ENROLLED

Regular Session, 2011

ACT No. 104

HOUSE BILL NO. 415

BY REPRESENTATIVE LOPINTO

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

AN ACT

To amend and reenact R.S. 15:574.7(B) and to enact R.S. 15:574.7(C) and Code of Criminal Procedure Article 899.1, relative to probation and parole; to authorize probation and parole officers to impose administrative sanctions for technical violations; to provide for limitations; to provide for definitions; to provide for procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.7(B) is hereby amended and reenacted and R.S. 15:574.7(C) is hereby enacted to read as follows:

§574.7. Custody and supervision of parolees; modification or suspension of supervision; violation of conditions of parole; sanctions; alternative conditions<u>; administrative sanctions</u>

* * *

<u>B.(1) At the time a defendant is released on parole, the Board of Parole may make a determination as to whether a defendant is eligible for the imposition of administrative sanctions as provided for in this Section. If authorized to do so by the board, each time a parolee violates a condition of parole, a parole officer may use administrative sanctions to address a technical violation committed by a parolee when all of the following occur:</u>

<u>(a) The parolee, after receiving written notification of his right to a hearing before a court and right to counsel, provides a written waiver of a parole violation hearing.</u>

<u>(b) The parolee admits to the violation or affirmatively chooses not to contest the violation alleged in the parole violation report.</u>

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(c) The parolee consents to the imposition of administrative sanctions by the Department of Public Safety and Corrections.

(2) The department shall promulgate rules to implement the provisions of this Subsection to establish the following:

(a) A system of structured, administrative sanctions which shall be imposed for technical violations of parole and which shall take into consideration the following factors:

(i) The severity of the violation behavior.

(ii) The prior violation history.

(iii) The severity of the underlying criminal conviction.

(iv) The criminal history of the parolee.

(v) Any special circumstances, characteristics, or resources of the parolee.

(vi) Protection of the community.

(vii) Deterrence.

(viii) The availability of appropriate local sanctions, including but not limited to jail, treatment, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers, or other local sanctions.

(b) Procedures to provide a parolee with written notice of the right to a parole violation hearing to determine whether the parolee violated the conditions of parole alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.

(c) Procedures for a parolee to provide written waiver of the right to a parole violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the parole violation report, and to consent to the imposition of administrative sanctions by the department.

(d) The level and type of sanctions that may be imposed by parole officers and other supervisory personnel.

(e) The level and type of violation behavior that warrants a recommendation to the board that parole be revoked.

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(f) Procedures notifying the parolee and the Board of Parole of a violation admitted by the parolee and the administrative sanctions imposed.

(g) Such other policies and procedures as are necessary to implement the provisions of this Subsection and to provide adequate parole supervision.

(3) If the administrative sanction imposed pursuant to the provisions of this Subsection is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.

(4) For purposes of this Subsection, "technical violation" means any violation of a condition of parole as defined in R.S. 15:574.9(G)(2).

~~B.~~C.(1) If the chief probation and parole officer, upon recommendation by a parole officer, has reasonable cause to believe that a parolee has violated the conditions of parole, he shall notify the board, and shall cause the appropriate parole officer to submit the parolee's record to the board. After consideration of the record submitted, and after such further investigation as it may deem necessary, the board may order:

(a) The issuance of a reprimand and warning to the parolee.

(b) That the parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with R.S. 15:574.4.

(c) That the parolee be arrested, and upon arrest be given a prerevocation hearing within a reasonable time, at or reasonably near the place of the alleged parole violation or arrest, to determine whether there is probable cause to detain the parolee pending orders of the parole board.

(2) Upon receiving a summary of the prerevocation proceeding, the board may order the following:

(a) The parolee's return to the physical custody of the Department of Public Safety and Corrections, corrections services, to await a hearing to determine whether his parole should be revoked.

(b) As an alternative to revocation, that the parolee, as a condition of parole, be committed to a community rehabilitation center or a substance abuse treatment program operated by, or under contract with, the department, for a period of time not

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to exceed six months, without benefit of good time, provided that such commitment does not extend the period of parole beyond the full parole term. Upon written request of the department that the offender be removed for violations of the rules or regulations of the community rehabilitation center or substance abuse program, the board shall order that the parole be revoked, with credit for time served in the community rehabilitation center.

Section 2. Code of Criminal Procedure Article 899.1 is hereby enacted to read as follows:

Art. 899.1. Administrative sanctions for technical violations

A. At the time of sentencing, the court may make a determination as to whether a defendant is eligible for the imposition of administrative sanctions as provided for in this Article. If authorized to do so by the sentencing court, each time a defendant violates a condition of his probation, a probation agency may use administrative sanctions to address a technical violation committed by a defendant when all of the following occur:

(1) The defendant, after receiving written notification of the right to a hearing before a court and the right to counsel provides a written waiver of a probation violation hearing.

(2) The defendant admits to the violation or affirmatively chooses not to contest the violation alleged in the probation violation report.

(3) The defendant consents to the imposition of administrative sanctions by the Department of Public Safety and Corrections.

B. The department shall promulgate rules to implement the provisions of this Article to establish the following:

(1) A system of structured, administrative sanctions which shall be imposed for technical violations of probation and which shall take into consideration the following factors:

(a) The severity of the violation behavior.

(b) The prior violation history.

(c) The severity of the underlying criminal conviction.

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(d) The criminal history of the probationer.

(e) Any special circumstances, characteristics, or resources of the probationer.

(f) Protection of the community.

(g) Deterrence.

(h) The availability of appropriate local sanctions, including but not limited to jail, treatment, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers, or other local sanctions.

(2) Procedures to provide a probationer with written notice of the right to a probation violation hearing to determine whether the probationer violated the conditions of probation alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.

(3) Procedures for a probationer to provide written waiver of the right to a probation violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the probation violation report, and to consent to the imposition of administrative sanctions by the department.

(4) The level and type of sanctions that may be imposed by probation officers and other supervisory personnel.

(5) The level and type of violation behavior that warrants a recommendation to the court that probation be revoked.

(6) Procedures notifying the probationer, the district attorney, the defense counsel of record, and the court of probation of a violation admitted by the probationer and the administrative sanctions imposed.

(7) Such other policies and procedures as are necessary to implement the provisions of this Article and to provide adequate probation supervision.

C. If the administrative sanction imposed pursuant to the provisions of this Article is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.

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D. For purposes of this Article, "technical violation" means any violation of a condition of probation, except for an allegation of a subsequent criminal act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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