

ACT 261 - Provides for the reinvestment of savings realized as a result of criminal justice reforms and requires the collection of certain data and information in this regard.

Effective November 1, 2017

- At the end of the 2017-1018 fiscal year, 70% of the annual savings as a result of the reforms to the criminal justice system shall be allocated as follows:
 - o 30% to Department of Public Safety and Corrections to award incentive grants to parishes, judicial districts, and nonprofit community partner organizations to expand evidence-backed prison alternatives and reduce admissions to the state prison system.
 - o 20% to the La. Commission on Law Enforcement and the Administration of Criminal Justice to award competitive grants for victim's services.
 - o Remainder allocated to Department of Public Safety and Corrections for targeted investments in reentry services, community supervision, educational and vocational programming, transitional work programs, and contracts with parish jails and other local facilities that house state inmates to incentivize expansion of recidivism reduction programming and treatment services.
- As to all following fiscal years, 50% of the annual savings will be allocated as outlined above and 20% of the annual savings will be allocated to the department for juvenile justice initiative and programs.

Act 280: Sentencing Reform

Effective November 1, 2017

Suspension of Sentences

Probation shall not be for more than 3 years on convictions for offenses other than those defined as a crime of violence or a sex offense.

- Third felony offenders are eligible for a suspended sentence. The following convictions are exceptions:
 - o Second or third conviction of computer fraud (R.S. 14:73.5)
 - o Second or third conviction of pornography involving a juvenile (R.S. 14:81.1) and molestation of a juvenile or a person with a physical or mental disability (R.S. 14:81.2)
- First time violent offender: The court can suspend the sentence of a conviction for an offense designated in the court minutes as a crime of violence if:
 - o The offense has a maximum prison sentence of 10 years or less; and
 - o Was not committed against a family member or household member or dating partner.
 - o Probation shall not be for more than 5 years.
- DWI – 4th conviction: If the district attorney agrees, a person convicted for the fourth time of driving while intoxicated may be sentenced to drug and alcohol treatment instead of prison. This option would be open only to people who were not offered treatment as an alternative in their previous DWI cases.
 - o Probation cannot be longer than 3 years, unless the court determines that the successful completion of the program may require more time, in which case the court may place the defendant on probation for up to 8 years.
- Extension of Probation: The judge may extend probation only one time and only by a period of 6 months for the purpose monitoring victim restitution after the court finds on the record by clear and convincing evidence that the monitoring would be more effective than any of the following:
 1. Converting unpaid restitution to a civil money judgment.
 2. Referring the unpaid restitution to the office of debt recovery pursuant to R.S. 47:1676.
 3. Any other enforcement mechanism authorized by law.

- If supervision is extended for payment of restitution, then all other conditions of probation during the 6 monthly extension shall be terminated.
- The judge may not extend the period of probation for the purposes of collecting any other unpaid monetary obligation. The judge may refer the unpaid monetary obligation to the office of debt recovery pursuant to La. R.S. 47:1676.
- Earned Compliance Credits: Defendant earns diminution of probation term at rate of 30 days for every full calendar month on probation. When a defendant's total probation term is satisfied through a combination of time served on felony probation and earned compliance credits the DPS shall order the termination of the probation of the defendant.
- Technical violations handled within Probation and Parole: A probation officer is authorized to use administrative sanctions for technical violations. Incarceration shall not be used for single positive drug test, changing residence without permission, associating with other felons, traveling without permission or failure to pay victim restitution for up to three months. Additionally, a person found twice to be drinking alcohol could not be sent back to prison unless he or she was convicted of something related to drunk driving or domestic abuse.
 - The level and type of sanctions that may be imposed by probation officers will be promulgated by the Department of Public Safety and Corrections.
 - Law allows probation officer to rescind compliance credits as an administrative sanction.
 - If a sanction of jail confinement is imposed it shall not exceed 10 days per violation and shall not exceed a total of 60 days per year.
- A Technical violation of probation handled within probation and parole is any violation other than:
 - A felony conviction
 - A conviction of intentional misdemeanor directly affecting the person
 - Arrest for a crime of violence
 - Arrest for a sex offense
 - Arrest for domestic abuse battery or battery on a dating partner
 - Arrest for violation of a protective order issued in favor of a family member/household member/dating partner
 - Possessing a firearm or other prohibited weapon
 - Absconding from the jurisdiction of the court by leaving the state without the prior approval of the court or the probation and parole officer
- Technical violation for purposes of court proceedings: Any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence or a sex offense and had his probation revoked by the court for a technical violation shall be required to serve, without diminution of sentence, as follows:
 - 1st violation, not more than 15 days.
 - 2nd violation, not more than 30 days.
 - 3rd or subsequent violation, not more than 45 days.
 - For custodial substance abuse treatment programs, not more than 90 days.
 - A Technical violation of probation handled by court proceedings:
 - A felony conviction
 - Conviction of an intentional misdemeanor directly affecting the person
 - Conviction for violation of protective order issued to protect a family member/household member/dating partner
 - Absconding by leaving the state without prior approval of the court or probation and parole.
- Probation Violation Credit for time served: In the event of revocation of probation, the defendant shall serve the sentence suspended with credit for time served on probation, unless it is a crime of violence or a sex offense.
- Mandatory Drug Treatment: If the Court suspends a sentence for a conviction of PWID heroin or possession of heroin it may have the defendant undergo an evaluation to determine if he has a substance abuse disorder. If the evaluation (either done by probation and parole, or by defendant) provides the judge with probable cause to believe the defendant has a substance abuse disorder, the court shall order a contradictory hearing for the purpose of making a judicial determination on whether the defendant has a

