S T A T E O F N E W Y O R K

7930

2011-2012 Regular Sessions

I N A S S E M B L Y

May 24, 2011

Introduced by M. of A. AUBRY -- (at request of the Department of Corrections and Community Supervision) -- read once and referred 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:

Section 1. Section 380.60 of the criminal procedure law is amended to read as follows:

S 380.60 Authority for the execution of sentence.

Except where a sentence of death is pronounced, a SENTENCE AND COMMITMENT OR certificate of conviction showing the sentence pronounced by the court, or a certified copy thereof, constitutes the authority for execution of the sentence and serves as the order of commitment, and no other warrant, order of commitment or authority is necessary to justify or to require execution of the sentence.

S 2. The criminal procedure law is amended by adding a new section 380.65 to read as follows:

S 380.65 SENTENCE AND COMMITMENT AND ORDER OF PROTECTION TO ACCOMPANY DEFENDANT SENTENCED TO IMPRISONMENT.

A SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION, SPECIFYING THE SECTION, AND TO THE EXTENT APPLICABLE, THE SUBDIVISION, PARAGRAPH AND SUBPARAGRAPH OF THE PENAL LAW OR OTHER STATUTE UNDER WHICH THE DEFENDANT WAS CONVICTED, OR A CERTIFIED COPY THEREOF, AND A COPY OF ANY ORDER OF PROTECTION OR TEMPORARY ORDER OF PROTECTION ISSUED AGAINST THE DEFENDANT AT THE TIME OF SENTENCING, MUST BE DELIVERED TO THE PERSON IN CHARGE OF THE CORRECTIONAL FACILITY OR OFFICE OF CHILDREN AND FAMILY SERVICES FACILITY TO WHICH THE DEFENDANT IS COMMITTED AT THE TIME THE DEFENDANT IS DELIVERED THERETO. A SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION IS NOT DEFECTIVE BY 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.

LBD09456-03-1

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

S 380.70 Minutes of sentence.

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

S 4. Section 380.70 of the criminal procedure law, as amended by section 1-a of chapter 141 of the laws of 2008, is amended to read as follows:

S 380.70 Minutes of sentence.

In any case where a person receives an indeterminate sentence of imprisonment or a reformatory or alternative local reformatory sentence of imprisonment, a certified copy of the stenographic minutes of the sentencing proceeding [and a copy of any order of protection or temporary order of protection issued against the defendant at the time of sentencing] must be delivered by the court to the person in charge of the institution to which the defendant has been delivered within thirty days from the date such sentence was imposed[; provided, however, that a sentence or commitment is not defective by reason of a failure to comply with the provisions of this section].

S 5. Subdivision (a) of section 601 of the correction law, as amended by section 9 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

(a) Whenever an inmate shall be delivered to the superintendent of a state correctional facility pursuant to an indeterminate or determinate sentence, the officer so delivering such inmate shall deliver to such superintendent, [a certified copy of the sentence, a certificate of conviction and a copy of any order of protection or temporary order of protection issued against the inmate at the time of sentencing pursuant to section 380.70] THE SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION, OR A CERTIFIED COPY THEREOF, AND A COPY OF ANY ORDER OF PROTECTION PURSUANT TO SECTION 380.65 of the criminal procedure law received by such officer from the clerk of the court by which such inmate shall have been sentenced, a copy of the report of the probation officer's investigation and report or a detailed statement covering the facts relative to the crime and previous history certified by the district attorney, a copy of the inmate's fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the inmate while in the custody of the local correctional facility; any such medical or psychiatric records in the possession of a health care provider other than the local correctional facility shall be summarized in detail and forwarded by such health care provider to the medical director of the appropriate state correctional facility upon request; the superintendent shall present to such officer a certificate of the delivery of such inmate, and the fees of such officer for trans-

porting such inmate shall be paid from the treasury upon the audit and warrant of the comptroller. Whenever an inmate of the state is delivered to a local facility, the superintendent shall forward summaries of such records to the local facility with the inmate.

S 6. Subdivision (a) of section 601 of the correction law, as amended by section 10 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

(a) Whenever an inmate shall be delivered to the superintendent of a state correctional facility pursuant to an indeterminate or determinate sentence, the officer so delivering such inmate shall deliver to such superintendent, [a certified copy of the sentence] THE SENTENCE AND COMMITMENT OR CERTIFICATE OF CONVICTION, OR A CERTIFIED COPY THEREOF, AND A COPY OF ANY ORDER OF PROTECTION PURSUANT TO SECTION 380.65 received by such officer from the clerk of the court by which such inmate shall have been sentenced, [a copy of any order of protection or temporary order of protection issued against the inmate at the time of sentencing,] a copy of the report of the probation officer's investigation and report or a detailed statement covering the facts relative to the crime and previous history certified by the district attorney, a copy of the inmate's fingerprint records, a detailed summary of available medical records, psychiatric records and reports relating to assaults, or other violent acts, attempts at suicide or escape by the inmate while in the custody of the local correctional facility; any such medical or psychiatric records in the possession of a health care provider other than the local correctional facility shall be summarized in detail and forwarded by such health care provider to the medical director of the appropriate state correctional facility upon request; the superintendent shall present to such officer a certificate of the delivery of such inmate, and the fees of such officer for transporting such inmate shall be paid from the treasury upon the audit and warrant of the comptroller. Whenever an inmate of the state is delivered to a local facility, the superintendent shall forward summaries of such records to the local facility with the inmate.

S 7. This act shall take effect September 1, 2011; provided that the amendments to section 380.70 of the criminal procedure law made by section three of this act shall be subject to the expiration and reversion of such section pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section four of this act shall take effect; provided, further, that the amendments to subdivision (a) of section 601 of the correction law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section six of this act shall take effect.