

Regular Session, 2011  
HOUSE BILL NO. 305  
BY REPRESENTATIVE LIGI

# ACT No. 349

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

1 AN ACT

2 To enact Code of Criminal Procedure Article 881.6 and 881.7, relative to sentencing; to  
3 provide for the reduction of a sentence when the defendant assists in an investigation  
4 or prosecution; to provide for definitions; to provide for time periods; to provide for  
5 memorandums of understanding; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 881.6 and 881.7 are hereby enacted  
8 to read as follows:

9 Art. 881.6. Reducing a sentence for substantial assistance

10 A. Upon motion of the state, the sentencing court may reduce the  
11 defendant's sentence if, after sentencing, the defendant provided substantial  
12 assistance in furtherance of the investigation or prosecution of another person.

13 B. In evaluating whether the defendant has provided substantial assistance  
14 pursuant to the provisions of this Article, the sentencing court may consider the  
15 defendant's presentence or postsentence assistance in furtherance of the investigation  
16 or prosecution.

17 C. If the sentencing court makes a determination to reduce the sentence to  
18 a time period which is less than the minimum sentence provided by law, that  
19 sentence shall not be imposed without the consent of the district attorney.

20 D. For purposes of this Article, "sentencing" means the oral announcement  
21 of the sentence.

1           Art. 881.7. Memorandum of understanding; limits on reduction of sentence for  
 2                           substantial assistance by a defendant

3           A. Prior to any defendant receiving a reduction of sentence pursuant to Code  
 4           of Criminal Procedure Article 881.6, the prosecuting attorney shall enter into a  
 5           memorandum of understanding with the defendant. Such memorandum of  
 6           understanding shall be in writing.

7           B. The memorandum of understanding shall be signed by the following:

8                   (1) The prosecuting attorney or his designee.

9                   (2) The defendant.

10                  (3) The tutor or legal guardian of the defendant, if the defendant is a minor.

11                  (4) The attorney representing the defendant, if the defendant is represented  
 12           by counsel.

13           C. The memorandum of understanding shall not be considered a grant of  
 14           immunity from criminal prosecution.

15           D. The memorandum of understanding shall include the entirety of the  
 16           agreement between the state and the defendant and shall include the following  
 17           information:

18                   (1) A statement that the state may move for the defendant to receive a  
 19           reduction of sentence in return for the defendant providing substantial assistance in  
 20           furtherance of the investigation or prosecution of another person.

21                   (2) A statement that the sentencing court shall examine information provided  
 22           by the state in determining the nature and extent of the assistance provided by the  
 23           defendant and the reduction of sentence.

24                   (3) A statement that the sentencing court shall not be permitted to reduce the  
 25           defendant's sentence to a time period which is less than the minimum sentence  
 26           provided by law without the consent of the district attorney.

27                   (4) A statement that the memorandum of understanding constitutes the  
 28           entirety of the agreement between the state and the defendant and that the district  
 29           attorney shall not recommend a reduction of the defendant's sentence for assistance

1 not described in the memorandum of understanding nor to any greater extent than  
2 that which is described in the memorandum of understanding.

3 (5) A statement that the sentencing court may choose not to grant the motion  
4 for reduction of sentence or accept any sentencing recommendation made by the  
5 state.

6 E. The memorandum of understanding shall detail the responsibilities agreed  
7 to by the defendant relating to any substantial assistance provided by the defendant  
8 in the furtherance of an investigation or prosecution of another person and any  
9 possible reduction of sentence, including but not limited to the following:

10 (1) A requirement that the defendant provide complete and truthful  
11 information to all law enforcement officials related to all relevant investigations.

12 (2) A statement of the substance of the proposed testimony of the witness.

13 F. The memorandum of understanding shall detail the responsibilities agreed  
14 to by the state relating to the reduction of sentence, including but not limited to the  
15 following:

16 (1) The circumstances under which the state will move for a reduction of  
17 sentence pursuant to Code of Criminal Procedure Article 881.6, including the nature  
18 and level of assistance the defendant is required to provide before the state will move  
19 for such reduction of sentence.

20 (2) The range of the sentencing recommendation that the state agrees to  
21 make to the sentencing court in a motion for reduction of sentence and that the  
22 district attorney shall make no other recommendation than that which is described  
23 in the memorandum of understanding.

24 (3) The reduction of sentence the state will recommend for each particular  
25 instance of assistance or form of assistance when the defendant provides assistance  
26 in more than one investigation or prosecution.

27 (4) The circumstances in which the district attorney shall consent to a  
28 reduction of sentence to a time period that is less than the minimum sentence  
29 provided by law.

1                    G. When the defendant meets his obligation as described in the memorandum  
2                    of understanding, the state shall move for a reduction of sentence in accordance with  
3                    the memorandum of understanding. The memorandum of understanding shall be  
4                    filed into the criminal record.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_