substance abuse disorder. If after the hearing the court finds the defendant has a substance abuse disorder, the court shall order drug treatment as a condition of the defendant's probation.

- Substance Abuse Probation Program Eligibility: Now includes defendants charged with a violation of a statute of this state relating to the use and possession of or possession with intent to distribute any narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs, or where there is a significant relationship between the use of alcohol or drugs and the crime before the court.
 - Now also includes a first conviction of a crime of violence with a maximum prison sentence of ten years or less that was not committed against a family member or household member or dating partner.
- Drug court eligibility: Now available to a first conviction of a crime of violence with a maximum prison sentence of ten years or less that was not committed against a family member or household member or dating partner.
- Habitual Offender: For a person convicted of some third felonies, judges will have the authority to shorten their post-prison probation period. Judges do not have that discretion under current law. (Act 282)
 - Shorter habitual offender sentences for crimes that are not crimes of violence or sex offenses.
 - Current offense must have occurred within 5 years (no longer 10 years) for the habitual offender law to apply.
 - Court may lower the sentences as outlined by the habitual offender law if it finds it would be constitutionally excessive pursuant to criteria set forth in *State v. Dorthey*.
 - This change will take place Nov. 1 and could apply to people already in prison.

Parole Changes

Effective November 1, 2017

- Automatic Parole without a hearing:
 - Non-violent and non-sex offense: After November 1, 2017, an inmate will be automatically released, without a parole hearing, on administrative parole on the offender's parole eligibility date if he has completed a case plan pursuant to R.S. 15:827(A)(7).
 - Violent and sex offenses: After November 1, 2017 the inmate will be placed on administrative parole without a hearing if he has completed a case plan, the victim has not requested a hearing, the DA has not requested a hearing, the inmate has agreed to conditions of supervision, and the inmate has not committed any major disciplinary offenses in the 12 consecutive months prior to his parole eligibility date.
- Parole eligibility:
 - 1st time non-violent offender: eligible after serving 25% of sentence imposed.
 - First time violent offender: Inmate is eligible for parole after serving 65% of the imposed sentence.
 - Second conviction for a crime of violence or a first or second conviction for a sex offense, will be eligible for parole after serving 75% of the sentence.
 - Not eligible for parole: A person convicted of a third or subsequent time of a crime of violence or a sex offense.
- Earned Compliance credits: Parolee earns diminution of parole term at rate of 30 days for every full calendar month on parole. This does not apply for parolees convicted of a crime of violence or sex offense.
- Parole Administrative Sanctions: For parolees convicted of an offense other than a crime of violence or a sex offense, the parole officer is now authorized to use administrative sanctions to address a technical violation committed by a parolee.
 - Violations at issue are a single positive drug test, changing residence without permission, associating with other felons, traveling without permission or failure to pay victim restitution for up to three months. Additionally, a person found twice to be drinking alcohol could not be sent back to prison unless he or she was convicted of something related to drunk driving or domestic abuse.

