

5517

2009-2010 Regular Sessions

I N S E N A T E

May 13, 2009

Introduced by Sen. HASSELL-THOMPSON -- (at request of the Department of Correctional Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law and the correction law, in relation to the delivery of sentence and commitment documents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 380.60 of the criminal procedure law is amended to
2 read as follows:
3 S 380.60 Authority for the execution of sentence.
4 Except where a sentence of death is pronounced, a SENTENCE AND COMMIT-
5 MENT OR certificate of conviction showing the sentence pronounced by the
6 court, or a certified copy thereof, constitutes the authority for
7 execution of the sentence and serves as the order of commitment, and no
8 other warrant, order of commitment or authority is necessary to justify
9 or to require execution of the sentence.
10 S 2. The criminal procedure law is amended by adding a new section
11 380.65 to read as follows:
12 S 380.65 SENTENCE AND COMMITMENT AND ORDER OF PROTECTION TO ACCOMPANY
13 DEFENDANT SENTENCED TO IMPRISONMENT.
14 A SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION, SPECIFYING THE
15 SECTION, AND TO THE EXTENT APPLICABLE, THE SUBDIVISION, PARAGRAPH AND
16 SUBPARAGRAPH OF THE PENAL LAW OR OTHER STATUTE UNDER WHICH THE DEFENDANT
17 WAS CONVICTED, AND A COPY OF ANY ORDER OF PROTECTION OR TEMPORARY ORDER
18 OF PROTECTION ISSUED AGAINST THE DEFENDANT AT THE TIME OF SENTENCING,
19 MUST BE DELIVERED TO THE PERSON IN CHARGE OF THE CORRECTIONAL FACILITY
20 OR OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY TO WHICH THE DEFEND-
21 ANT IS COMMITTED AT THE TIME THE DEFENDANT IS DELIVERED THERETO. A
22 SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION IS NOT DEFECTIVE BY
23 REASON OF A FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06944-02-9

1 S 3. Section 380.70 of the criminal procedure law, as amended by
2 section 1 of chapter 141 of the laws of 2008, is amended to read as
3 follows:

4 S 380.70 Minutes of sentence.

5 In any case where a person receives an indeterminate or determinate
6 sentence of imprisonment, a certified copy of the stenographic minutes
7 of the sentencing proceeding, [a certificate of conviction specifying
8 the section and, to the extent applicable, the subdivision, paragraph
9 and subparagraph of the penal law or other statute under which the
10 defendant was convicted and a copy of any order of protection or tempo-
11 rary order of protection issued against the defendant at the time of
12 sentencing] must be delivered by the court to the person in charge of
13 the institution to which the defendant has been delivered within thirty
14 days from the date such sentence was imposed; provided, however, that a
15 sentence or commitment is not defective by reason of a failure to comply
16 with the provisions of this section.

17 S 4. Subdivision (a) of section 601 of the correction law, as amended
18 by section 9 of part D of chapter 56 of the laws of 2008, is amended to
19 read as follows:

20 (a) Whenever an inmate shall be delivered to the superintendent of a
21 state correctional facility pursuant to an indeterminate or determinate
22 sentence, the officer so delivering such inmate shall deliver to such
23 superintendent, [a certified copy of the sentence, a certificate of
24 conviction and a copy of any order of protection or temporary order of
25 protection issued against the inmate at the time of sentencing pursuant
26 to section 380.70] THE SENTENCE AND COMMITMENT OR CERTIFICATE OF
27 CONVICTION, OR A CERTIFIED COPY THEREOF, AND ANY ORDER OF PROTECTION
28 PURSUANT TO SECTION 380.65 of the criminal procedure law received by
29 such officer from the clerk of the court by which such inmate shall have
30 been sentenced, a copy of the report of the probation officer's investi-
31 gation and report or a detailed statement covering the facts relative to
32 the crime and previous history certified by the district attorney, a
33 copy of the inmate's fingerprint records, a detailed summary of avail-
34 able medical records, psychiatric records and reports relating to
35 assaults, or other violent acts, attempts at suicide or escape by the
36 inmate while in the custody of the local correctional facility; any such
37 medical or psychiatric records in the possession of a health care
38 provider other than the local correctional facility shall be summarized
39 in detail and forwarded by such health care provider to the medical
40 director of the appropriate state correctional facility upon request;
41 the superintendent shall present to such officer a certificate of the
42 delivery of such inmate, and the fees of such officer for transporting
43 such inmate shall be paid from the treasury upon the audit and warrant
44 of the comptroller. Whenever an inmate of the state is delivered to a
45 local facility, the superintendent shall forward summaries of such
46 records to the local facility with the inmate.

47 S 5. This act shall take effect September 1, 2009; provided, however,
48 that the amendments to section 380.70 of the criminal procedure law made
49 by section three of this act and the amendments to subdivision (a) of
50 section 601 of the correction law made by section four of this act shall
51 not affect the expiration of such provisions and shall be deemed to
52 expire therewith.