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**SENATE COMMITTEE AMENDMENTS**

Amendments proposed by Senate Committee on Judiciary C to Original Senate Bill No. 687  
by Senator Perry

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1 AMENDMENT NO. 1

2 On page 1, delete line 2 and insert the following:

3 "To amend and reenact R.S. 14:98(B)(1) and (2), (C)(1) and (3), (D)(1)(a) and (b)(i), and  
4 (E)(1)(b)(i), and to enact R.S. 14:98(B)(3), (C)(4), (D)(4), and (E)(5), relative to the"

5 AMENDMENT NO. 2

6 On page 1, delete lines 7 and 8 and insert the following:

7 "Section 1. R.S. 14:98(B)(1) and (2), (C)(1) and (3), (D)(1)(a) and (b)(i), and  
8 (E)(1)(b)(i) are hereby amended and reenacted, and R.S. 14:98(B)(3), (C)(4), (D)(4), and  
9 (E)(5) are hereby enacted to read as follows:"

10 AMENDMENT NO. 3

11 On page 1, delete lines 11 through 17, and on page 2, delete lines 1 through 18, and insert  
12 the following:

13 "B.(1) On a first conviction, notwithstanding any other provision of law to  
14 the contrary, the offender shall be fined not less than three hundred dollars nor more  
15 than one thousand dollars, ~~and shall be imprisoned for not less than ten days~~ **forty-**  
16 **eight hours** nor more than six months, **and shall be ordered to undergo an**  
17 **evaluation and, at the discretion of the court, participate in a treatment**  
18 **program as provided in Paragraph (3) of this Subsection. Forty-eight hours of**  
19 **the sentence of imprisonment shall be imposed without benefit of probation,**  
20 **parole, or suspension of sentence.** Imposition or execution of **the remainder of the**  
21 sentence shall not be suspended unless:

22 (a) The offender is placed on probation with a minimum condition that he  
23 serve two days in jail, **undergo an evaluation and treatment as provided in**  
24 **Paragraph (1) of this Subsection,** and participate in a court-approved substance  
25 abuse program **pursuant to Subparagraph (3)(a) of this Subsection,** and  
26 participate in a court-approved driver improvement program; or

27 (b) The offender is placed on probation with a minimum condition that he  
28 perform four eight-hour days of court-approved community service activities, at least  
29 half of which shall consist of participation in a litter abatement or collection  
30 program, **undergo an evaluation and treatment as provided in Paragraph (1) of**  
31 **this Subsection,** participate in a court-approved substance abuse program **pursuant**  
32 **to Subparagraph (3)(a) of this Subsection,** and participate in a court-approved  
33 driver improvement program. An offender, who participates in a litter abatement or  
34 collection program pursuant to this Subparagraph, shall have no cause of action for  
35 damages against the entity conducting the program or supervising his participation  
36 therein, including a municipality, parish, sheriff, or other entity, nor against any  
37 official, employee, or agent of such entity, for any injury or loss suffered by him  
38 during or arising out of his participation in the program, if such injury or loss is a  
39 direct result of the lack of supervision or act or omission of the supervisor, unless the  
40 injury or loss was caused by the intentional or grossly negligent act or omission of  
41 the entity or its official, employee, or agent."

42 AMENDMENT NO. 4

43 On page 2, delete line 28 and insert "**Three days of the sentence of imprisonment shall be**  
44 **imposed without benefit of probation, parole, or suspension of sentence.**"

1 AMENDMENT NO. 5

2 On page 3, line 8, after "**six months.**" delete the remainder of the line and insert "**Five days**  
 3 **of the sentence of imprisonment shall be imposed without benefit of probation, parole,**  
 4 **or suspension of sentence.**"

5 AMENDMENT NO. 6

6 On page 3, delete line 9

7 AMENDMENT NO. 7

8 On page 3, delete lines 22 through 29, delete page 4 in its entirety, and on page 5, delete  
 9 lines 1 through 7, and insert the following:

10 **"(3)(a) The evaluation required by Paragraph (1) of this Subsection shall**  
 11 **be conducted by the Department of Health and Hospitals, office of behavioral**  
 12 **health, or by a licensed mental health professional, either as an independent**  
 13 **practitioner or as an employee of a provider agency, acting within the scope of**  
 14 **his practice, to determine the nature and extent of the offender's substance use**  
 15 **disorder. The Department of Health and Hospitals, office of behavioral health,**  
 16 **shall maintain information regarding best practices for the treatment of such**  
 17 **substance use disorders, and shall publish such information on its website.**  
 18 **Each licensed mental health professional conducting the evaluation required by**  
 19 **this Paragraph shall follow the best practices published by the Department of**  
 20 **Health and Hospitals, office of behavioral health.**