- Violations that will revoke parole are a new felony conviction, A conviction of intentional misdemeanor directly affecting the person, a conviction for violation of a protective order issued against the offender to protect a family member or household member or dating partner, being in possession of a firearm or other prohibited weapon, and absconding from the jurisdiction of the court by leaving the state without the prior approval of the court or the probation and parole officer
- Easier to earn 'good time': Prisoners will be allowed more quickly to earn credit toward an earlier release and reduce their sentence. Inmates are now given 13 days of good time credit for every 7 days actually spent in custody. The old law provided 1.5 days of credit for every 1 day spent in custody. Participation in educational programs, drug treatment and work programs will reduce incarceration time for some inmates. This change affects only those people convicted after Oct. 31; no one who is currently incarcerated will benefit.
 - Instant offense is a sex offense, then the inmate will not receive good time diminution of sentence.
 - If the instant offense is for a first time crime of violence, the inmate will receive 1 day of credit for every 3 days actually spent in custody. If the instant offense is for a second time crime of violence, then the inmate will not receive good time diminution of sentence.
- Parole for 1970s conviction for 2nd degree murder
 - A group of 110 to 120 inmates who were convicted of second-degree murder in the 1970s will become eligible for parole once they have served 40 years in prison. Currently, they are serving life sentences without any parole possibility.
 - This change was made because these inmates were originally incarcerated with the expectation that they would have a shot at parole after 20 or 40 years in prison. Conflicting Louisiana laws at that time meant that they ended up with life sentences without parole.
- Juvenile lifers- Act 277
 - Parole eligibility to juveniles indicted after August 1, 2017 after having served 25 years of their sentence and completed certain conditions including:
 - No major disciplinary offenses in the 12 consecutive months prior to parole hearing date.
 - Completion of 180 hours of pre-release programming
 - Substance abuse treatment as applicable
 - GED certification
 - Offender having obtained a low-risk level designation
 - Re-entry program
 - For juveniles indicted prior to August 1, 2017 and sentenced to life in prison without parole will be eligible for parole consideration only after a judicial determination has been made that the person is entitled to parole eligibility and completed the conditions listed in the previous section.
 - The change means people convicted of murder as juveniles will be eligible for parole after 25 years in prison. It applies to people already in prison, as well as those newly convicted.
 - In the case of juveniles convicted of first-degree or second degree murder in the future -- and juvenile lifers already serving sentences for murder -- prosecutors may ask a court to take parole eligibility away by filing a notice of intent to seek a sentence of life imprisonment without the possibility of parole within 180 days after the indictment. A hearing will be held after conviction and prior to sentencing to determine whether the sentence will be imposed with or without parole eligibility.
 - This law takes effect Aug. 1, 2017.
- Medical furlough: Prison inmates who have been deemed permanently disabled or terminally ill may be released to a hospital or nursing home temporarily, even if they have been convicted of murder, beginning Nov. 1. Under the current policies, people convicted of murder may not be released from prison for medical reasons.
 - The new "medical furlough" policy does not mean that released inmates won't be monitored or be held in a secure building. It's also not necessarily permanent; if the person recovers, he or she will be sent back to prison.

ACT 84 – New Crimes involving offenses against a dating partner

Effective August 1, 2018

- **Battery of a dating partner:** the intentional use of force or violence committed by one dating partner upon the person of another dating partner.
 - “Dating partner” means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. “Dating partner” shall not include a casual relationship or ordinary association between persons in a business or social context.
 - Same penalty as domestic abuse battery
 - Just as with domestic abuse battery, this crime has provisions for child endangerment, pregnant victim, strangulation, and offense committed by burning.
- **Aggravated assault upon a dating partner:** an assault with a dangerous weapon committed by one dating partner upon another dating partner.
 - Classified as a crime of violence
 - Same penalty as domestic abuse aggravated assault
 - Child endangerment provision if a child under 13 was present at the time of the commission of the offense.
- **Firearm restriction:** A person convicted of the following offenses are prohibited from possessing a firearm or carrying a concealed firearm:
 - Domestic abuse battery
 - 2nd or subsequent offense of battery of a dating partner
 - Battery of a dating partner when the offense involves strangulation
 - Battery of a dating partner when the offense involves burning

ACT 281 – Penalty Changes in Crimes

Effective August 1, 2017

Together, these bills revise drug penalties to target longer sentences on higher-level drug offenders, consolidate laws on property crimes and raise the value threshold for felony charges, reduce and eliminate certain mandatory minimum sentences, and reduce habitual offender penalties.

