

Regular Session, 2012

SENATE BILL NO. 553

BY SENATOR CLAITOR

CRIMINAL PROCEDURE. Provides for procedures relative to sobriety court programs.
(8/1/12)

AN ACT

To amend and reenact Code of Criminal Procedure Article 894(B)(2) and to enact Code of Criminal Procedure Article 894(A)(7) and (B)(3), relative to suspension and deferral of criminal sentences; to provide relative to probation for cases assigned to certain substance abuse programs; to provide relative to discharge and dismissal of certain prosecutions under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 894(B)(2) is hereby amended and reenacted and Code of Criminal Procedure Article 894(A)(7) and (B)(3) are hereby enacted to read as follows:

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

A. * * *

(7) When a case is assigned to an established driving while intoxicated court or sobriety court program certified by the Louisiana Supreme Court Drug Court Office, the National Highway Traffic Safety Administration, or the Louisiana Highway Safety Commission, with the consent of the district attorney, the court may place the defendant on probation for a period of not

1 more than four years if the court determines that the successful completion of
2 the program may require that the period of probation exceed the two-year limit.
3 If necessary to assure successful completion of the driving while intoxicated
4 court or sobriety court program, the court may extend the duration of the
5 probation period. The period of probation as initially fixed or as extended shall
6 not exceed four years.

7 B. * * *

8 (2) The dismissal of the prosecution shall have the same effect as an
9 acquittal, except that the conviction may be considered as a ~~first~~ **prior** offense and
10 provide the basis for subsequent prosecution of the party as a multiple offender.
11 Discharge and dismissal under this provision may occur only once with respect to
12 any person during a five-year period, **subject to the provisions of Subparagraph**
13 **(A)(3) of this Article.** However, discharge and dismissal under this provision for the
14 offense of operating a vehicle while intoxicated may occur only once with respect
15 to any person during a ten-year period, **subject to the provisions of Subparagraph**
16 **(A)(3) of this Article.**

17 **(3) Discharge and dismissal under this provision may occur on a single**
18 **subsequent prosecution and conviction during a ten-year period under the**
19 **following conditions:**

20 **(a) The offender has successfully completed a driving while intoxicated**
21 **court or sobriety court program pursuant to Subparagraph (A)(7) of this**
22 **Article.**

23 **(b) The remaining provisions of this Article have been satisfied.**

24 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Claitor (SB 553)

Present law provides relative to the suspension and deferral of certain sentences for certain crimes under certain circumstances.

Proposed law retains present law and adds that when a case is assigned to an established DWI or sobriety court program certified by the La. Supreme Court Drug Court Office, the National Highway Traffic Safety Administration, or the La. Highway Safety Commission, with the consent of the district attorney, the court may place the defendant on probation for a period of no more than four years if the court determines that the successful completion of the program may require that the period of probation exceed the two-year limit.

Present law provides that the dismissal of a prosecution has the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender.

Proposed law changes the reference in present law from "first offense" to "prior offense" but otherwise retains present law.

Present law further provides that discharge and dismissal under present law may occur only once with respect to any person during a five-year period. Present law further provides that discharge and dismissal under present law for the offense of operating a vehicle while intoxicated may occur only once with respect to any person during a 10-year period.

Proposed law retains present law and adds that discharge and dismissal may occur on a single subsequent prosecution and conviction during a 10-year period under the following conditions:

1. The offender has successfully completed a DWI or sobriety court program pursuant to proposed law.
2. The remaining provisions of present law have been satisfied.

Effective August 1, 2012.

(Amends C.Cr.P. Art. 894(B)(2); adds C.Cr.P. Art. 894(A)(7) and (B)(3))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Changes reference in proposed law from "National Highway Safety Commission" to "National Highway Traffic Safety Administration."
2. Changes reference in present law from "first offense" to "prior offense."