21 **(b) The Department of Health and Hospitals, office of behavioral health,**  
 22 **shall establish and maintain on its website a registry of licensed mental health**  
 23 **professionals who are willing to provide such evaluation services.**

24 **(c) The licensed mental health professional shall recommend a treatment**  
 25 **plan based upon the evaluation, and the offender shall comply with such**  
 26 **treatment plan. Any treatment plan recommended pursuant to Paragraph (1)**  
 27 **of this Subsection may include either treatment in a licensed inpatient or**  
 28 **residential facility or participation in substance abuse treatment in an alcohol**  
 29 **and drug abuse program provided by a drug division subject to the applicable**  
 30 **provisions of R.S. 13:5301 et seq., if the offender is otherwise eligible to**  
 31 **participate in such program.**

32 **(d) It shall be the responsibility of the offender to obtain the evaluation**  
 33 **and treatment. All costs of evaluation and treatment shall be borne by the**  
 34 **offender, unless the offender has been declared indigent.**

35 C.(1) On a conviction of a second offense, notwithstanding any other  
 36 provision of law to the contrary except as provided in Paragraph (3) of this  
 37 Subsection, regardless of whether the second offense occurred before or after the  
 38 first conviction, the offender shall be fined not less than ~~seven hundred fifty~~ **one**  
 39 **thousand** dollars, nor more than ~~one~~ **two** thousand dollars, ~~and shall be imprisoned~~  
 40 ~~for not less than thirty days nor more than six months,~~ **and shall be ordered to**  
 41 **undergo an evaluation and participate in a treatment program as provided in**  
 42 **Paragraph (4) of this Subsection.** At least ~~forty-eight hours~~ **fifteen days** of the  
 43 sentence imposed shall be served without benefit of parole, probation, **home**  
 44 **incarceration,** or suspension of sentence. **Upon completion of the portion of the**  
 45 **sentence imposed without benefit of parole, probation, home incarceration, or**  
 46 **suspension of sentence, nothing** Nothing herein shall prohibit a court from  
 47 sentencing a defendant to home incarceration, if otherwise allowed under the  
 48 provisions of Article 894.2 of the Code of Criminal Procedure. Imposition or  
 49 execution of the remainder of the sentence shall not be suspended unless:

50 (a) The offender is placed on probation with a minimum condition that he  
 51 serve fifteen days in jail, **undergo an evaluation and treatment as provided in**  
 52 **Paragraph (1) of this Subsection,** and participate in a court-approved substance  
 53 abuse program **pursuant to Subparagraph (4)(a) of this Subsection** and participate  
 54 in a court-approved driver improvement program; or

1 (b) The offender is placed on probation with a minimum condition that he  
 2 perform thirty eight-hour days of court-approved community service activities, at  
 3 least half of which shall consist of participation in a litter abatement or collection  
 4 program, **undergo an evaluation and treatment as provided in Paragraph (1) of**  
 5 **this Subsection**, and participate in a court-approved substance abuse program  
 6 **pursuant to Subparagraph (4)(a) of this Subsection**, and participate in a court-  
 7 approved driver improvement program. An offender, who participates in a litter  
 8 abatement or collection program pursuant to this Subparagraph, shall have no cause  
 9 of action for damages against the entity conducting the program or supervising his  
 10 participation therein, including a municipality, parish, sheriff, or other entity, nor  
 11 against any official, employee, or agent of such entity, for any injury or loss suffered  
 12 by him during or arising out of his participation therein, if such injury or loss is a  
 13 direct result of the lack of supervision or act or omission of the supervisor, unless the  
 14 injury or loss was caused by the intentional or grossly negligent act or omission of  
 15 the entity or its official, employee, or agent.  
 16 \* \* \*

17 AMENDMENT NO. 8

18 On page 5, at the beginning of line 8, change "~~(3)~~ (2)(a)" to "(3)(a)"

19 AMENDMENT NO. 9

20 On page 5, delete lines 23 through 29, delete pages 6 through 8 in their entirety, and on page  
 21 9, delete lines 1 through 7, and insert the following:

