
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

SB 411 Engrossed

DIGEST
2018 Regular Session

White

Present law provides that when a verdict of not guilty by reason of insanity is returned in a capital case, the court is to commit the defendant to a proper state mental institution or to a private mental institution approved by the court for custody, care, and treatment. Present law further provides that when a defendant is found not guilty by reason of insanity in any other felony case, the court is to remand him to the parish jail or to a private mental institution approved by the court and promptly hold a contradictory hearing at which the defendant will have the burden of proof, to determine whether the defendant can be discharged or can be released on probation, without danger to others or to himself. Present law further provides that if the court determines that the defendant cannot be released without danger to others or to himself, it must order him committed to a proper state mental institution or to a private mental institution approved by the court for custody, care, and treatment.

Proposed law retains present law.

Present law provides that when the superintendent of a mental institution is of the opinion that a person committed pursuant to present law can be discharged or can be released on probation, without danger to others or to himself, he is to recommend the discharge or release of the person in a report to a review panel comprised of the person's treating physician, the clinical director of the facility to which the person is committed, and a physician or psychologist who served on the sanity commission that recommended commitment of the person. Present law further provides that after review the panel is to make a recommendation to the court by which the person was committed as to the person's mental condition and whether he can be discharged, conditionally or unconditionally, or placed on probation, without being a danger to others or himself. Present law further provides that if the review panel recommends to the court that the person be discharged, conditionally or unconditionally, or placed on probation, the court is to conduct a contradictory hearing following notice to the district attorney.

Proposed law retains present law and adds that a recommendation that the person be discharged or released on probation requires a unanimous vote of the panel. Proposed law further provides that the panel must render specific findings of fact in support of its recommendation.

Present law provides that a person committed pursuant to present law may apply to the review panel for discharge or for release on probation, but such application may not be filed until the committed person has been confined for a period of at least six months after the original commitment. Present law further provides that if the review panel recommends to the court that the person be discharged, conditionally or unconditionally, or placed on probation, the court is to conduct a hearing following notice to the district attorney. Present law further provides that if the recommendation of the review panel or the court is adverse, the applicant cannot file another application until one year has elapsed from the date of determination.

Proposed law retains present law.

Present law provides that it is unlawful for any person who has been convicted of a crime of violence that is a felony, or certain other enumerated present law crimes, or any crime defined as a sex offense, or any crime defined as an attempt to commit one of the enumerated present law offenses, or who has been convicted under the laws of any other state or the U.S. or any foreign government or country of a crime that, if committed in this state, would be one of these enumerated present law crimes, to possess a firearm or carry a concealed weapon.

Proposed law retains present law and makes present law applicable to persons found not guilty by reason of insanity of the enumerated present law crimes.

Present law provides that present law prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of certain felonies does not apply to any person who has not been convicted of any felony for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.

Proposed law retains present law and adds that the 10-year "cleansing period" contained in present law applies to persons found not guilty by reason of insanity of the enumerated present law crimes.

Effective August 1, 2018.

(Amends C.Cr.P. Art. 655(A) and R.S. 14:95.1(A) and (C))