

Regular Session, 2012

SENATE BILL NO. 490

BY SENATOR MORRELL

CRIMINAL JUSTICE. Expands the workforce development sentencing program to include additional judicial districts. (gov sig)

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AN ACT

To amend and reenact Chapter 34 of Title 13 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 13:5401, to enact Chapter 34-A of Title 13 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 13:5501, and to repeal R.S. 13:621.41(J) and 1343(C), relative to reentry courts; to authorize the creation of reentry divisions of court in certain judicial district courts in the state; to provide for the implementation of the workforce development sentencing program in the reentry division; to provide for conditions and procedures; to provide for applicability; to repeal provisions related to the Criminal District Court of Orleans Parish or the Forty-First Judicial District workforce development program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 34 of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:5401, is hereby amended and reenacted and Chapter 34-A of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:5501, is hereby enacted to read as follows:

CHAPTER 34. REENTRY COURTS

1           §5401. District courts; reentry courts; subject matter

2           A. The district courts as enumerated in Subsection C of this Section, by  
3 rule, adopted by a majority vote of the judges sitting en banc, may assign a  
4 certain division of the court as a reentry division of court. The reentry division  
5 of court shall establish a workforce development sentencing program, which  
6 shall establish guidelines for the issuance of sentences providing inmate  
7 rehabilitation and workforce development. The division of court and sentencing  
8 program shall work in conjunction with the Louisiana Workforce Investment  
9 Council and all efforts shall be coordinated and consistent with the provisions  
10 of R.S. 23:1 et seq.

11           B. Participation in the workforce development sentencing program as  
12 authorized by the provisions of this Section shall be subject to the following  
13 provisions:

14           (1) The court may recommend that a defendant participate in the  
15 workforce development sentencing program if all of the following criteria are  
16 satisfied:

17           (a) The defendant meets the eligibility requirements for participation in  
18 the Offender Rehabilitation and Workforce Development Program as provided  
19 for in R.S. 15:1199.7.

20           (b) The court determines that it is in the best interest of the community  
21 and in the interest of justice that the defendant be sentenced to the Offender  
22 Rehabilitation and Workforce Development Program.

23           (c) The defendant is not sentenced to a term of incarceration which  
24 exceeds ten years.

25           (d) The defendant shall not have any prior felony convictions for any  
26 offenses defined as a sex offense in R.S. 15:541.

27           (e) The crime before the court shall not be a crime of violence as defined  
28 in R.S. 14:2(B), including domestic violence.

29           (f) Other criminal proceedings alleging commission of a crime of

1 violence as defined in R.S. 14:2(B) shall not be pending against the defendant.

2 (g) The crime before the court shall not be a charge of any crime that  
3 resulted in the death of a person.

4 (2) Upon a determination that the defendant meets the eligibility criteria  
5 provided for in Paragraph (1) of this Subsection, the court shall advise the  
6 defendant that he may be eligible for enrollment in the workforce development  
7 sentencing program.

8 (3) In offering a defendant the opportunity to request the program, the  
9 court shall advise the defendant of the following:

10 (a) If the defendant is eligible to participate in the workforce  
11 development sentencing program, the defendant shall waive the right to a trial.  
12 The defendant shall enter a plea of guilty to the charge, with the stipulation that  
13 the defendant shall be sentenced to custody of the Department of Public Safety  
14 and Corrections to participate in the Offender Rehabilitation and Workforce  
15 Development Program and after successful completion of that program, he may  
16 petition the court to be placed on intensive reentry supervision by the court.

17 (b) The court may impose any conditions reasonably related to the  
18 rehabilitation of the defendant.

19 (4) The defendant has the right to be represented by counsel at all stages  
20 of a criminal prosecution and in any court hearing relating to the workforce  
21 development sentencing program. The defendant shall be represented by  
22 counsel during the determination of eligibility to participate in the workforce  
23 development sentencing program at the time of the execution of the sentencing  
24 agreement and at any hearing to discharge him from the program, unless the  
25 court finds and the record shows that the defendant has knowingly and  
26 intelligently waived his right to counsel.

27 (5) The defendant shall agree to participation in the workforce  
28 development sentencing program.

29 (6) The judge shall consider the following factors in determining

1 whether workforce development sentencing is in the interests of justice and of  
2 benefit to the defendant and the community:

3 (a) The nature of the crime charged and the circumstances surrounding  
4 the crime.

5 (b) Any special characteristics or circumstances of the defendant.

6 (c) Whether there is a probability that the defendant will cooperate with  
7 and benefit from the workforce development sentencing program.

8 (d) Whether the available workforce development sentencing program  
9 is appropriate to meet the needs of the defendant.

10 (e) The impact of the defendant's sentencing upon the community.

