

Regular Session, 2013

SENATE BILL NO. 49

BY SENATOR LAFLEUR

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

PROBATION/PAROLE. Provides time limitations specific to the revocation of probation under certain conditions. (gov sig)

1 AN ACT

2 To enact Code of Criminal Procedure Article 901(D), relative to revocation of probation; to

3 provide time limitations specific to the revocation of probation for certain

4 probationers who continue to be held in custody for commission of another offense;

5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 901(D) is hereby enacted to read as

8 follows:

9 Art. 901. Revocation for commission of another offense

10 * * *

11 **D. Notwithstanding the provisions of Subsection A of Code of Criminal**

12 **Procedure Article 900:**

13 **(1) After an arrest pursuant to Code of Criminal Procedure Article 899,**

14 **based on the commission or conviction of a felony as provided for in this Article,**

15 **the court shall cause a defendant who continues to be held in custody to be**

16 **brought before it within sixty days for a hearing.**

17 **(2) After an arrest pursuant to Code of Criminal Procedure Article 899,**

1 **based on the commission or conviction of a misdemeanor as provided for in this**
 2 **Article, the court shall cause a defendant who continues to be held in custody**
 3 **to be brought before it within forty-five days for a hearing.**

4 Section 2. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

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

DIGEST

Present law provides that at any time during probation and suspension of sentence, the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of probation, or may issue a summons to appear to answer to a charge of violation or threatened violation. Present law further provides that if a probation officer has reasonable cause to believe that a defendant has violated or is about to violate a condition of his probation or that an emergency exists so that awaiting an order of the court would create an undue risk to the public or to the probationer, the probation officer may arrest the defendant without a warrant, or may authorize a peace officer to do so.

Present law provides that after an arrest pursuant to present law for violation of any of the conditions of probation, the court is to cause a defendant who continues to be held in custody to be brought before it within 30 days for a hearing.

Present law provides that, in addition to the grounds for revocation of probation enumerated in present law, when a defendant who is on probation for a felony commits or is convicted of a felony or a misdemeanor under certain provisions of present law, his probation may be revoked as of the date of the commission of the felony or final conviction of the felony or misdemeanor.

Proposed law retains present law and adds that:

- (1) After an arrest for violation of probation pursuant to present law based on the commission or conviction of a felony as provided for in present law, the court is to cause a defendant who continues to be held in custody to be brought before it within 60 days for a hearing.
- (2) After an arrest for violation of probation pursuant to present law based on the commission or conviction of a misdemeanor as provided for in present law, the court is to cause a defendant who continues to be held in custody to be brought before it within 45 days for a hearing.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds C.Cr.P. Art. 901(D))