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## DIGEST

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HB 864 Original

2024 Regular Session

Green

**Abstract:** Provides relative to the drug division probation program.

Present law establishes a drug division probation program and provides for participation in the probation program, eligibility requirements, and other requirements such as the entering of a guilty plea, the deferment of sentencing or the imposition of a suspended sentence, the placement on supervised probation in the drug division probation program for a period of not less than 12 months, and the participation in mandatory alcohol and drug testing.

Present law permits the district attorney to propose to the court that an individual defendant be screened for eligibility to participate in the drug treatment division probation program if specified criteria are met.

Present law permits the treatment program examiner or district attorney to request relevant information from the individual defendant.

Proposed law changes present law to permit the drug division program or district attorney to request relevant information from the individual defendant and moves present law (R.S. 13:5304(B)(7)) to proposed law (R.S. 13:5304(B)(3)).

Proposed law provides relative to clinical screenings.

Proposed law provides that upon a determination that the defendant meets the eligibility and suitability criteria, the court shall offer a defendant the opportunity to request the program and undergo treatment, and the court shall advise the defendant of certain requirements and moves present law (R.S. 13:5304(B)(3)) to proposed law (R.S. 13:5304(B)(6)).

Present law provides that the defendant has the right to be represented by counsel at all stages of a criminal prosecution and in any court hearing relating to the drug division probation program. Provides further that the defendant shall be represented by counsel during the negotiations to determine eligibility to participate in the drug division probation program and shall be represented by counsel at the time of the execution of the probation agreement and at any hearing to revoke the defendant's probation and discharge him from the program, unless the court finds and the record shows that the defendant has knowingly and intelligently waived his right to counsel.

Proposed law changes present law to require that the defendant shall be represented by counsel during the determination of eligibility and suitability to participate in the drug division probation

program at the time of the execution of the sentencing and at any subsequent probation revocation hearing to discharge him, unless the court finds and the record shows that the defendant has knowingly and intelligently waived his right to counsel.

Proposed law provides that the defendant shall agree to participation in the drug division probation program.

Present law requires that in determining eligibility for the program, the court shall consider certain factors.

Proposed law includes proposed law suitability and eligibility reports in eligibility determination for the program.

Present law provides that each district court which establishes a drug division shall adopt written policies and guidelines for the implementation of that division and the programs operated by that division. Provides further that the policies and guidelines shall provide for screening individuals to determine eligibility for the program, advising individuals of the availability of the program, and certification by the court of licensed treatment programs.

Proposed law makes changes to the provisions included in the policies and guidelines.

Present law provides that each drug division shall develop a method of evaluating its effectiveness. Provides further that the evaluations shall be compiled annually and transmitted to the judicial administrator of the La. Supreme Court.

Proposed law provides that each drug division shall develop a method of screening and assessment so that its effectiveness can be measured. Provides further that the reports shall be compiled annually and transmitted to the judicial administrator of the La. Supreme Court.

Proposed law repeals present law.

(Amends R.S. 13:5304(B)(1) and (3)-(11), (J)(1) and (3), and (K); Adds R.S. 13:5304(B)(12) and (13); Repeals R.S. 13:5304(B)(10.1))