

1 Section 1. Code of Criminal Procedure Articles 880 and 892(B)(1)(introductory
2 paragraph) are hereby amended and reenacted and Code of Criminal Procedure 892(B)(1)(d)
3 is hereby enacted to read as follows:

4 Art. 880. Credit for prior custody; limitations

5 A. A defendant shall receive credit toward service of his sentence for time
6 spent in actual custody prior to the imposition of sentence. ~~Under the provisions of~~
7 ~~this Article, no defendant shall receive more than thirty days of jail credit for any~~
8 ~~calendar month while serving a term for consecutive sentences.~~

9 B. A defendant shall receive credit only for time in actual custody once
10 during any calendar month when consecutive sentences are imposed.

11 C. No defendant shall receive credit for any time served prior to the
12 commission of the crime.

13 D. A defendant shall not receive credit for time served under home
14 incarceration.

15 E. A defendant shall not receive overlapping jail credit, except in the
16 instance of concurrent sentences and then only for time spent in jail on the instant
17 felony.

18 * * *

19 Art. 892. Post-sentence statement by sheriff; accompanying documents

20 * * *

21 B.(1) When a sheriff's statement is required ~~as set forth above~~ pursuant to
22 Paragraph A of this Article, the clerk of court shall also prepare the following
23 documents:

24 * * *

25 (d) A copy of the Uniform Sentencing Commitment Order in the format
26 authorized by the Louisiana Supreme Court which shall include the name and
27 address of the judge, the district attorney, and the defense attorney who participated
28 in the sentencing trial.

29 * * *

1 Section 2. R.S. 15:571.3(A)(1), (B)(1)(a), (2), and (3), and (C), 571.4, 571.5(A),
2 574.9(E), 828(B), and 833.1(E) are hereby amended and reenacted to read as follows:

3 §571.3. Diminution of sentence for good behavior

4 A.(1) Every prisoner in a parish prison convicted of an offense and sentenced
5 to imprisonment without hard labor, except a prisoner convicted a second time of a
6 crime of violence as defined by R.S. 14:2(B) ~~or when the sentencing court has denied~~
7 ~~or conditioned eligibility for "good time" as provided in R.S. 15:537~~, may earn a
8 diminution of sentence, to be known as "good time", by good behavior and
9 performance of work or self-improvement activities, or both. The amount of
10 diminution of sentence allowed under this Paragraph shall be at the rate of thirty days
11 for every thirty days in actual custody, except for a prisoner convicted a first time of
12 a crime of violence, as defined in R.S. 14:2(B), who shall earn diminution of
13 sentence at the rate of three days for every seventeen days in actual custody held on
14 the imposed sentence, including in either case time spent in custody with good
15 behavior prior to sentence for the particular sentence imposed ~~which the prisoner is~~
16 ~~given credit~~ as authorized by Code of Criminal Procedure Article 880.

17 * * *

18 B.(1)(a) ~~Except as provided in Paragraph (B)(2) of this Section~~ Unless
19 otherwise prohibited, every inmate in the custody of the department who has been
20 convicted of a felony, except an inmate convicted a second time of a crime of
21 violence as defined by R.S. 14:2(B), and sentenced to imprisonment for a stated
22 number of years or months, ~~or when the sentencing court has denied or conditioned~~
23 ~~eligibility for "good time" as provided in R.S. 15:537~~, may earn, in lieu of incentive
24 wages, a diminution of sentence by good behavior and performance of work or
25 self-improvement activities, or both, to be known as "good time". Those inmates
26 serving life sentences will be credited with good time earned which will be applied
27 toward diminution of their sentences at such time as the life sentences might be
28 commuted to a specific number of years. The secretary shall establish regulations
29 for awarding and recording of good time and shall determine when good time has

