

Regular Session, 2014

HOUSE BILL NO. 1257 (Substitute for House Bill No. 327 by Representative Lopinto)

BY REPRESENTATIVE LOPINTO

PROBATION: Provides for the procedures by which conditions of probation may be modified, changed, or discharged and procedures by which a defendant's probation may be terminated

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 896 and 897, relative to
3 probation; to provide for a procedure by which conditions of probation may be
4 modified, changed, or discharged; to provide for a procedure by which a defendant's
5 probation may be terminated; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 896 and 897 are hereby amended
8 and reenacted to read as follows:

9 Art. 896. Modifying or changing conditions of probation

10 A. The court may, at any time during the probation period, modify, change,
11 or discharge the conditions of probation, ~~or add further conditions authorized by~~
12 ~~Article 895~~ when either of the following occur:

13 (1) The state has previously provided written verification that it has no
14 opposition to a modification, change, or discharge of the conditions of probation.

15 (2) A contradictory hearing with the state, set by the court, has been held.
16 The court shall provide notice of the hearing to the state at least fifteen days prior to
17 the hearing date.

1 B. The court may, at any time during the probation period, impose additional
2 conditions of probation authorized by Article 895 without a contradictory hearing
3 with the state.

4 Art. 897. Termination of probation or suspended sentence; discharge of defendant

5 A. In a felony case, the court may terminate the defendant's probation, early
6 or as unsatisfactory, and discharge him at any time after the expiration of one year
7 of probation when either of the following occur:

8 (1) The state has previously provided written verification that it has no
9 opposition to the termination of the probation.

10 (2) A contradictory hearing with the state, set by the court, has been held.
11 The court shall provide notice of the hearing to the state at least fifteen days prior to
12 the hearing date.

13 B. In a misdemeanor case, the court may terminate the defendant's suspended
14 sentence or probation and discharge him at any time when all of the following
15 conditions are met:

16 (1) The termination or discharge is ordered in open court.

17 (2) The state is present at the time the termination or discharge is ordered
18 and has been afforded an opportunity to participate in a contradictory hearing on the
19 matter.

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)]

Lopinto

HB No. 1257

Abstract: Provides for the procedures by which conditions or probation may be modified, changed, or discharged, and provides procedures by which a defendant's probation may be terminated.

Present law (C.Cr.P. Art. 896) authorizes the court to modify, change, or discharge the conditions of a defendant's probation, or to add further conditions.

Present law (C.Cr.P. Art. 897) authorizes the court to terminate the defendant's probation or suspended sentence at any time in misdemeanor cases and after one year of probation in felony cases.

Proposed law amends present law to provide for the following:

- (1) The court may, at any time during the probation period, modify, change, or discharge the probation conditions if the state has previously provided written verification that it has no opposition to a modification, change, or discharge, or after a contradictory hearing with the state.
- (2) The court may, at any time during the probation period, impose additional conditions of probation authorized by present law without a contradictory hearing with the state.
- (3) In a felony case, the court may terminate the defendant's probation, early or as unsatisfactory, and discharge him at any time after the expiration of one year of probation if the state has previously provided written verification that it has no opposition to the termination of probation, or after a contradictory hearing with the state.
- (4) In a misdemeanor case, the court may terminate the defendant's suspended sentence or probation and discharge him at any time if the termination or discharge is ordered in open court and the state is present and has been afforded an opportunity to participate in a contradictory hearing on the matter.
- (5) If the court orders a contradictory hearing on the issue of the modification, change, or discharge of probation conditions or on the termination of a defendant's probation in a felony case, the court shall provide notice of the hearing to the defendant at least fifteen days prior to the hearing date.

(Amends C.Cr.P. Arts. 896 and 897)