

Regular Session, 2014

SENATE BILL NO. 252

BY SENATOR NEVERS

CRIMINAL JUSTICE. Provides relative to the 22nd Judicial District Court's presentencing investigation assessment policy. (8/1/14)

1 AN ACT

2 To amend and reenact R.S. 15:326 and 327, relative to sentencing; to provide relative to the
3 Twenty-Second Judicial District Court sentencing policies and procedures; to
4 provide for presentence investigation assessments; to provide for the use of a
5 validated risk and needs assessment tool; to provide for certain terms, conditions and
6 procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:326 and 327 are hereby amended and reenacted to read as
9 follows:

10 §326. Administration of **presentence investigation** assessment tool and evaluation
11 report

12 A. For purposes of this Chapter, after January 1, ~~2014~~ **2015**, all criminal
13 divisions within the Twenty-Second Judicial District Court ~~shall~~ **may** use a single
14 **presentence investigation** validated risk and needs assessment tool prior to
15 sentencing an adult offender **eligible for assessment. The presentence**
16 **investigation assessment program shall be administered by the judges of the**
17 **Twenty-Second Judicial District Court. The court shall adopt rules to provide**

1 relative to the eligibility and administration of the presentence investigation
2 assessments, storing and making available assessment results, and compiling
3 statistics gathered from the assessments.

4 B. Eligibility for presentence investigation assessment shall be limited
5 to an adult felony defendant who is otherwise eligible for probation or reentry
6 after adjudication of guilt, and who has executed a valid counseled waiver
7 authorizing the assessment. For purposes of this Section, "adjudication of
8 guilt" is defined as any finding of guilt, plea of guilty, or adjudication under
9 Code of Criminal Procedure Article 893. A "valid counseled waiver" shall
10 consist of a document signed by the defendant after consultation with counsel
11 expressing the defendant's complete and irrevocable written acknowledgment
12 of the purpose of the assessment and waiver of confidentiality over the global
13 risk scores contained in the presentence investigation validated risk and needs
14 assessment tool.

15 B.C. The presentence investigation assessment tool shall be administered
16 at the time of arraignment after adjudication and prior to sentencing, and by
17 trained and certified personnel within the court's misdemeanor probation office.
18 However, upon the court's own motion or by motion of defense counsel, for good
19 cause shown, the court may order the administration of a subsequent assessment for
20 a defendant who was previously assessed. An evaluation report shall be prepared
21 based upon the findings of the presentence investigation assessment tool.

22 C.D. The evaluation report shall be made available to the court and defense
23 counsel prior to the initial pretrial conference, but Prior to the imposition of
24 sentence, the presentence investigation assessment results, including the
25 evaluation report, shall be made available to counsel for the defendant and the
26 district attorney. The defendant and the district attorney shall have the
27 opportunity to challenge the presentence investigation assessment prior to
28 imposition of sentence, and upon good cause shown to the court, may review the
29 other reports and data associated with the presentence assessment investigation.

1 **The presentence investigation assessment results, including the evaluation**
2 **report**, shall otherwise remain confidential and kept as part of the record under court
3 seal.

4 ~~D.E.~~ The district court shall develop policies and protocols no later than
5 January 1, ~~2014~~**2015**, regarding the administration and use of the **presentence**
6 **investigation** assessment tool, **assessment results**, and evaluation reports pursuant
7 to this Chapter. These policies shall include confidentiality periods, maintaining the
8 integrity of the **presentence investigation** assessment tool, training, and data
9 collection and sharing among affected entities. The Twenty-Second Judicial District
10 Court is authorized to provide funding for any expenses related to the administration
11 and use of the **presentence investigation** assessment tool and evaluation reports.

12 §327. Use of assessment tool and report

13 A. The **presentence investigation** validated risk and needs assessment tool
14 and evaluation report ~~shall~~ **may** be utilized by the sentencing court ~~at the pretrial~~
15 ~~stage when~~ **prior to** determining an appropriate sentence, in order to evaluate the
16 defendant's risk of committing future offenses and to reduce the recidivism of the
17 defendant. ~~In determining an appropriate sentence, the sentencing court shall~~
18 ~~consider the results of the defendant's risk and needs assessment included in the~~
19 ~~evaluation report, together with the likely impact of a possible sentence on the~~
20 ~~reduction of potential future criminal behavior of the defendant.~~

21 B. The **presentence investigation** assessment tool and evaluation report may
22 also be used to determine eligibility or suitability of the defendant for any available
23 specialty court.

24 **C. Nothing in this Chapter shall be construed to confer upon the**
25 **defendant any substantive, procedural or appellate right, or any additional**
26 **post-conviction right or remedy.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Nevers (SB 252)

Present law provides that after January 1, 2014, all criminal divisions within the 22nd JDC shall use a single validated risk and needs assessment tool prior to sentencing an adult offender.

