

2019 Regular Session

HOUSE BILL NO. 351

BY REPRESENTATIVE CARPENTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/SENTENCING: Provides relative to pleas of guilty or nolo contendere in felony cases

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AN ACT

To amend and reenact Code of Criminal Procedure Article 556.1(C) and (E) and to enact Code of Criminal Procedure Article 556.1(A)(5), relative to pleas in criminal cases; to provide relative to pleas of guilty or nolo contendere in felony cases; to provide relative to duties of the court or defense counsel; to require the court or defense counsel to inform a defendant of additional consequences as a result of a guilty plea or nolo contendere; to require the court to inquire of the defendant or defense counsel of plea offers made by the state; to provide relative to the failure to inform a defendant of consequences; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 556.1(C) and (E) are hereby amended and reenacted and Code of Criminal Procedure Article 556.1(A)(5) is hereby enacted to read as follows:

Art. 556.1. Plea of guilty or nolo contendere in felony cases; ~~duty~~ duties of the court and defense counsel

A. In a felony case, the court shall not accept a plea of guilty or nolo contendere without first addressing the defendant personally in open court and informing him of, and determining that he understands, all of the following:

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**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)]

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HB 351 Engrossed

2019 Regular Session

Carpenter

**Abstract:** Provides relative to the duties of the court and defense counsel when a defendant pleads guilty or nolo contendere in felony cases.

Present law provides that the court shall not accept a plea of guilty or nolo contendere without first addressing the defendant personally in open court and informing him of, and determining that he understands, certain things including but not limited to: the nature of the charges against him and the penalties for such offense; that he has a right to be represented by an attorney at every stage of the proceeding against him; and that if he pleads guilty or nolo contendere, he waives his right to a trial.

Proposed law provides that the defendant may be subject to additional consequences in the following areas as a result of his plea of guilty or nolo contendere, for which defense counsel or the court is required to inform him:

- (1) Potential deportation, for a person who is not a U.S. citizen.
- (2) Voting rights.
- (3) Possession of a firearm.
- (4) Subsidized housing.
- (5) Issuance of licenses.
- (6) College admissions and financial aid.
- (7) Potential sentencing as a habitual offender.
- (8) Standard of proof for probation or parole revocations.

Present law requires the court to inquire as to whether the defendant's willingness to plead guilty or nolo contendere results from prior discussions between the district attorney and the defendant or his attorney. Present law further requires the disclosure of the agreement in open court or, on a showing of good cause, in camera, at the time the plea is offered.

Proposed law requires the court to inquire of the defendant or his attorney whether he has been informed of all plea offers made by the state.

Present law provides that any variance from the procedures required by present law which does not affect substantial rights of the accused does not invalidate the plea.

Proposed law adds to present law that failure to comply with proposed law does not invalidate the plea.

(Amends C.Cr.P. Art. 556.1(C) and (E); Adds C.Cr.P. Art. 556.1(A)(5))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that failure to comply with proposed law does not invalidate a plea.