

2016 Regular Session

HOUSE BILL NO. 317

BY REPRESENTATIVE IVEY

CRIMINAL/PROCEDURE: Increases penalty provisions for certain crimes when a firearm is possessed, discharged, or used

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893.3(A), (B), (C), (D), and
3 (E)(1)(a), relative to sentencing for certain crimes when a firearm is possessed, used,
4 or discharged; to provide for increased penalties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 893.3(A), (B), (C), (D), and (E)(1)(a)
7 are hereby amended and reenacted to read as follows:

8 Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in
9 which firearm was possessed, used, or discharged

10 A. If the court finds by clear and convincing evidence that the offender
11 actually possessed a firearm during the commission of the felony or specifically
12 enumerated misdemeanor for which he was convicted, the court shall impose a term
13 of imprisonment of ~~two~~ five years; however, if the maximum sentence for the
14 underlying offense is less than ~~two~~ five years, the court shall impose the maximum
15 sentence.

16 B. If the court finds by clear and convincing evidence that the offender
17 actually used a firearm in the commission of the felony or specifically enumerated
18 misdemeanor for which he was convicted, the court shall impose a term of
19 imprisonment of ~~five~~ ten years; however, if the maximum sentence for the

1 underlying offense is less than ~~five~~ ten years, the court shall impose the maximum
2 sentence.

3 C. If the court finds by clear and convincing evidence that the offender
4 actually discharged a firearm in the commission of the felony or specifically
5 enumerated misdemeanor for which he was convicted, the court shall impose a term
6 of imprisonment of ~~ten~~ fifteen years; however, if the maximum sentence for the
7 underlying offense is less than ~~ten~~ fifteen years, the court shall impose the maximum
8 sentence.

9 D. If the court finds by clear and convincing evidence that a firearm was
10 actually used or discharged by the defendant during the commission of the felony for
11 which he was convicted, and thereby caused bodily injury, the court shall impose a
12 term of imprisonment of ~~fifteen~~ twenty years; however, if the maximum sentence for
13 the underlying felony is less than ~~fifteen~~ twenty years, the court shall impose the
14 maximum sentence.

15 E.(1)(a) Notwithstanding any other provision of law to the contrary, if the
16 defendant commits a felony with a firearm as provided for in this Article, and the
17 crime is considered a violent felony as defined in this Paragraph, the court shall
18 impose a minimum term of imprisonment of ~~ten~~ fifteen years. In addition, if the
19 firearm is discharged during the commission of such a violent felony, the court shall
20 impose a minimum term of imprisonment of ~~twenty~~ twenty-five years.

21 * * *

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)]

HB 317 Original 2016 Regular Session Ivey

Abstract: Increases penalties for certain offenses when a firearm is possessed, discharged, or used.

Present law provides additional penalties for criminal certain offenses when a firearm is possessed, discharged, or used.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

Present law requires that the district attorney file a motion to invoke these additional penalties and requires a contradictory hearing. Requires the district attorney to establish by clear and convincing evidence that a firearm was possessed, discharged, or used.

Present law provides for additional penalties of two years if the firearm was possessed, five years if the firearm was used, 10 years if the firearm was discharged, 15 years if the firearm was discharged and caused injury, and 20 years if the felony was a violent felony.

Present law provides that if the additional penalty exceeds the maximum penalty of the underlying offense, then the court shall impose the maximum sentence.

Proposed law increases the additional penalty to five years if the firearm was possessed, 10 years if the firearm was used, 15 years if the firearm was discharged, 20 years if the firearm caused bodily injury, and 25 years if it was a violent felony.

(Amends C.Cr.P. Art. 893.3(A), (B), (C), (D), and (E)(1)(a))