

5542

2011-2012 Regular Sessions

I N S E N A T E

June 1, 2011

Introduced by Sens. SALAND, ADAMS -- (at request of the Department of Corrections and Community Supervision) -- 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, 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.