

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 553 By Senator Claitor

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

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

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Amended provisions relative to the frequency with which a discharge and dismissal of prosecution may occur.
2. Revised language with regard to the specific conditions that shall be met in order for an offender to be eligible for discharge and dismissal of prosecution pursuant to proposed law.
3. Technical.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

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

Present law (C.Cr.P. Art. 894(A)(3)) provides that the court may suspend the whole or any part of a sentence imposed for a defendant convicted of a second offense DWI, placing the defendant on probation and requiring the defendant to meet certain conditions set by the court.

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 authorizes the court to dismiss prosecution when at the conclusion of the period of deferral, the court finds that the defendant has not been convicted of any other offense, and no criminal charge is pending. Proposed law further 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 amends present law to provide that such convictions, although set aside, may still be considered as a prior offense, and not just a first offense, for purposes of subsequent prosecutions of the offender as a multiple offender.

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

Proposed law amends present law to provide that if a single subsequent prosecution and conviction occurs during the 10-year period, the discharge and dismissal of the prosecution pursuant to the provisions of present law may still occur if the offender successfully completes a DWI court or sobriety court program and any conditions set by the court pursuant to present law (C.Cr.P. Art. 894(A)(3)) for the second DWI offense are met.

Effective August 1, 2012.

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

Jerry G. Jones
Chief Legislative Counsel