

2018 Regular Session

HOUSE BILL NO. 567

BY REPRESENTATIVE HILFERTY

PROBATION: Provides relative to searches of persons placed on probation or parole

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 895(A)(13)(a), and R.S.
3 15:574.4.2(A)(1) and (2)(i) and (j) and 574.8(B), and to repeal R.S.
4 15:574.4.2(A)(2)(k), relative to probation and parole; to provide relative to searches
5 of persons on probation or parole; to provide relative to the requirement of certain
6 warrants; to provide for conditions of probation and parole; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 895(A)(13)(a) is hereby amended
10 and reenacted to read as follows:

11 Art. 895. Conditions of probation

12 A. When the court places a defendant on probation, it shall require the
13 defendant to refrain from criminal conduct and to pay a supervision fee to defray the
14 costs of probation supervision, and it may impose any specific conditions reasonably
15 related to his rehabilitation, including any of the following. That the defendant shall:

16 * * *

17 (13)(a) Agree to searches of his person, his property, his place of residence,
18 his vehicle, or his personal effects, or any or all of them, at any time, by ~~the~~
19 probation officer or the parole officer officers assigned to him, with or without a
20 warrant of arrest or with or without a search warrant, ~~when the probation officer or~~

1 ~~the parole officer has reasonable suspicion to believe that the person who is on~~
2 ~~probation is engaged in or has been engaged in criminal activity.~~

3 * * *

4 Section 2. R.S. 15:574.4.2(A)(1) and (2)(i) and (j) and 574.8(B) are hereby amended
5 and reenacted to read as follows:

6 §574.4.2. Decisions of committee on parole; nature, order, and conditions of parole;
7 rules of conduct; infectious disease testing

8 A.(1) The committee on parole may make rules for the conduct of persons
9 ~~heretofore or hereafter~~ granted parole. When a prisoner is released on parole, the
10 committee shall require as a condition of his parole that he refrain from engaging in
11 criminal conduct, and that he agrees to visits and searches as provided in R.S.
12 15:574.8(B).

13 (2) The committee may also require, either at the time of his release on
14 parole or at any time while he remains on parole, that he conform to any of the
15 following conditions of parole which are deemed appropriate to the circumstances
16 of the particular case:

17 * * *

18 (i) ~~Agree to visits at residence or place of employment by the probation and~~
19 ~~parole officer at any time. Further agrees to searches of person, property, residence,~~
20 ~~or vehicle, when reasonable suspicion exists that criminal activity has been engaged~~
21 ~~in while on parole.~~

22 (f) Not possess or be in control of any firearms or dangerous weapons.

23 (k)(j) Waive extradition to the state of Louisiana from any jurisdiction in or
24 outside of the United States and agree not to contest any effort by any jurisdiction
25 for return to the state of Louisiana.

26 * * *

27 §574.8. Parole officers; powers of search and arrest; summary arrest and detention
28 of parolees

29 * * *

1 B. Upon being placed on parole, a parolee agrees to visits at his residence
2 or place of employment at any time by probation or parole officers and further agrees
3 to searches of his person, his property, his place of residence, his vehicle, or his
4 personal effects, or any or all of them, at any time, by probation or parole officers,
5 with or without a warrant of arrest or with or without a search warrant. If a parole
6 officer has reasonable cause to believe that a parolee has violated or is attempting to
7 violate a condition of his parole and that an emergency exists, so that awaiting action
8 by the committee under R.S. 15:574.7 would create an undue risk to the public or to
9 the parolee, such parole officer may arrest the parolee without a warrant or may
10 authorize any peace officer to do so. The authorization may be in writing or oral, but
11 if not written, shall be subsequently confirmed by a written statement. The written
12 authorization or subsequent confirmation shall set forth that, in the judgment of the
13 parole officer, the person to be arrested has violated or was attempting to violate a
14 condition of his parole. The parolee arrested ~~hereunder~~ pursuant to this Section, if
15 detained, shall be held in a local jail, state prison, or other detention facility, pending
16 action by the committee. Immediately after such arrest and detention, the parole
17 officer concerned shall notify the chief probation and parole officer and submit a
18 written report of the reason for the arrest. After consideration of the written report,
19 the chief probation and parole officer shall, with all practicable speed, make a
20 preliminary determination, and shall either order the parolee's release from detention
21 or proceed promptly in accordance with R.S. 15:574.7.

22 Section 3. R.S. 15:574.4.2(A)(2)(k) is hereby repealed in its entirety.

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 567 Original

2018 Regular Session

Hilferty

Abstract: Removes the prerequisite that a probation or parole officer have a reasonable suspicion to believe that the person on probation is engaged in criminal activity when initiating a search.

Present law provides that when the court places a defendant on probation, it shall require the defendant to refrain from criminal conduct, and it may impose specific conditions to the defendant's rehabilitation, including requiring the defendant to agree to searches of his person, property, place of residence, vehicle, or personal effects by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or 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 retains present law but allows any probation or parole officer to conduct the search and removes the prerequisite that the probation or parole officer have a reasonable suspicion to believe that the person on probation is engaged in criminal activity.

Present law authorizes the committee on parole to make rules for the conduct of persons granted parole, and specifically requires as a condition of parole that the parolee refrain from engaging in criminal conduct.

Proposed law retains present law and also requires that the parolee agree to visits and searches as provided in proposed law.

Present law provides, in part and under certain circumstances, that if a parole officer has reasonable cause to believe that a parolee has violated or is attempting to violate a condition of parole and that an emergency exists, the parole officer may arrest the parolee without a warrant or may authorize any peace officer to do so.

Proposed law retains present law and provides, upon being placed on parole, that the parolee agrees to visits at his residence or place of employment at any time by probation or parole officers and further agrees to searches of his person, property, place of residence, vehicle, or personal effects at any times by probation or parole officers, with or without a warrant of arrest or search warrant.

(Amends C.Cr.P. Art. 895(A)(13)(a) and R.S. 15:574.4.2(A)(1) and (2)(i) and (j) and 574.8(B); Repeals R.S. 15:574.4.2(A)(2)(k))