
DIGEST

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Martiny

HB No. 28

Abstract: Provides that no person shall have a cause of action against any law enforcement agency or officer based on his detention in a parish prison or local jail for a period of time in excess of that required by the Code of Criminal Procedure or Title 15 of the Louisiana Revised Statutes of 1950 when the failure to release was due to the effects of Hurricane Katrina or Rita.

Present law provides that neither the state nor any political subdivision thereof, nor other agencies, nor, except in case of willful misconduct, the agents' employees or representatives of any of them engaged in any homeland security and emergency preparedness activities, while complying with or attempting to comply with the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act or any rule or regulation promulgated pursuant to those provisions shall be liable for the death of or any injury to persons or damage to property as a result of such activity.

Proposed law retains present law and provides that no prisoner in the custody of the sheriff or law enforcement officer who was evacuated to another prison or jail during and immediately after Hurricane Katrina or Rita and who was not released timely in accordance with law shall have a cause of action for damages against the sheriff or law enforcement agency for the failure to timely release the prisoner due to the effects of Hurricane Katrina or Rita and the lack of access to prison records to ascertain when the prisoner is to be released. Provides that the sheriff or law enforcement agency shall be liable if the sheriff or law enforcement agency makes no attempt to ascertain when the prisoner is to be released and fails to release the prisoner.

Proposed law provides for retroactive application to August 29, 2005.

Effective upon signature or lapse of time for gubernatorial action.

(Amends R.S. 29:735(A))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Limits proposed law to when the prolonged detention is caused by Hurricane Katrina or Hurricane Rita.

2. Provides for circumstances when the limitation of liability does not apply.
3. Provides for retroactive application to August 29, 2005.

House Floor Amendments to the engrossed bill.

1. Adds conditions under which limitation of liability applies.
2. Provides circumstances under which the sheriff or law enforcement officer is liable for the failure to release the prisoner timely.