14 Art. 900. Violation hearing; sanctions

15 A. After an arrest or service of a summons pursuant to Article 899, the court
16 shall cause the defendant to be brought before it within ten days for a hearing. The
17 hearing may be informal or summary. If the court decides that the defendant has
18 violated, or was about to violate, a condition of his probation it may:

19 * * *

20 (5)~~(a)~~ Order that the probation be revoked. In the event of revocation the
21 defendant shall serve the sentence suspended, with or without credit for the time
22 served on probation ~~in~~ at the discretion of the court. If the imposition of sentence
23 was suspended, the defendant shall serve the sentence imposed by the court at the
24 revocation hearing.

1 ~~(b)(i)~~ (6)(a) Notwithstanding the provisions of ~~Subsubparagraph (a)~~
 2 Paragraph (5) of this Paragraph Section, any ~~offender~~ defendant who has been placed
 3 on probation by the court for the conviction of an offense other than a crime of
 4 violence as defined in R.S. 14:2(B) or of a sex offense as defined in R.S.
 5 15:541(14.1), and who has had his probation revoked under the provisions of this
 6 Article for his first technical violation of his probation as determined by the court,
 7 shall ~~not~~ be required to serve a sentence of not more than ninety days, ~~unless waived~~
 8 by the offender as the result of such revocation without diminution of sentence or
 9 credit for time served prior to the revocation for a technical violation. The term of
 10 the revocation for a technical violation shall begin on the date the court orders the
 11 revocation. Upon completion of the imposed sentence for the technical revocation,
 12 the defendant shall return to active and supervised probation for a period equal to the
 13 remainder of the original period of probation subject to any additional conditions
 14 imposed by the court. The provisions of this ~~Subparagraph~~ Paragraph shall apply
 15 only to ~~an offender's~~ the defendant's first revocation for a technical violation.

16 ~~(ii)(b)~~ A "technical violation," as used in this ~~Subsubparagraph~~ Paragraph,
 17 means any violation except it shall not include any of the following:

18 (i) ~~Being being~~ arrested, charged, or convicted of ~~another crime~~ any of the
 19 following:

20 (aa) A felony.

21 (bb) A violation of any provision of Title 40 of the Louisiana Revised
 22 Statutes of 1950.

23 (cc) Any intentional misdemeanor directly affecting the person.

24 (dd) At the discretion of the court, any attempt to commit any intentional
 25 misdemeanor directly affecting the person.

26 (ee) At the discretion of the court, any attempt to commit any other
 27 misdemeanor.

28 (ii) Being in possession of a firearm or other prohibited weapon.

29 (iii) Failing to appear at any court hearing.

30 (iv) Absconding from the jurisdiction of the court.

1 (v) Failing to satisfactorily complete a drug court program if ordered to do
2 so as a special condition of probation.
3 ~~nor being in possession of a firearm or other prohibited weapon, nor a failure to~~
4 ~~appear at any court hearing, nor shall it include absconding from the jurisdiction of~~
5 ~~the court.~~

6 (6)(7) Extend the period of probation, provided the total amount of time
7 served by the defendant on probation for any one offense shall not exceed the
8 maximum period of probation provided by law.

9 * * *

10 Section 2. R.S. 15:574.9(B) is hereby amended and reenacted and R.S. 15:574.9(G)
11 is hereby enacted to read as follows:

12 §574.9. Revocation of parole for violation of condition; board panels; return to
13 custody hearing; duration of reimprisonment and reparole after revocation;
14 credit for time served; revocation for a technical violation

15 * * *

16 B.(1) The board may order revocation of parole upon a determination that:

17 (1) The parolee has failed, without a satisfactory excuse, to comply with
18 a condition of his parole; and

19 (2) The violation of condition involves the commission of another felony,
20 or misconduct including a substantial risk that the parolee will commit another
21 felony, or misconduct indicating that the parolee is unwilling to comply with proper
22 conditions of parole.

23 (2)(a) ~~Notwithstanding the provisions of Paragraph (1) of this Subsection,~~
24 ~~any offender who has been released on parole for the conviction of an offense other~~
25 ~~than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined in~~
26 ~~R.S. 15:541(14.1) and who has had his parole revoked under the provisions of this~~
27 ~~Section for his first technical violation of the conditions of parole as determined by~~
28 ~~the Board of Parole, shall not be required to serve a sentence of more than ninety~~
29 ~~days, unless waived by the offender as the result of such revocation. The provisions~~

1 ~~of this Paragraph shall apply only to an offender's first revocation for a technical~~
 2 ~~violation.~~

3 ~~(b) A "technical violation," as used in this Paragraph, means any violation~~
 4 ~~except it shall not include being arrested, charged, or convicted of another crime nor~~
 5 ~~being in possession of a firearm or other prohibited weapon, nor a failure to appear~~
 6 ~~at any court hearing, nor shall it include absconding from the jurisdiction of the~~
 7 ~~offender's approved residence plan.~~

8 * * *

9 G.(1) Any offender who has been released on parole for the conviction of an
 10 offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense
 11 as defined in R.S. 15:541(14.1), and whose parole supervision is being revoked
 12 under the provisions of this Subsection for his first technical violation of the
 13 conditions of parole as determined by the Board of Parole, shall be required to serve
 14 not more than ninety days without diminution of sentence or credit for time served
 15 prior to the revocation for a technical violation. The term of the revocation for the
 16 technical violation shall begin on the date the Board of Parole orders the revocation.
 17 Upon completion of the imposed technical revocation sentence, the offender shall
 18 return to active parole supervision for the remainder of the original term of
 19 supervision. The provisions of this Subsection shall apply only to an offender's first
 20 revocation for a technical violation.

21 (2) A "technical violation", as used in this Subsection, means any violation
 22 except it shall not include any of the following:

23 (a) Being arrested, charged, or convicted of any of the following:

24 (i) A felony.

25 (ii) A violation of any provision of Title 40 of the Louisiana Revised Statutes
 26 of 1950.

27 (iii) Any intentional misdemeanor directly affecting the person.

28 (iv) At the discretion of the Board of Parole, any attempt to commit any
 29 intentional misdemeanor directly affecting the person.

- 1 (v) At the discretion of the Board of Parole, any attempt to commit any other
- 2 misdemeanor.
- 3 (b) Being in possession of a firearm or other prohibited weapon.
- 4 (c) Failing to appear at any court hearing.
- 5 (d) Absconding from the jurisdiction of the Board of Parole.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____