

2020 Regular Session

HOUSE BILL NO. 401

BY REPRESENTATIVE DWIGHT

CRIMINAL/SENTENCING: Provides relative to post-sentence statements, documents, and procedures

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact Code of Criminal Procedure Article 892(B)(2) and (C) and to enact Code of Criminal Procedure Article 892(E), relative to post-sentence statements and documents; to provide relative to procedures with respect to post-sentence statements and documents; to provide relative to the duty of the clerk of court with respect to post-sentence statements by the sheriff; to provide for the time period within which certain documents are provided to the sheriff by the clerk; to provide relative to the documentation required to accompany a defendant upon admittance to certain institutions; to provide relative to the liability of the Department of Public Safety and Corrections in ceratin cases; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 892(B)(2) and (C) are hereby amended and reenacted and Code of Criminal Procedure Article 892(E) is hereby enacted to read as follows:

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

* * *

B.

* * *

(2) The clerk shall retain a copy of the statement and documents and, no later than fifteen days after the date of sentencing absent extraordinary circumstances,

1 shall send the original to the sheriff of the parish to which the defendant has been
2 sentenced, where they shall be preserved. The documents, or copies thereof, shall
3 be made available to the governor, the pardon board, and the parole committee.

4 C. ~~All~~ When a defendant is transferred to a penal institution, mental
5 institution, or mental hospital, all statements and documents required by this Article
6 ~~shall physically accompany any defendant when said defendant is transferred to a~~
7 ~~penal institution or a mental institution or mental hospital. Said documents and~~
8 ~~statements~~ shall be tendered to the officer in charge of the institution at the time that
9 the defendant is presented for admittance ~~thereto~~ to the institution or no later than
10 thirty days after the date of sentencing or order of commitment to any mental
11 institution or mental hospital, absent extraordinary circumstances.

12 * * *

13 E. If on the date of sentencing the defendant is awarded credit for the time
14 served in custody prior to conviction and the defendant is immediately eligible for
15 release pursuant to diminution of sentence or full-term completion of the sentence,
16 the Department of Public Safety and Corrections shall have no less than fifteen days
17 from the date of receipt of all documents, required for admission and release
18 processing, from the sheriff of the parish in which the conviction occurred pursuant
19 to Paragraph A of this Article, to release the defendant. In such cases, the
20 department shall not be held liable for the detention of the defendant past the
21 defendant's release date.

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 401 Original

2020 Regular Session

Dwight

Abstract: Provides relative to the duties of the clerk of court, the sheriff, and the Dept. of Public Safety and Corrections with respect to certain post-sentence documents and procedures, and provides relative to the department's liability under certain circumstances in this regard.

Present law requires the sheriff to prepare a statement indicating the amount of time a defendant has spent in custody prior to conviction when the defendant has been convicted

of a felony and is committed to the Dept. of Public Safety and Corrections, has been convicted of a misdemeanor and sentenced for a term of one year or more to any penal institution, or has been ordered committed to any mental institution or mental hospital.

Present law also provides that when a sheriff's statement is required pursuant to present law, the clerk of court shall also prepare the following documents:

- (1) A copy of the indictment under which the defendant was convicted.
- (2) A copy of the Uniform Sentencing Commitment Order in the format authorized by the La. Supreme Court.

Present law provides that the clerk shall retain a copy of the statement and documents and send the original to the sheriff of the parish to which the defendant has been sentenced, where they shall be preserved.

Proposed law retains present law, but requires the original to be sent to the sheriff no later than 15 days after the date of sentencing absent extraordinary circumstances.

Present law provides that all statements and documents required by present law shall physically accompany any defendant when the defendant is transferred to a penal institution or a mental institution or mental hospital and shall be tendered to the officer in charge of the institution at the time that the defendant is presented for admittance thereto.

Proposed law removes the requirement that the statement and documents accompany the defendant when the defendant is transferred, and amends present law to provide that the statements and documents shall be tendered to the officer in charge of the institution upon admittance or no later than 30 days after the date of sentencing or order of commitment, absent extraordinary circumstances.

Proposed law adds that if on the date of sentencing the defendant is awarded credit for the time served in custody prior to conviction and the defendant is immediately eligible for release pursuant to diminution of sentence or full-term completion of the sentence, the Dept. of Public Safety and Corrections shall have no less than 15 days from the date of receipt of all documents, required for admission and release processing, from the sheriff of the parish in which the conviction occurred, to release the defendant. In such cases, proposed law provides that the department shall not be held liable for the detention of the defendant past the defendant's release date.

(Amends C.Cr.P. Art. 892(B)(2) and (C); Adds C.Cr.P. Art. 892(E))