- 1 (c) Forcible rape (R.S. 14:42.1).
- 2 (d) Simple rape (R.S. 14:43).
- 3 (e) Sexual battery (R.S. 14:43.1).
- 4 (f) Second degree sexual battery (R.S. 14:43.2).
- 5 (g) Oral sexual battery (R.S. 14:43.3).
- 6 (h) Intentional exposure to AIDS virus (R.S. 14:43.5).
- 7 (i) Incest (R.S. 14:78).
- 8 (j) Aggravated incest (R.S. 14:78.1).
- 9 (k) Felony carnal knowledge of a juvenile (R.S. 14:80).
- 10 (l) Indecent behavior with juveniles (R.S. 14:81).
- 11 (m) Pornography involving juvenile (R.S. 14:81.1).
- 12 (n) Molestation of a juvenile (R.S. 14:81.2).
- 13 (o) Computer-aided solicitation of a minor (R.S. 14:81.3).
- 14 (p) Crime against nature (R.S. 14:89(A)).
- 15 (q) Aggravated crime against nature (R.S. 14:89.1).
- 16 (r) Sexual battery of the infirm (R.S. 14:93.5).
- 17 (4) Diminution of sentence shall not be allowed an inmate in the custody of
- 18 the Department of Public Safety and Corrections if the inmate has been convicted
- 19 one or more times under the laws of this state, any other state, or the federal
- 20 government of any one or more of the following crimes or attempts to commit any
- 21 of the following crimes:
- 22 (a) Felony carnal knowledge of a juvenile.
- 23 (b) Indecent behavior with juveniles.
- 24 (c) Molestation of a juvenile.
- 25 (d) Incest.
- 26 (e) Aggravated incest.
- 27 C. Diminution of sentence shall not be allowed an inmate in the custody of
- 28 the Department of Public Safety and Corrections if any of the following apply:

- 1 ~~(1) The inmate has been convicted one or more times under the laws of this~~
2 ~~state of any one or more of the following crimes:~~
- 3 ~~(a) First degree murder.~~
 - 4 ~~(b) Second degree murder.~~
 - 5 ~~(c) Manslaughter.~~
 - 6 ~~(d) Aggravated battery.~~
 - 7 ~~(e) Aggravated rape.~~
 - 8 ~~(f) Forcible rape.~~
 - 9 ~~(g) Simple rape.~~
 - 10 ~~(h) Aggravated kidnapping.~~
 - 11 ~~(i) Aggravated burglary.~~
 - 12 ~~(j) Simple burglary.~~
 - 13 ~~(k) Armed robbery.~~
 - 14 ~~(l) Simple robbery.~~
 - 15 ~~(m) A violation of R.S. 14:67 which is a felony.~~
 - 16 ~~(n) A violation of R.S. 14:95 which is a felony.~~
 - 17 ~~(o) A violation of R.S. 14:95.1 which is a felony.~~
 - 18 ~~(p) A violation of Chapter 9 of Title 40 of the Louisiana Revised Statutes of~~
19 ~~1950 which is a felony.~~
 - 20 ~~(q) Any crime of violence as defined by R.S. 14:2(B).~~
 - 21 ~~(r) Looting during the existence of a state of emergency;~~
 - 22 ~~(s) A violation of the Louisiana Controlled Dangerous Substances Law~~
23 ~~which is a felony; or~~
 - 24 ~~(t) Any felony which is defined as an attempt to commit one of the crimes~~
25 ~~enumerated in Subparagraphs (a) through (s) of this Paragraph, and~~
- 26 ~~(2)~~(1) The inmate has been sentenced as an habitual offender under the
27 Habitual Offender Law as set forth in R.S. 15:529.1, ~~and,~~
- 28 ~~(3) The inmate's last conviction for the purposes of the Habitual Offender~~
29 ~~Law, was for a crime: (a) Committed during the period beginning September 16,~~

1 of the projected good time parole supervision date earned on that portion of his
2 sentence served prior to his escape.

3 (2) An inmate who has been returned to the custody of the department
4 because of a violation of the terms of parole granted by the Board of Parole shall
5 forfeit all good time earned or credits toward the reduction of the projected good
6 time parole supervision date on that portion of the sentence served prior to the
7 granting of parole.