22 **"(4)(a) The evaluation required by Paragraph (1) of this Subsection shall**  
 23 **be conducted by the Department of Health and Hospitals, office of behavioral**  
 24 **health, or by a licensed mental health professional, either as an independent**  
 25 **practitioner or as an employee of a provider agency, acting within the scope of**  
 26 **his practice, to determine the nature and extent of the offender's substance use**  
 27 **disorder. The Department of Health and Hospitals, office of behavioral health,**  
 28 **shall maintain information regarding best practices for the treatment of such**  
 29 **substance use disorders, and shall publish such information on its website.**  
 30 **Each licensed mental health professional conducting the evaluation required by**  
 31 **this Paragraph shall follow the best practices published by the Department of**  
 32 **Health and Hospitals, office of behavioral health.**

33 **(b) The Department of Health and Hospitals, office of behavioral health,**  
 34 **shall establish and maintain on its website a registry of licensed mental health**  
 35 **professionals who are willing to provide such evaluation services.**

36 **(c) The licensed mental health professional shall recommend a treatment**  
 37 **plan based upon the evaluation, and the offender shall comply with such**  
 38 **treatment plan. Any treatment plan recommended pursuant to Paragraph (1)**  
 39 **of this Subsection may include either treatment in a licensed inpatient or**  
 40 **residential facility or participation in substance abuse treatment in an alcohol**  
 41 **and drug abuse program provided by a drug division subject to the applicable**  
 42 **provisions of R.S. 13:5301 et seq., if the offender is otherwise eligible to**  
 43 **participate in such program.**

44 **(d) It shall be the responsibility of the offender to obtain the evaluation**  
 45 **and treatment. All costs of evaluation and treatment shall be borne by the**  
 46 **offender, unless the offender has been declared indigent.**

47 D.(1)(a) On a conviction of a third offense, notwithstanding any other  
 48 provision of law to the contrary and regardless of whether the offense occurred  
 49 before or after an earlier conviction, the offender shall be imprisoned with or without  
 50 hard labor for not less than ~~one year~~ **three years** nor more than ~~five~~ **ten** years and  
 51 shall be fined two thousand dollars. One year of the sentence of imprisonment shall  
 52 be imposed without benefit of probation, parole, or suspension of sentence. The  
 53 court, in its discretion, may suspend all or any part of the remainder of the sentence  
 54 of imprisonment. If any portion of the sentence is suspended, the offender shall be  
 55 placed on supervised probation with the Department of Public Safety and  
 56 Corrections, division of probation and parole, for a period of time equal to the

1 remainder of the sentence of imprisonment, which probation shall commence on the  
2 day after the offender's release from custody.

3 (b) Any offender placed on probation pursuant to the provisions of this  
4 Subsection shall be required as a condition of probation to participate in thirty eight-  
5 hour days of court-approved community service activities and to submit to and  
6 complete either of the following requirements:

7 (i) To immediately undergo an evaluation by **a licensed mental health**  
8 **professional, who is an employee of** the Department of Health and Hospitals, office  
9 of behavioral health, **following the best practices published by the office of**  
10 **behavioral health,** to determine the nature and extent of the offender's substance  
11 abuse disorder and to participate in any treatment plan recommended by the office  
12 of behavioral health, including treatment in an inpatient facility approved by the  
13 office for a period of not less than four weeks followed by outpatient treatment  
14 services for a period not to exceed twelve months, **or as determined by medical**  
15 **necessity criteria.**

16 \* \* \*

17 **(4) It shall be the responsibility of the offender to obtain the evaluation**  
18 **and treatment. All costs of evaluation and treatment shall be borne by the**  
19 **offender, unless the offender has been declared indigent.**

20 E.(1)(a) \* \* \*

21 (b) Any offender placed on probation pursuant to the provisions of this  
22 Subsection shall be required, as a condition of probation, to participate in forty eight-  
23 hour days of court-approved community service activities and to submit to and  
24 complete either of the following requirements:

25 (i) To immediately undergo an evaluation by **a licensed mental health**  
26 **professional, who is an employee of** the Department of Health and Hospitals, office  
27 of behavioral health, **following the best practices published by the office of**  
28 **behavioral health,** to determine the nature and extent of the offender's substance  
29 abuse disorder and to participate in any treatment plan recommended by the office  
30 of behavioral health, including treatment in an inpatient facility approved by the  
31 office for a period of not less than four weeks followed by outpatient treatment  
32 services for a period not to exceed twelve months, **or as determined by medical**  
33 **necessity criteria.**

34 \* \* \*

35 **(5) It shall be the responsibility of the offender to obtain the evaluation**  
36 **and treatment. All costs of evaluation and treatment shall be borne by the**  
37 **offender, unless the offender has been declared indigent."**