

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 70

2018 Regular Session

Mizell

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

CRIMINAL PROCEDURE. Provides for permissible warrantless searches of residences of defendants on probation or parole. (8/1/18)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Clarifies language regarding searches by officers subsequently assigned or directed to supervise the parolee whether the assignment or directive is temporary or permanent.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

SB 70 Reengrossed

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Present law provides that when the court places a defendant on probation, it is to require the defendant to refrain from criminal conduct and to pay a supervision fee, and it may impose any specific conditions reasonably related to his rehabilitation, including that the defendant agrees to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity.

Proposed law provides that these searches may also be conducted by any probation or parole officer who is subsequently assigned or directed by the Department of Public Safety and Corrections (DPS&C) to supervise the person, whether the assignment or directive is temporary or permanent.

Present law provides relative to decisions of the committee on parole and the nature, order, and conditions of parole. Present law further provides that one condition that the committee on parole may impose is that the parolee must agree to visits at his residence or place of employment by the probation and parole officer at any time, and to searches of his person, property, residence, or vehicle, when reasonable suspicion exists that criminal activity has been engaged in while on parole.

Proposed law defines "probation and parole officer" as either the probation and parole officer originally assigned to the parolee or any probation and parole officer who is subsequently assigned or directed by DPS&C to supervise the parolee, whether or not such assignment is temporary or permanent.

Proposed law otherwise retains present law.

Proposed law provides that the provisions of proposed law are intended to legislatively overrule the La. Supreme Court's decision in *State of Louisiana v. Brignac*, 17-448, (La. 10/18/17), 234 So.3d 46, to the extent that the court held that a warrantless search of a probationer's residence violates the provisions of present law (C.Cr.P. Art. 895(A)(13)(a)) relative to a warrantless search of a probationer's residence when the search is not conducted by the probation officer assigned to the probationer by the Dept. of Public Safety and Corrections.

Effective Aug. 1, 2018.

(Amends C.Cr.P. Art. 895(A)(13)(a); Adds R.S. 15:574.4.2(I))

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