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 574.8(B), relative to probation and parole; to provide relative
4	to searches of persons on probation or parole; to provide relative to the requirement
5	of certain warrants; to provide for conditions of probation and parole; and to provide
6	for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Code of Criminal Procedure Article 895(A)(13)(a) is hereby amended
9	and reenacted to read as follows:
10	Art. 895. Conditions of probation
11	A. When the court places a defendant on probation, it shall require the
12	defendant to refrain from criminal conduct and to pay a supervision fee to defray the
13	costs of probation supervision, and it may impose any specific conditions reasonably
14	related to his rehabilitation, including any of the following. That the defendant shall:
15	* * *
16	(13)(a) Agree to searches of his person, his property, his place of residence,
17	his vehicle, or his personal effects, or any or all of them, at any time, by the
18	probation officer or the parole officer assigned to him or by any probation or parole
19	officer who is subsequently assigned or directed by the Department of Public Safety
20	and Corrections to supervise the person, whether the assignment or directive is

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	temporary or permanent, with or without a warrant of arrest or with or without a
2	search warrant, when the probation officer or the parole officer has reasonable
3	suspicion to believe that the person who is on probation is engaged in or has been
4	engaged in criminal activity.
5	* * *
6	Section 2. R.S. 15:574.4.2(A)(1) and 574.8(B) are hereby amended and reenacted
7	to read as follows:
8	§574.4.2. Decisions of committee on parole; nature, order, and conditions of parole;
9	rules of conduct; infectious disease testing
10	A.(1) The committee on parole may make rules for the conduct of persons
11	heretofore or hereafter granted parole. When a prisoner is released on parole, the
12	committee shall require as a condition of his parole that he refrain from engaging in
13	criminal conduct, and that he agrees to visits and searches as provided in R.S.
14	<u>15:574.8(B)</u> .
15	* * *
16	§574.8. Parole officers; powers of search and arrest; summary arrest and detention
17	of parolees
18	* * *
19	B. Upon being placed on parole, a parolee agrees to visits at his residence
20	or place of employment at any time by probation or parole officers and further agrees
21	to searches of his person, his property, his place of residence, his vehicle, or his
22	personal effects, or any or all of them, at any time, by probation or parole officers,
23	with or without a warrant of arrest or with or without a search warrant. If a parole
24	officer has reasonable cause to believe that a parolee has violated or is attempting to
25	violate a condition of his parole and that an emergency exists, so that awaiting action
26	by the committee under R.S. 15:574.7 would create an undue risk to the public or to
27	the parolee, such parole officer may arrest the parolee without a warrant or may
28	authorize any peace officer to do so. The authorization may be in writing or oral, but
29	if not written, shall be subsequently confirmed by a written statement. The written

1 authorization or subsequent confirmation shall set forth that, in the judgment of the 2 parole officer, the person to be arrested has violated or was attempting to violate a condition of his parole. The parolee arrested hereunder pursuant to this Section, if 3 4 detained, shall be held in a local jail, state prison, or other detention facility, pending 5 action by the committee. Immediately after such arrest and detention, the parole 6 officer concerned shall notify the chief probation and parole officer and submit a 7 written report of the reason for the arrest. After consideration of the written report, 8 the chief probation and parole officer shall, with all practicable speed, make a 9 preliminary determination, and shall either order the parolee's release from detention 10 or proceed promptly in accordance with R.S. 15:574.7.

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 Engrossed2018 Regular SessionHilferty

Abstract: Provides relative to searches and visits of persons on probation or parole by probation and parole officers.

<u>Present law</u> 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.

<u>Proposed law</u> retains <u>present law</u> but authorizes the search to be conducted by either the probation or parole officer assigned to the defendant or by any probation or parole officer who is subsequently assigned or directed by the Dept. of Public Safety and Corrections to supervise the person, whether the assignment or directive is temporary or permanent

<u>Present law</u> 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.

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

(Amends C.Cr.P. Art. 895(A)(13)(a) and R.S. 15:574.4.2(A)(1) and 574.8(B))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Administration of</u> <u>Criminal Justice to the original bill:</u>
- 1. Provide that the search of the person placed on probation may be conducted by either the probation or parole officer assigned to the defendant or by any probation or parole officer who is subsequently assigned or directed by the Dept. of Public Safety and Corrections to supervise the person, whether the assignment or directive is temporary or permanent.
- 2. Restore the <u>present law</u> provisions which require the probation or parole officer have a reasonable suspicion to believe that the person on probation is engaged in criminal activity in order to conduct the search.
- 3. Restore the <u>present law</u> provision which requires the person on probation to agree to visits at his residence or place of employment by the probation and parole officer at any time.