11 (f) Recommendations, if any, of the district attorney.

12 (g) Recommendations, if any, of the involved law enforcement agency.

13 (h) Recommendations, if any, of the victim.

14 (i) Provisions for and the likelihood of obtaining restitution from the  
15 defendant.

16 (j) Any mitigating circumstances.

17 (k) Any other circumstances reasonably related to the defendant's case.

18 (7)(a) If the judge determines that the defendant shall be enrolled in the  
19 workforce development sentencing program, the court shall accept the  
20 defendant's guilty plea and sentence the defendant to the custody of the  
21 Department of Public Safety and Corrections for participation in the Offender  
22 Rehabilitation and Workforce Development Program under the terms and  
23 conditions of the workforce development sentencing program.

24 (b) If the judge determines that the defendant is not qualified for  
25 enrollment, the judge shall state for the record the reasons for that  
26 determination.

27 (c) If the defendant successfully completes the Offender Rehabilitation  
28 and Workforce Development Program and successfully completes all other  
29 requirements of the workforce development sentencing program, he may

1 petition the court to be placed on intensive reentry supervision by the court. If  
 2 the defendant does not successfully complete the Offender Rehabilitation and  
 3 Workforce Development Program, the court shall sentence the defendant to  
 4 serve the remainder of his sentence in the custody of the Department of Public  
 5 Safety and Corrections.

6 C. The following district courts may assign a certain division of the  
 7 court as a reentry division of court in accordance with the provisions of this  
 8 Section:

9 (1) The Criminal District Court for the parish of Orleans or the Forty-  
 10 First Judicial District Court.

11 (2) The Nineteenth Judicial District Court.

12 (3) The Twenty-Second Judicial District Court.

13 CHAPTER 34-A. JUDICIAL COOPERATIVE ENDEAVORS

14 ~~§5401~~ 5501. Judicial cooperative endeavors

15 The various judicial district courts and district attorneys of Louisiana are  
 16 authorized to enter into intergovernmental agreements with federal entities in order  
 17 to share the administrative costs of funding the operations for joint programs funded  
 18 by local, state, and federal assets.

19 Section 2. R.S. 13:621.41(J) and 1343(C) are hereby repealed.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Cathy R. Wells.

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DIGEST

Proposed law authorizes certain district courts to assign certain divisions to be designated  
 as reentry divisions of court.

Proposed law authorizes each reentry division to develop a workforce development  
 sentencing program.

Proposed law provides that the court may recommend that a defendant participate in the  
 workforce development sentencing program if all of the following criteria are satisfied:

1. The defendant meets the eligibility requirements for participation in the Offender  
 Rehabilitation and Workforce Development Program.
2. The court determines that it is in the best interest of the community and in the  
 interest of justice that the defendant be sentenced to the Offender Rehabilitation and

Workforce Development Program.

3. The defendant is not sentenced to a term of incarceration which exceeds 10 years.
4. The defendant shall not have any prior felony convictions for any offenses defined as a sex offense.
5. The crime before the court shall not be a crime of violence including domestic violence.
6. Other criminal proceedings alleging commission of a crime of violence shall not be pending against the defendant.
7. The crime before the court shall not be a charge of any crime that resulted in the death of a person.

Proposed law provides that if the defendant is eligible to participate in the workforce development sentencing program, then the defendant shall waive the right to a trial. The defendant shall enter a plea of guilty to the charge, with the stipulation that the defendant shall be sentenced to custody of DPS&C to participate in the Offender Rehabilitation and Workforce Development Program, and after successful completion of that program, he may petition the court to be placed on intensive reentry supervision by the court.

Proposed law provides that if the judge determines that the defendant should be enrolled in the workforce development sentencing program, the court shall accept the defendant's guilty plea and sentence the defendant to the custody of DPS&C Offender Rehabilitation and Workforce Development Program under the terms and conditions of the workforce development sentencing program.

Proposed law provides that if the defendant successfully completes the Offender Rehabilitation and Workforce Development Program and successfully completes all other requirements of the workforce development sentencing program, he may petition the court to be placed on intensive reentry supervision by the court. If the defendant does not successfully complete the Offender Rehabilitation and Workforce Development Program, the court shall sentence the defendant to serve the remainder of his sentence in the custody of DPS&C.

Proposed law authorizes the criminal district court for the parish of Orleans or the 41<sup>st</sup> JDC, the 19<sup>th</sup> JDC, and the 22<sup>nd</sup> JDC to establish a reentry division.

Proposed law repeals present law that provides for the Offender Rehabilitation and Workforce Development Program in the criminal district court for the parish of Orleans or the 41<sup>st</sup> JDC.

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

(Amends R.S. 13:5401; adds R.S. 13:5501; repeals R.S. 13:621.41(J) and 1343(C))