

ACT No. 911

HOUSE BILL NO. 191

BY REPRESENTATIVES PERRY, ANDERS, ARNOLD, BOBBY BADON, BALDONE, BARRAS, BILLIOT, BROSSETT, BURFORD, HENRY BURNS, TIM BURNS, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, DOERGE, DOVE, HARDY, HENDERSON, HENRY, HINES, HOFFMANN, HUTTER, JOHNSON, KATZ, LABRUZZO, LAMBERT, LEGER, LIGI, LORUSSO, MILLS, MONICA, NOWLIN, PEARSON, PUGH, RICHARD, ROBIDEAUX, SCHRODER, SIMON, SMILEY, JANE SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIBAUT, THIERRY, WHITE, AND WILLIAMS AND SENATORS ALARIO, AMEDEE, APPEL, BROOME, CROWE, DUPLESSIS, HEITMEIER, KOSTELKA, LONG, MARTINY, MICHOT, MOUNT, SHAW, AND THOMPSON

1 AN ACT

2 To amend and reenact R.S. 15:529.1(A), (C), (D), and (E), relative to the habitual offender
3 law; to provide for increased penalties for multiple sex offenses; to repeal statutory
4 language authorizing the use of juvenile adjudications of delinquency to enhance
5 penalty provisions for felony offenses; to provide for technical changes; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:529.1(A), (C), (D), and (E) are hereby amended and reenacted to
9 read as follows:

10 §529.1. Sentences for second and subsequent offenses; certificate of warden or clerk
11 of court in the state of Louisiana as evidence

12 A.~~(1)~~ Any person who, after having been convicted within this state of a
13 felony ~~or adjudicated a delinquent under Title VIII of the Louisiana Children's Code~~
14 ~~for the commission of a felony-grade violation of either the Louisiana Controlled~~
15 ~~Dangerous Substances Law involving the manufacture, distribution, or possession~~
16 ~~with intent to distribute a controlled dangerous substance or a crime of violence as~~
17 ~~listed in Paragraph (2) of this Subsection~~, or who, after having been convicted under
18 the laws of any other state or of the United States, or any foreign government of a
19 crime which, if committed in this state would be a felony, thereafter commits any

1 subsequent felony within this state, upon conviction of said felony, shall be punished
 2 as follows:

3 ~~(a)~~(1) If the second felony is such that upon a first conviction the offender
 4 would be punishable by imprisonment for any term less than his natural life, then the
 5 sentence to imprisonment shall be for a determinate term not less than one-half the
 6 longest term and not more than twice the longest term prescribed for a first
 7 conviction;

8 (2)(a) If the second felony and the prior felony are sex offenses as defined
 9 in R.S. 15:541, or the prior felony would be a sex offense as defined in R.S. 15:541,
 10 except it occurred prior to June 18, 1992, or the conviction was obtained under the
 11 laws of any other state, the United States, or any foreign government, the person
 12 shall be sentenced to imprisonment at hard labor for a determinate term not less than
 13 two-thirds of the longest possible sentence for the conviction and not more than three
 14 times the longest possible sentence prescribed for a first conviction, without benefit
 15 of probation, parole, or suspension of sentence.

16 (b) If the second felony and the prior felony are sex offenses as defined in
 17 R.S. 15:541, or the prior felony would be a sex offense as defined in R.S.15:541,
 18 except it occurred prior to June 18, 1992, or the conviction was obtained under the
 19 laws of any other state, the United States, or any foreign government, and the victims
 20 of the previous offense and the instant offense were under the age of thirteen years
 21 at the time of the commission of the offense or any part thereof, the person shall be
 22 imprisoned for the remainder of his natural life, without benefit of parole, probation,
 23 or suspension of sentence.