- **Simple Arson:** removed the mandatory minimum of 2 years.
- **Communicating of false information of arson:** no more than 15 years, changed from 20 years.
- **Simple burglary of an inhabited dwelling:** removes the requirement that the first year be served without benefit of parole, probation, or suspension of sentence.
- **Home invasion:** punishable by not less than one year nor more than 30 years, changed from “not more than 25 years.
- **Simple criminal damage to property:**
 - Misdemeanor: damage is less than \$1,000
 - Felony: damage amounts to \$1,000 but less than \$50,000
- **Theft**
 - \$25,000 or more: imprisoned at hard labor for not more than 20 years, or may be fined not more than \$50,000, or both
 - \$5,000 or more but less than \$25,000: remains the same
 - \$1,000 or more but less than \$5,000: same penalty
 - Less than \$1,000: same penalty
- **Organized retail theft**

- \$25,000 or more: imprisoned at hard labor for not more than 20 years, or may be fined not more than \$50,000, or both
- \$5,000 or more but less than \$25,000: same penalty
- \$1,000 or more but less than \$5,000: shall be imprisoned with or without hard labor for not more than 5 years, or may be fined not more than \$3,000, or both
- Less than \$1,000: shall be imprisoned for not more than 6 months, or may be fined not more than \$1,000, or both
 - If offender has been convicted of theft 2 or more times previously, upon any subsequent conviction the offender shall be imprisoned, with or without hard labor, for not more than 2 years, or fined not more than \$2,000, or both.
- Theft of a motor vehicle
 - \$25,000 or more: shall be imprisoned at hard labor for not more than 20 years, or may be fined not more than \$50,000 dollars, or both.
 - \$5,000 or more but less than \$25,000: shall be imprisoned, with or without hard labor, for not more than 10 years, or may be fined not more than \$10,000, or both.
 - \$1,000 or more but less than \$5,000: shall be imprisoned, with or without hard labor, for not more than 5 years, or may be fined not more than \$3,000, or both.
 - Less than \$1,000: shall be imprisoned for not more than 6 months, or may be fined not more than \$1,000, or both
 - If offender has been convicted of theft 2 or more times previously, upon any subsequent conviction the offender shall be imprisoned, with or without hard labor, for not more than 2 years, or fined not more than \$2,000, or both.
- Unauthorized use of a movable:
 - Misdemeanor: value of \$1,000 or less
 - Same penalty
 - Felony: value in excess of \$1,000
 - Shall be fined not more than \$5,000, imprisoned, with or without hard labor, for not more than 2 years, or both
- Unauthorized use of a motor vehicle: Imprisonment is now not to exceed 2 years, it was 10 years.
- Refund or access device application fraud; Access device fraud; Illegal possession of stolen things; Receipts and universal product code labels; unlawful acts; issuing worthless checks; residential contractor fraud:
 - \$25,000 or more: imprisoned at hard labor for not more than 20 years, or may be fined not more than \$50,000, or both
 - \$5,000 or more but less than \$25,000: imprisoned, with or without hard labor for not more than 10 years, or may be fined not more than \$10,000, or both
 - \$1,000 or more but less than \$5,000: imprisoned, with or without hard labor for not more than 5 years, or may be fined not more than \$3,000, or both
 - Less than \$1,000: shall be imprisoned for not more than 6 months, or may be fined not more than \$500, or both
 - If offender has been convicted of theft 2 or more times previously, upon any subsequent conviction the offender shall be imprisoned, with or without hard labor, for not more than 2 years, or fined not more than \$2,000, or both.
- Prostitution: Upon third or subsequent conviction, the offender shall be imprisoned for not more than 4 years (removes the mandatory minimum)
- Money laundering; transactions involving proceeds of criminal activity:
 - \$100,000 or more: shall be imprisoned at hard labor for not less than 2 years nor more than 50 years and may be fined not more than \$50,000.
 - The old penalty was imprisonment for not less than 5 years nor more than 99 years.
- Schedule I
 - PWID Marijuana/Synthetic Marijuana
 - Less than 2.5 pounds: 1-10 years (with or without hard labor) and up to \$50,000 fine
 - More than 2.5 pounds: 1-20 years at hard labor and up to \$50,000 fine
 - PWID Heroin in any amount: 5-40 years at hard labor and up to \$50,000 fine
 - All other PWID Schedule I:

