

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 895(B), R.S. 14:30.1(A)(2),
3 32(C), 32.1(A)(introductory paragraph), 32.8(A)(2)(introductory paragraph) and (c),
4 40.1(B), and 98(F)(2) and to enact Code of Criminal Procedure Article 894(A)(6),
5 R.S. 14:32.8(A)(2)(d), (e), and (f), and 40.1(C), relative to the continuous revision
6 of the Criminal Code and the Code of Criminal Procedure; to provide for probation
7 in felony and misdemeanor cases assigned to the drug division probations program;
8 to provide for second degree murder; to provide with respect to criminal penalties
9 for negligent homicide; to require the court to issue reasons with regard to
10 sentencing; to provide for vehicular homicide; to provide for third degree feticide;
11 to provide for terrorizing; to provide for operating a vehicle while intoxicated; and
12 to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Code of Criminal Procedure Article 895(B) is hereby amended and
15 reenacted and Code of Criminal Procedure Article 894(A)(6) is hereby enacted to read as
16 follows:

17 Art. 894. Suspension and deferral of sentence; probation in misdemeanor cases

18 A. * * *

19 * * *

20 **(6) When a case is assigned to the drug division probation program**

pursuant to the provisions of R.S. 13:5304, with the consent of the district attorney, the court may place the defendant on probation for a period of not more than four years if the court determines that successful completion of the program may require that the period of probation exceed the two year limit. If necessary to assure successful completion of the drug division probation program, the court may extend the duration of the probation period. The period of probation as initially fixed or as extended shall not exceed four years.

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Art. 895. Conditions of probation

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B.(1) In felony cases, an additional condition of the probation may be that the defendant shall serve a term of imprisonment without hard labor for a period not to exceed two years.

(2) In felony cases assigned to the drug division probation program pursuant to the provisions of R.S. 13:5304, the court may impose as a condition of probation that the defendant successfully complete the intensive incarceration program established pursuant to R.S. 15:574.4(A)(2). If the defendant is not accepted into the intensive incarceration program or fails to successfully complete the intensive incarceration program, the court shall reconsider the sentence imposed as provided in Article 881.1.

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Section 2. R.S. 14:30.1(A)(2), 32(C), 32.1(A)(introductory paragraph), 32.8(A)(2) (introductory paragraph) and (c), 40.1(B), and 98(F)(2) are hereby amended and reenacted and R.S. 14:32.8(A)(2)(d), (e) and (f) and 40.1(C) are hereby enacted to read as follows:

§30.1. Second degree murder

A. Second degree murder is the killing of a human being:

* * *

(2)(a) When the offender is engaged in the perpetration or attempted perpetration of aggravated rape, forcible rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by

drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.

~~(b) When the offender is engaged in the perpetration of cruelty to juveniles, even though he has no intent to kill or to inflict great bodily harm.~~

* * *

§32. Negligent homicide

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C.(1) Except as provided for in Paragraph (2) of this Subsection,

~~Whoever~~ whoever commits the crime of negligent homicide shall be imprisoned with or without hard labor for not more than five years, fined not more than five thousand dollars, or both.

~~(2)(a) However, if~~ If the victim was killed as a result of receiving a battery and was under the age of ten years, the offender shall be imprisoned at hard labor, without benefit of probation, parole, or suspension of sentence, for not less than two nor more than five years.

(b) If the court does not order the offender to a term of imprisonment when the following two factors are established, the court shall state, both orally and in writing at the time of sentencing, the reasons for not sentencing the offender to a term of imprisonment:

(i) The fatality was caused by a person engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance; and

(ii) The offender's blood alcohol concentration contributed to the fatality.

* * *

§32.1. Vehicular homicide

A. Vehicular homicide is the killing of a human being caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance,

whether or not the offender had the intent to cause death or great bodily harm,
whenever any of the following conditions exists and such condition was a
contributing factor to the killing:

* * *

§32.8. Third degree feticide

A. Third degree feticide is:

* * *

(2) The killing of an unborn child caused proximately or caused directly by
an offender engaged in the operation of, or in actual physical control of, any motor
vehicle, aircraft, vessel, or other means of conveyance whether or not the offender
had the intent to cause death or great bodily harm whenever any of the following
conditions exist and such condition was a contributing factor to the killing:

* * *

(c) The offender is under the influence of any controlled dangerous
substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964 ~~and such
condition was a contributing factor to the killing.~~

(d) The offender is under the influence of alcoholic beverages.

(e)(i) The offender is under the influence of a combination of alcohol and
one or more drugs which are not controlled dangerous substances and which
are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this
Subparagraph that the label on the container of the prescription drug or the
manufacturer's package of the drug does not contain a warning against
combining the medication with alcohol.

(f) The offender is under the influence of one or more drugs which are
not controlled dangerous substances and which are legally obtainable with or
without a prescription and the influence is caused by the offender's knowingly
consuming quantities of the drug or drugs which substantially exceed the dosage
prescribed by the physician or the dosage recommended by the manufacturer
of the drug.

1 * * *

2 §40.1. Terrorizing

3 * * *

4 B. It shall be an affirmative defense that the person communicating the
 5 information provided for in Subsection A of this Section was not involved in the
 6 commission of a crime of violence or creation of a circumstance dangerous to
 7 human life and reasonably believed his actions were necessary to protect the
 8 welfare of the public.

9 C. Whoever commits the offense of terrorizing shall be fined not more than
 10 fifteen thousand dollars or imprisoned with or without hard labor for not more than
 11 fifteen years, or both.

12 * * *

13 §98. Operating a vehicle while intoxicated

14 * * *

15 F. * * *

16 (2) For purposes of this Section, a prior conviction shall not include a
 17 conviction for an offense under this Section, under ~~or~~ R.S. 14:32.1, ~~or~~ R.S. 14:39.1,
 18 or 14:39.2, or under a comparable statute or ordinance of another jurisdiction, as
 19 described in Paragraph (1) of this Subsection, if committed more than ten years prior
 20 to the commission of the crime for which the defendant is being tried and such
 21 conviction shall not be considered in the assessment of penalties hereunder.
 22 However, periods of time during which the offender was incarcerated in a penal
 23 institution in this or any other state shall be excluded in computing the ten-year
 24 period. Subsections B and C shall include a screening procedure to determine the
 25 portions of the program which may be applicable and appropriate for individual
 26 offenders.

27 * * *

28 Section 3. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature
 30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____