Regular Session, 2011

HOUSE BILL NO. 235

BY REPRESENTATIVE ABRAMSON

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

CRIMINAL/PROCEDURE: Provides that the 24-hour stay following mistrial applies to writ application for review by all courts with appellate jurisdiction

AN ACT

To amend and reenact Code of Criminal Procedure Article 775.1, relative to an automatic stay following order of mistrial; to provide that the stay applies to emergency writ applications to the appropriate reviewing courts with appellate jurisdiction, including the Louisiana Supreme Court; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 775.1 is hereby amended and reenacted to read as follows:

Art. 775.1. Automatic stay following order of mistrial

If a judge orders a mistrial, then upon motion of either the state or the defendant, the court shall order an automatic twenty-four-hour stay of all proceedings in which either the state or the defendant may take an emergency writ application to the appropriate reviewing ~~court~~ courts with appellate jurisdiction, including the Louisiana Supreme Court. The jury shall not be released pending the stay unless both the state and defendant agree to release the jury.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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)]

Abramson HB No. 235

Abstract: Authorizes the 24-hour stay following a mistrial for appropriate review by all appropriate reviewing courts with appellate jurisdiction, including the La. Supreme Court.

Present law provides that if a judge orders a mistrial, the court shall order a 24-hour stay of all proceedings without releasing the jury while the state or defendant takes an emergency writ application to the appropriate reviewing court.

Proposed law changes present law to provide that the emergency writ applies to all reviewing courts with appellate jurisdiction, including the La. Supreme Court.

(Amends C.Cr.P. Art. 775.1)

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