

7930

2011-2012 Regular Sessions

I N   A S S E M B L Y

May 24, 2011

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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 ASSEM-  
BLY, 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, OR A CERTIFIED COPY THEREOF, AND A COPY OF ANY ORDER OF  
18    PROTECTION OR TEMPORARY ORDER OF PROTECTION ISSUED AGAINST THE DEFENDANT  
19    AT THE TIME OF SENTENCING, MUST BE DELIVERED TO THE PERSON IN CHARGE OF  
20    THE CORRECTIONAL FACILITY OR OFFICE OF CHILDREN AND FAMILY SERVICES  
21    FACILITY TO WHICH THE DEFENDANT IS COMMITTED AT THE TIME THE DEFENDANT  
22    IS DELIVERED THERETO. A SENTENCE AND COMMITMENT OR CERTIFICATE OF  
23    CONVICTION IS NOT DEFECTIVE BY REASON OF A FAILURE TO COMPLY WITH THE  
24    PROVISIONS OF THIS SECTION.

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

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

20 S 380.70 Minutes of sentence.

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

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

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

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

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

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

34 S 7. This act shall take effect September 1, 2011; provided that the  
35 amendments to section 380.70 of the criminal procedure law made by  
36 section three of this act shall be subject to the expiration and rever-  
37 sion of such section pursuant to section 74 of chapter 3 of the laws of  
38 1995, as amended, when upon such date the provisions of section four of  
39 this act shall take effect; provided, further, that the amendments to  
40 subdivision (a) of section 601 of the correction law made by section  
41 five of this act shall be subject to the expiration and reversion of  
42 such subdivision pursuant to section 74 of chapter 3 of the laws of  
43 1995, as amended, when upon such date the provisions of section six of  
44 this act shall take effect.