2019 Regular Session

HOUSE BILL NO. 351

BY REPRESENTATIVE CARPENTER

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

CRIMINAL/SENTENCING: Provides relative to pleas of guilty or nolo contendere in felony cases

1   AN ACT

2   To amend and reenact Code of Criminal Procedure Article 556.1(C), relative to pleas in

3   criminal cases; to provide relative to pleas of guilty or nolo contendere in felony

4   cases; to provide relative to duties of the court; to require the court to inquire of the

5   defendant and defense counsel of plea offers made by the state; and to provide for

6   related matters.

7   Be it enacted by the Legislature of Louisiana:

8   Section 1. Code of Criminal Procedure Article 556.1(C) is hereby amended and

9   reenacted to read as follows:

10   Art. 556.1. Plea of guilty or nolo contendere in felony cases; duty of court

11   *   *   *

12   C.(1) The court shall also inquire as to whether the defendant's willingness

13   to plead guilty or nolo contendere results from prior discussions between the district

14   attorney and the defendant or his attorney. If a plea agreement has been reached by

15   the parties, the court, on the record, shall require the disclosure of the agreement in

16   open court or, on a showing of good cause, in camera, at the time the plea is offered.

17   (2) The court shall further inquire of the defendant and his attorney whether

18   the defendant has been informed of all plea offers made by the state.

19   *   *   *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 351 Reengrossed   2019 Regular Session   Carpenter

Abstract: Provides relative to the duties of the court when a defendant pleads guilty or nolo contendere in felony cases.

Present law provides that the court shall not accept a plea of guilty or nolo contendere without first addressing the defendant personally in open court and informing him of, and determining that he understands, certain things including but not limited to: the nature of the charges against him and the penalties for such offense; that he has a right to be represented by an attorney at every stage of the proceeding against him; and that if he pleads guilty or nolo contendere, he waives his right to a trial.

Present law requires the court to inquire as to whether the defendant's willingness to plead guilty or nolo contendere results from prior discussions between the district attorney and the defendant or his attorney. Present law further requires the disclosure of the agreement in open court or, on a showing of good cause, in camera, at the time the plea is offered.

Proposed law requires the court to inquire of the defendant and his attorney whether he has been informed of all plea offers made by the state.

(Amends C.Cr.P. Art. 556.1(C))

Summary of Amendments Adopted by House

    The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1.   Provide that failure to comply with proposed law does not invalidate a plea.

    The House Floor Amendments to the engrossed bill:

1.   Remove proposed law provision that requires defense counsel or the court to inform the defendant of additional consequences as a result of his plea of guilty or nolo contendere.

2.   Amend proposed law to require the court to inquire of the defendant and his attorney whether he has been informed of all plea offers made by the state.

3.   Restore present law provision that provides that any variance from the procedures required by present law, which does not affect substantial rights of the accused, does not invalidate the plea.