Proposed law provides that after January 1, 2015, all criminal divisions within the 22nd JDC may use a single presentence investigation validated risk and needs assessment tool prior to sentencing an adult offender eligible for assessment.

Proposed law provides that the presentence investigation assessment program shall be administered by the judges of the 22nd JDC, and further provides that the court shall adopt rules to provide relative to the eligibility and administration of the presentence investigation assessments, storing and making available assessment results, and compiling statistics gathered from the assessments.

Proposed law further provides that eligibility for presentence investigation assessment shall be limited to an adult felony defendant who is otherwise eligible for probation or reentry after adjudication of guilt, and who has executed a valid counseled waiver authorizing the assessment. Proposed law defines "adjudication of guilt" as any finding of guilt, plea of guilty, or adjudication under Code of Criminal Procedure Article 893. Proposed law provides that a "valid counseled waiver" shall consist of a document signed by the defendant after consultation with counsel expressing the defendant's complete and irrevocable written acknowledgment of the purpose of the assessment and waiver of confidentiality over the global risk scores contained in the presentence investigation validated risk and needs assessment tool.

Present law provides that the assessment tool shall be administered at the time of arraignment by trained and certified personnel within the court's misdemeanor probation office.

Proposed law provides that the presentence investigation assessment tool shall be administered after adjudication and prior to sentencing, and by trained and certified personnel within the court's misdemeanor probation office.

Present law provides that, upon the court's own motion or by motion of defense counsel, for good cause shown, the court may order the administration of a subsequent assessment.

Proposed law provides that, upon the court's own motion or by motion of defense counsel, for good cause shown, the court may order the administration of a subsequent assessment for a defendant who was previously assessed.

Present law provides that an evaluation report shall be prepared based upon the findings of the assessment tool.

Proposed law provides that an evaluation report shall be prepared based upon the findings of the presentence investigation assessment tool.

Present law provides that the evaluation report shall be made available to the court and defense counsel prior to the initial pretrial conference, but shall otherwise remain confidential and kept as part of the record under court seal.

Proposed law provides that prior to the imposition of sentence, the presentence investigation

assessment results, including the evaluation report, shall be made available to counsel for the defendant and the district attorney. Proposed law further provides that the defendant and the district attorney shall have the opportunity to challenge the presentence investigation assessment prior to imposition of sentence and, upon good cause shown to the court, may review the other reports and data associated with the presentence assessment investigation. Proposed law provides that the presentence investigation assessment results, including the evaluation report, shall otherwise remain confidential and kept as part of the record under court seal.

Present law provides that the district court shall develop policies and protocols no later than January 1, 2014, regarding the administration and use of the assessment tool and evaluation reports. Present law further provides that these policies shall include confidentiality periods, maintaining the integrity of the assessment tool, training and data collection and sharing among affected entities. Present law further provides that the 22nd JDC is authorized to provide funding for any expenses related to the administration and use of the assessment and evaluation reports.

Proposed law provides that the district court shall develop policies and protocols no later than January 1, 2015, regarding the administration and use of the presentence investigation assessment tool, assessment results, and evaluation reports. Proposed law further provides that these policies shall include confidentiality periods, maintaining the integrity of the presentence investigation assessment tool, training, and data collection and sharing among affected entities. Proposed law further provides that the 22nd JDC is authorized to provide funding for any expenses related to the administration and use of the presentence investigation assessment tool and evaluation reports.

Present law provides that the validated risk and needs assessment tool and evaluation report shall be utilized by the sentencing court at the pretrial stage determining an appropriate sentence, in order to evaluate the defendant's risk of committing future offenses and to reduce the recidivism of the defendant.

Proposed law provides that the presentence investigation validated risk and needs assessment tool and evaluation report may be utilized by the sentencing court prior to determining an appropriate sentence, in order to evaluate the defendant's risk of committing future offenses and to reduce the recidivism of the defendant.

Present law provides that, in determining an appropriate sentence, the sentencing court shall consider the results of the defendant's risk and needs assessment included in the evaluation report, together with the likely impact of a possible sentence on the reduction of potential future criminal behavior of the defendant.

Proposed law repeals present law.

Present law provides that the assessment tool and evaluation report may also be used to determine eligibility or suitability of the defendant for any available specialty court.

Proposed law provides that the presentence investigation assessment tool and evaluation report may also be used to determine eligibility or suitability of the defendant for any available specialty court.

Proposed law further provides that nothing in proposed law shall be construed to confer upon the defendant any substantive, procedural or appellate right, nor any additional post-conviction right or remedy.

Effective August 1, 2014.

(Amends R.S. 15:326 and 327)