- Less than 28 grams: 1-10 years with or without hard labor and up to \$5,000 fine
 - More than 28 grams: 1-20 years at hard labor and up to \$50,000 fine
 - Possession of Heroin
 - Less than 2 grams: 2-4 years with or without hard labor
 - 2 grams-28 grams: 2-10 years with or without hard labor and up to \$5,000 fine
 - Possession of Marijuana
 - 1st (less than 14 grams): 15 days and/or \$300 fine
 - 1st (more than 14 grams): 6 months and/or \$500 fine
 - 2nd offense: 6 months and/or \$1000 fine
 - 3rd offense: Up to 2 years with or without hard labor and up to \$2500 fine
 - 4th offense: up to 8 years with or without hard labor and up to \$5000 fine
 - Possession of Synthetic Marijuana
 - 1st offense: 6 months and or \$500 fine
 - 2nd offense: up to 5 years with or without hard labor and \$250-\$2000 fine
 - 3rd offense: up to 20 years and up to \$5000
- Schedule II
 - PWID (except for methamphetamine, amphetamine, cocaine)
 - Less than 28 grams – 1-10 years, with or without hard labor, and up to \$50,000 fine
 - More than 28 grams – 1-20 years, at hard labor and up to \$50,000 fine
 - PWID Meth, Amphetamine, Cocaine are unchanged
 - Possession
 - Less than 2 grams – up to 2 years with or without hard labor and up to \$5000 fine
 - 2 grams-28 grams – 1-5 years, with or without hard labor, and up to \$5000 fine
- Schedule III
 - PWID: 1-10 years, with or without hard labor, and up to \$15,000 fine
 - Possession: 1-5 years, with or without hard labor, and up to \$5,000 fine
- Schedule IV:
 - PWID Flunitrazepam: 1-20 years at hard labor and up to \$50,000 fine
 - Possession Flunitrazepam: 1-10 years with or without hard labor and up to \$5,000 fine
 - All other schedule IV PWID: 1-10 years with or without hard labor and up to \$15,000 fine
 - All other schedule IV Possession: 1-5 years with or without hard labor and up to \$5,000 fine
- Schedule V:
 - PWID: 1-5 years with or without hard labor and up to \$5,000 fine
 - Possession: 1-5 years with or without hard labor and up to \$5,000 fine

ACT 260: Fines, Fees, and Restitution

Effective August 1, 2018

A judge may waive or suspend fees, fines and victim restitution payments for people who are on probation and not able to afford them. In some case, the person would be placed on a monthly repayment plan for outstanding fines or fees.

Court determination: Prior to ordering the imposition or enforcement of any financial obligations the court shall determine whether payment in full of the aggregate amount of all the financial obligations to be imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents. The defendant may not waive this judicial determination.

If the court finds a substantial financial hardship it shall do either of the following:

1. Waive all or any portion of the financial obligations.
2. Order a payment plan that requires the defendant to make a monthly payment.
 - a. Amount of Monthly Payment: Shall equal defendant's gross daily income for an 8 hour work day.
 - b. If restitution ordered, half of the monthly payment shall be distributed towards restitution obligation.
 - c. Unemployment, homelessness, other hardship during payment plan: the court or defendant's probation or parole officer may impose a payment alternative such as substance abuse treatment, education, job training, or community service.

Motion to Reevaluate Payment Plan: Defendant or his attorney may file motion and court can reevaluate the defendant's current circumstances and determine, in the same manner as the initial determination. Court may waive or modify the defendant's financial obligation, or recalculate the amount of monthly payment.

Forgiveness: Outstanding financial obligations are forgiven and considered paid-in-full if the defendant makes consistent monthly payments for either 12 consecutive months, or consecutive monthly payments for half of the defendant's term of supervision, whichever is longer.

Compliance enforcement: If defendant fails to make a payment, then the court shall serve the defendant with a citation for a rule to show cause as to why the defendant should not be found in contempt for failure to comply with the payment plan. Citation shall include the language provided in Article 895.5(2).