
DIGEST

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HB 111 Reengrossed

2018 Regular Session

Mack

Abstract: Provides relative to the defendant's payment of certain financial obligations designated as restitution.

Present law (C.Cr.P. Art. 875.1, as enacted by Act No. 260 of the 2017 R.S., effective Aug. 1, 2018) provides that, beginning Aug. 1, 2018, prior to ordering the imposition of any financial obligation, the court shall determine whether payment in full of the aggregate amount of all the financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents.

Present law further provides for the following in this regard:

- (1) If the court determines that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, the court shall either waive all or any portion of the financial obligation or order a payment plan that requires the defendant to make a monthly payment to fulfill the obligations.
- (2) Provides that the defendant's outstanding financial obligations may be forgiven and considered paid-in-full if the defendant makes consistent monthly payments for either 12 consecutive months or consistent monthly payments for half of the defendant's term of supervision, whichever is longer.

Proposed law amends present law (C.Cr.P. Art. 875.1, as enacted by Act No. 260 of the 2017 R.S., effective Aug. 1, 2018) to provide that the portion of the defendant's financial obligations that is designated as restitution due to a victim shall not be waived or forgiven pursuant to present law.

Finally, proposed law provides if restitution is owed as a condition of probation, the amount owed shall be reduced to a civil money judgement that may be enforced in the same manner as provided for the execution of judgments in the La. Code of Civil Procedure. A form for the judgment shall be submitted by the district attorney to the sentencing judge for signature. The clerk shall record the judgment without charge to the person to whom the restitution is owed, and notice of the judgment shall be sent by the clerk to the last known address of the person to whom the restitution was ordered to be paid.

Proposed law delays the effective date of Act No. 260 of the 2017 R.S. until Aug. 1, 2019.

(Amends C.Cr.P. Art. 875.1)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Delay the effective date of Act No. 260 of the 2017 R.S. until Aug. 1, 2019.
2. Amend provisions relative to any outstanding balance of unpaid restitution to provide for the following:
 - (a) If restitution is ordered as a condition of probation, require the entire amount of restitution to be reduced to a civil money judgement in favor of the person to whom restitution is owed instead of reducing to a civil money judgment the balance owed at the end of the defendant's term of supervision.
 - (b) Require the district attorney to submit a form for the civil money judgment to the sentencing judge for signature.
 - (c) Require the clerk of court to record the judgment without charge to the person to whom restitution is to be paid.