

SENATE BILL NO. 157 (Duplicate of House Bill No. 53)

BY SENATOR CHAISSON AND REPRESENTATIVE LAFLEUR AND COAUTHORED
BY SENATOR MARIONNEAUX AND REPRESENTATIVES
DORSEY AND SCALISE

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AN ACT

To amend and reenact R.S. 14:98(D)(1)(a), the introductory paragraph of R.S. 14:98(D)(1)(b), (c), and (d) and (E)(1)(a), the introductory paragraph of R.S. 14:98(E)(1)(b), (c), and (d) and (I), relative to operating a vehicle while intoxicated; to provide with respect to the criminal penalties for third, fourth, and subsequent offenses of operating a vehicle while intoxicated; to provide for the court's discretion in suspending a portion of the criminal sentence for third, fourth, and subsequent offenses; to provide for the court's discretion in ordering an offender to substance abuse treatment and home incarceration; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:98(D)(1)(a), the introductory paragraph of R.S. 14:98(D)(1)(b), (c) and (d) and (E)(1)(a), the introductory paragraph of R.S. 14:98(E)(1)(b), (c) and (d) and (I) are hereby amended and reenacted to read as follows:

§98. Operating a vehicle while intoxicated

* * *

D.(1)(a) On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. Thirty days of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The **court, in its discretion, may suspend all or any part of the** remainder of the sentence of

1 imprisonment, ~~shall be suspended, and the~~ **If any portion of the sentence is**
 2 **suspended, the** offender shall be placed on supervised probation with the
 3 Department of Public Safety and Corrections, division of probation and parole, for
 4 a period of time equal to the remainder of the sentence of imprisonment, which
 5 probation shall commence on the day after the offender's release from custody.

6 (b) ~~The~~ **Any** offender **placed on probation pursuant to the provisions of**
 7 **Subsection D of this Section** shall be required as a condition of probation to submit
 8 to and complete either of the following requirements:

9 * * *

10 (c) In addition to the requirements set forth in Subparagraph (b) of this
 11 Paragraph, ~~the~~ **any** offender **placed on probation pursuant to the provisions of**
 12 **Subsection D of this Section** shall be placed in a home incarceration program
 13 approved by the division of probation and parole for a period of time not less than
 14 six months and not more than the remainder of the sentence of imprisonment.

15 (d) If ~~the~~ **any** offender **placed on probation pursuant to the provisions of**
 16 **Subsection D of this Section** fails to complete the substance abuse treatment
 17 required by the provisions of this Paragraph or violates any other condition of
 18 probation, including conditions of home incarceration, his probation may be revoked,
 19 and he may be ordered to serve the balance of the sentence of imprisonment, without
 20 credit for time served under home incarceration.

21 * * *

22 E.(1)(a) Except as otherwise provided in Subparagraph (4)(b) of this
 23 Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any
 24 other provision of law to the contrary and regardless of whether the fourth offense
 25 occurred before or after an earlier conviction, the offender shall be imprisoned with
 26 or without hard labor for not less than ten years nor more than thirty years and shall
 27 be fined five thousand dollars. Sixty days of the sentence of imprisonment shall be
 28 imposed without benefit of probation, parole, or suspension of sentence. The **court,**
 29 **in its discretion, may suspend all or any part of the** remainder of the sentence of
 30 imprisonment, ~~shall be suspended, and the~~ **If any portion of the sentence is**

1 **suspended, the** offender shall be placed on supervised probation with the
 2 Department of Public Safety and Corrections, division of probation and parole, for
 3 a period of time not to exceed five years, which probation shall commence on the
 4 day after the offender's release from custody.

5 (b) ~~The~~ **Any** offender **placed on probation pursuant to the provisions of**
 6 **Subsection E of this Section** shall be required, as a condition of probation, to submit
 7 to and complete either of the following requirements:

8 * * *

9 (c) In addition to the requirements set forth in Subparagraph (b) of this
 10 Paragraph, ~~the~~ **any** offender **placed on probation pursuant to the provisions of**
 11 **Subsection E of this Section** shall be placed in a home incarceration program
 12 approved by the division of probation and parole for a period of time not less than
 13 one year nor more than the remainder of the term of supervised probation.

14 (d) If ~~the~~ **any** offender **placed on probation pursuant to the provisions of**
 15 **Subsection E of this Section** fails to complete the substance abuse treatment
 16 required by the provisions of this Paragraph or violates any other condition of
 17 probation, including conditions of home incarceration, his probation may be revoked,
 18 and he may be ordered to serve the balance of the sentence of imprisonment, without
 19 credit for time served under home incarceration.

20 * * *

21 I. An offender ordered to participate in a substance abuse program ~~required~~
 22 **by in accordance with** the provisions of this Section shall pay the cost incurred in
 23 participating in the program. Failure to make such payment shall subject the offender
 24 to revocation of probation, unless the court determines that the offender is unable to
 25 pay. If the court determines that the offender is unable to pay, the state shall pay for
 26 the cost of the substance abuse treatment ~~required by this Section~~. An offender
 27 sentenced to home incarceration and to participate in a driver improvement program
 28 shall pay the cost incurred in participating in home incarceration and a driver
 29 improvement program unless the court determines that the offender is unable to pay.
 30 **However, if the court determines that an offender is unable to pay the costs**