8 (3) An inmate who is sentenced to the custody of the department and who
9 commits a battery on an employee of the Department of Public Safety and
10 Corrections or any police officer as defined in R.S. 14:34.2 may forfeit good time
11 earned or credits toward the reduction of the projected good time parole supervision
12 date on that portion of the sentence served prior to committing the battery of such
13 person, up to a maximum of one hundred eighty days.

14 (4) In all other cases, forfeiture of good time or credits toward the reduction
15 of the projected good time parole supervision date may include up to a maximum of
16 one hundred eighty days.

17 C. The secretary may promulgate rules and regulations regarding the
18 restoration of previously forfeited good time for disciplinary violations or credits
19 toward the reduction of the projected good time parole supervision date. In order to
20 be eligible for restoration of good time or credits toward the reduction of the
21 projected good time parole supervision date which has been previously forfeited, the
22 inmate shall not have been found guilty of any disciplinary violation for a
23 consecutive twenty-four month period. Restoration of previously forfeited good time
24 or credits toward the reduction of the projected good time parole supervision date
25 shall not exceed ~~five hundred forty~~ two hundred fifty days.

26 D. The department shall adopt rules to govern the imposition of the forfeiture
27 of good time or credits toward the reduction of the projected good time parole
28 supervision date for the causes enumerated in Subsection B of this Section and the
29 restoration of good time or credits toward the reduction of the projected good time

1 parole supervision date under the conditions enumerated in Subsection C of this
 2 Section. The rules shall be adopted in accordance with the Administrative Procedure
 3 Act. The rules shall provide that an inmate has the right to a hearing on any charges
 4 which are punishable by the forfeiture of good time or credits toward the reduction
 5 of the projected good time parole supervision date and that the inmate may waive
 6 that right. The rules shall be consistent with and shall implement the provisions of
 7 the constitutional, statutory, and jurisprudential requirements which govern the
 8 forfeiture of good time or credits toward the reduction of the projected good time
 9 parole supervision date.

10 §571.5. Supervision upon release after diminution of sentence for good behavior;
 11 conditions of release; revocation

12 A.~~(1)~~ When a prisoner committed to the Department of Public Safety and
 13 Corrections is released because of diminution of sentence pursuant to this Part, he
 14 shall be released as if released on parole.

15 ~~(2) At least three months prior to the anticipated release due to diminution~~
 16 ~~of sentence, the secretary of the department shall notify the parole board and provide~~
 17 ~~such information as is necessary to allow the board to establish such conditions as~~
 18 ~~provided in R.S. 15:574.4(H) as may be reasonably necessary to facilitate~~
 19 ~~supervision. If diminution of sentence is not prohibited by R.S. 15:571.3(C)(1) and~~
 20 ~~the sentence is for a sexual offense as enumerated in R.S. 15:574.4(H)(2), then the~~
 21 ~~provisions of R.S. 15:574.4(H)(2)(a) and (b) and (3) apply.~~

22 * * *

23 §574.9. Revocation of parole for violation of condition; board panels; return to
 24 custody hearing; duration of reimprisonment and reparole after revocation;
 25 credit for time served; revocation for a technical violation

26 * * *

27 E. When the parole of a parolee has been revoked by the board for the
 28 violation of the conditions of parole, the parolee shall be returned to the physical
 29 custody of the Department of Public Safety and Corrections, corrections services,

1 and serve the remainder of his sentence as of the date of his release on parole, ~~subject~~
 2 ~~to consideration by the board of any commutation of the sentence~~, and any credit for
 3 time served for good behavior while on parole. The parolee shall be given credit for
 4 time served prior to the revocation hearing ~~whether such time is~~ for time served in
 5 actual custody while being held for a parole violation in a local detention facility,
 6 state institution, or out-of-state institution pursuant to Code of Criminal Procedure
 7 Article 880.