24 ~~(b)~~(3) If the third felony is such that upon a first conviction, the offender
 25 would be punishable by imprisonment for any term less than his natural life then:

26 ~~(i)~~(a) The person shall be sentenced to imprisonment for a determinate term
 27 not less than two-thirds of the longest possible sentence for the conviction and not
 28 more than twice the longest possible sentence prescribed for a first conviction; or

29 ~~(ii)~~(b) If the third felony and the two prior felonies are felonies defined as
 30 a crime of violence under R.S. 14:2(B), a sex offense as defined in R.S. 15:540 et

1 seq. when the victim is under the age of eighteen at the time of commission of the
 2 offense, or as a violation of the Uniform Controlled Dangerous Substances Law
 3 punishable by imprisonment for ten years or more, or any other crimes punishable
 4 by imprisonment for twelve years or more, or any combination of such crimes, the
 5 person shall be imprisoned for the remainder of his natural life, without benefit of
 6 parole, probation, or suspension of sentence.

7 ~~(e)~~(4) If the fourth or subsequent felony is such that, upon a first conviction
 8 the offender would be punishable by imprisonment for any term less than his natural
 9 life then:

10 ~~(i)~~(a) The person shall be sentenced to imprisonment for the fourth or
 11 subsequent felony for a determinate term not less than the longest prescribed for a
 12 first conviction but in no event less than twenty years and not more than his natural
 13 life; or

14 ~~(ii)~~ (b) If the fourth felony and two of the prior felonies are felonies defined
 15 as a crime of violence under R.S. 14:2(B), a sex offense as defined in R.S. 15:540
 16 et seq. when the victim is under the age of eighteen at the time of commission of the
 17 offense, or as a violation of the Uniform Controlled Dangerous Substances Law
 18 punishable by imprisonment for ten years or more, or of any other crime punishable
 19 by imprisonment for twelve years or more, or any combination of such crimes, the
 20 person shall be imprisoned for the remainder of his natural life, without benefit of
 21 parole, probation, or suspension of sentence.

22 ~~(2)(a) Attempted first degree murder.~~

23 ~~(b) Attempted second degree murder.~~

24 ~~(c) Manslaughter.~~

25 ~~(d) Armed robbery.~~

26 ~~(e) Forcible rape.~~

27 ~~(f) Simple rape.~~

28 ~~(g) Second degree kidnapping.~~

29 ~~(h) A second or subsequent aggravated battery.~~

30 ~~(i) A second or subsequent aggravated burglary.~~

1 allegation of the information or refuses to answer or remains silent, his plea or the
 2 fact of his silence shall be entered on the record and he shall be given fifteen days
 3 to file particular objections to the information, as provided in Subparagraph (b) of
 4 this Paragraph. The judge shall fix a day to inquire whether the offender has been
 5 convicted of a prior felony or felonies ~~or adjudicated a delinquent for an offense or~~
 6 ~~offenses specified above~~ as set forth in the information.

7 (b) Except as otherwise provided in this Subsection, the district attorney
 8 shall have the burden of proof beyond a reasonable doubt on any issue of fact. The
 9 presumption of regularity of judgment shall be sufficient to meet the original burden
 10 of proof. If the person claims that any conviction ~~or adjudication of delinquency~~
 11 alleged is invalid, he shall file a written response to the information. A copy of the
 12 response shall be served upon the prosecutor. A person claiming that a conviction
 13 ~~or adjudication of delinquency~~ alleged in the information was obtained in violation
 14 of the Constitutions of Louisiana or of the United States shall set forth his claim, and
 15 the factual basis therefor, with particularity in his response to the information. The
 16 person shall have the burden of proof, by a preponderance of the evidence, on any
 17 issue of fact raised by the response. Any challenge to a previous conviction ~~or~~
 18 ~~adjudication of delinquency~~ which is not made before sentence is imposed may not
 19 thereafter be raised to attack the sentence.

20 (2) Following a contradictory hearing, the court shall find that the defendant
 21 is:

22 (a) A second offender upon proof of a prior felony conviction ~~or adjudication~~
 23 ~~of delinquency as authorized in Subsection A~~.

24 (b) A third offender, upon proof of two prior felony convictions ~~or~~
 25 ~~adjudications of delinquency as authorized in Subsection A, or any combination~~
 26 ~~thereof~~.

27 (c) A fourth offender, upon proof of three or more prior felony convictions
 28 ~~or adjudications of delinquency as authorized in Subsection A, or any combination~~
 29 ~~thereof~~.

