

2021 Regular Session

HOUSE BILL NO. 106

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

1 AN ACT

2 To enact Code of Criminal Procedure Article 556.1(A)(5), relative to pleas in criminal cases;
3 to provide relative to pleas of guilty or nolo contendere in felony cases; to provide
4 relative to duties of the court or defense counsel; to require the court or defense
5 counsel to inform a defendant of additional consequences as a result of a guilty plea
6 or nolo contendere; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 556.1(A)(5) is hereby enacted to read
9 as follows:

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

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

15 * * *

16 (5) That if he pleads guilty or nolo contendere, he may be subject to
17 additional consequences or waivers of constitutional rights in the following areas as
18 a result of his plea to be informed as follows:

19 (a) Defense counsel or the court shall inform him regarding:

20 (i) Potential deportation, for a person who is not a United States citizen.

- 1 (ii) The right to vote.
- 2 (iii) The right to bear arms.
- 3 (iv) The right to due process.
- 4 (v) The right to equal protection.
- 5 (b) Defense counsel or the court may inform him of additional direct or
- 6 potential consequences impacting the following:
- 7 (i) College admissions and financial aid.
- 8 (ii) Public housing benefits.
- 9 (iii) Employment and licensing restrictions.
- 10 (iv) Potential sentencing as a habitual offender.
- 11 (v) Standard of proof for probation or parole revocations.
- 12 (c) Failure to adhere to the provisions of Subparagraphs (A)(5)(a) and (b)
- 13 shall not be considered an error, defect, irregularity, or variance affecting the
- 14 substantial rights of the accused and does not constitute grounds for reversal pursuant
- 15 to Article 921.
- 16 (d) It shall be sufficient to utilize a form which conveys this information to
- 17 the client and the form shall constitute prima facie evidence that the content was
- 18 conveyed and understood.

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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)]

HB 106 Reengrossed 2021 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, right to confront evidence, and the right to be free of self-incrimination.

Proposed law provides that the defendant is also informed that he may be subject to additional consequences as a result of his plea of guilty or nolo contendere.

Proposed law requires the court or defense counsel to inform the defendant regarding all of the following:

- (1) Potential deportation, if applicable.
- (2) Voting rights.
- (3) Firearm rights.
- (4) Due process rights.
- (5) Equal protection rights.

Proposed law permits the court or defense counsel to inform the defendant of the additional or potential consequences including:

- (1) College admissions and financial aid.
- (2) Public housing benefits.
- (3) Employment and licensing restrictions.
- (4) Habitual offender sentencing.
- (5) Probation and parole revocation standard of proof.

Proposed law provides that failure to adhere to proposed law shall not be considered an error, defect, irregularity, or variance affecting the rights of the accused and does not constitute grounds for reversal pursuant to present law.

Proposed law specifies that utilizing a form that conveys information to the client as provided by proposed law shall constitute prima facie evidence that the content was conveyed and understood.

(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. Specify that failure to adhere to proposed law shall not be considered to affect the rights of the accused and does not constitute grounds for reversal pursuant to present law.

The House Floor Amendments to the engrossed bill:

1. Specify that utilizing a form that conveys information to the client as provided by proposed law shall constitute prima facie evidence that the content was conveyed and understood.