8 * * *

9 §828. Classification and treatment programs; qualified sex offender programs;
 10 reports; ~~additional good time~~ earned credits

11 * * *

12 B. The secretary shall adopt rules and regulations for local jail facilities and
 13 state correctional institutions to encourage voluntary participation by inmates in
 14 certified treatment and rehabilitation programs, including but not limited to basic
 15 education, job skills training, values development and faith-based initiatives,
 16 therapeutic programs, and treatment programs. When funds are provided, such
 17 educational programs shall be available at each penal or correctional institution
 18 under the jurisdiction of the department. The rules and regulations may include
 19 provisions for furloughs or the awarding of ~~good time, in addition to the provisions~~
 20 ~~of R.S. 15:571.3(B), for offenders who are otherwise eligible~~ earned credits toward
 21 the reduction of the projected good time parole supervision date. Offenders may be
 22 awarded up to ~~one hundred eighty ninety days good time~~ toward the reduction of the
 23 projected good time parole supervision date for satisfactory participation in each
 24 approved program pursuant to the provisions of this Subsection, but no offender shall
 25 receive more than ~~five hundred forty days total good time~~ two hundred fifty days
 26 total earned credits toward the reduction of the projected good time parole
 27 supervision date for program participation.

28 * * *

1 §833.1. Community resource centers; participation; conditions

2 * * *

3 E. Inmates participating in the community resource center shall be eligible
4 to earn a maximum of thirty days of good time earned credits toward the reduction
5 of the projected good time parole supervision date in addition to that otherwise
6 authorized by law for every thirty days of service in this program.

7 * * *

8 Section 3. Code of Criminal Procedure Article 890.1 and R.S. 15:571.6 and 571.8
9 are hereby repealed in their entirety.

10 Section 4. The provisions of this Act shall only apply to those persons sentenced on
11 or after August 15, 2011.

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)]

Lopinto

HB No. 414

Abstract: Amends provisions of law governing diminution of sentence (good time).

Present law provides for the awarding of credit for prior custody prior to the imposition of sentence at a maximum of 30 days of credit for any calendar month while serving consecutive sentences.

Proposed law changes present law as follows:

- (1) A defendant shall receive credit only for time in actual custody once during any calendar month when consecutive sentences are imposed.
- (2) No defendant shall receive credit for any time served prior to the commission of the crime.
- (3) A defendant shall not receive credit for time served under home incarceration.
- (4) A defendant shall not receive overlapping jail credit, except in the instance of concurrent sentences and then only for time spent in jail on the instant felony.

Proposed law provides that when a sheriff's post-sentence statement is required, the clerk of court shall include in the accompanying documents a copy of the Uniform Sentencing Commitment Order in the format authorized by the La. Supreme Court which shall include the name and address of the judge, the district attorney, and the defense attorney who participated in the sentencing trial.

Present law provides for inmates to earn diminution of sentence (good time) to reduce the amount of time they are incarcerated at a rate of 35 days for every 30 days in actual custody.

Proposed law changes this rate to one and one half day for every one day in actual custody.

Present law provides for a rate of diminution of sentence for a first time offender convicted of a crime of violence of three days for every 17 days in actual custody.

Proposed law retains present law.

Proposed law provides that the awarding of credit for time served will be governed by the provisions of C.Cr.P. Art. 880.

Proposed law reorganizes present law.

Present law provides that restoration of forfeited good time shall not exceed 540 days.

Proposed law changes present law to provide for a maximum of 250 days.

Proposed law applies to those persons sentenced on or after Aug. 15, 2011.

(Amends C.Cr.P. Art. 880 and 892(B)(1)(intro. para.) and R.S. 15:571.3(A)(1), (B)(1)(a), (2), and (3), and (C), 571.4, 571.5(A), 574.9(E), 828(B), and 833.1(E); Adds C.Cr.P. Art. 892(B)(1)(d) and R.S. 15:571.3(B)(4); Repeals C.Cr.P. Art. 890.1 and R.S. 15:571.6 and 571.8)