

Regular Session, 2008

HOUSE BILL NO. 218

BY REPRESENTATIVES ELBERT GUILLORY AND HAZEL

CRIMINAL/SENTENCING: Expands the list of crimes for which a criminal sentence may not be suspended

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893(A), relative to suspension  
3 and deferral of criminal sentences and probation in felony cases; to add to the list of  
4 convictions for crimes of violence which are not subject to suspension of sentence;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 893(A) is hereby amended and  
8 reenacted to read as follows:

9 Art. 893. Suspension and deferral of sentence and probation in felony cases

10 A. When it appears that the best interest of the public and of the defendant  
11 will be served, the court, after a first or second conviction of a noncapital felony,  
12 may suspend, in whole or in part, the imposition or execution of either or both  
13 sentences, where suspension is allowed under the law, and in either or both cases  
14 place the defendant on probation under the supervision of the division of probation  
15 and parole. The court shall not suspend the sentence of a conviction for a crime of  
16 violence as defined in R.S. 14:2(B)(1), (2), (3), (4), (5), (9), (10), (11), (12), (13),  
17 (14), (15), (16), (18), (20), (21), (22), (26), (27), ~~or~~ (28), (29), (30), (31), (32), (33),  
18 (34), (35), (36), (38), (39), or (40), or of a second conviction if the second conviction  
19 is for a violation of R.S. 14:73.5, 81.1, or 81.2. The period of probation shall be  
20 specified and shall not be less than one year nor more than five years. The

1 suspended sentence shall be regarded as a sentence for the purpose of granting or  
 2 denying a new trial or appeal. Supervised release as provided for by Chapter 3-D of  
 3 Title 15 of the Louisiana Revised Statutes of 1950 shall not be considered probation  
 4 and shall not be limited by the five-year period for probation provided for by the  
 5 provisions of this Paragraph.

6 \* \* \*

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Elbert Guillory

HB No. 218

**Abstract:** Adds to the list of convictions which are not subject to suspension of sentence.

Present law defines certain crimes as crimes of violence.

Present law further provides that when it appears that the best interest of the public and of the defendant will be served, the court, after a first or second conviction of a noncapital felony, may suspend, in whole or in part, the imposition or execution of either or both sentences, where suspension is allowed under the law, and in either or both cases place the defendant on probation under the supervision of the division of probation and parole.

Present law provides that the court shall not suspend the sentence for a conviction of the following crimes of violence: solicitation for murder, first degree murder, second degree murder, manslaughter, aggravated battery, aggravated rape, forcible rape, simple rape, sexual battery, aggravated sexual battery, intentional exposure to AIDS virus, aggravated kidnapping, second degree kidnapping, aggravated arson, aggravated burglary, armed robbery, first degree robbery, assault by drive-by shooting, aggravated crime against nature, and carjacking.

Proposed law adds to the list of crimes of violence which are not subject to suspension: illegal use of weapons or dangerous instrumentalities, aggravated second degree battery, aggravated assault upon a peace officer with a firearm, aggravated assault with a firearm, armed robbery, use of firearm, aggravated robbery, disarming of a peace officer, second degree cruelty to juveniles, aggravated flight from an officer, terrorism, and aggravated incest.

(Amends C.Cr.P. Art. 893(A))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Removes stalking from the list of crimes of violence which are not subject to suspension.