

2018 Regular Session

SENATE BILL NO. 15

BY SENATOR MIZELL

CRIMINAL PROCEDURE. Provides that a search of the residence of a defendant on probation may be conducted by any probation officer assigned by the Department of Public Safety and Corrections to conduct the search. (8/1/18)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 895(A)(13)(a), relative to

3 probation and parole; to provide that a warrantless search may be conducted of a

4 probationer's residence under certain circumstances by either the probation officer

5 assigned to the probationer or by a probation officer assigned by the Department of

6 Public Safety and Corrections to conduct the search; to provide relative to legislative

7 intent; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 895(A)(13)(a) is hereby amended and

10 reenacted to read as follows:

11 Art. 895. Conditions of probation

12 A. When the court places a defendant on probation, it shall require the

13 defendant to refrain from criminal conduct and to pay a supervision fee to defray the

14 costs of probation supervision, and it may impose any specific conditions reasonably

15 related to his rehabilitation, including any of the following. That the defendant shall:

16 \* \* \*

17 (13)(a) Agree to searches of his person, his property, his place of residence,

1 his vehicle, or his personal effects, or any or all of them, at any time, by the  
 2 probation officer or the parole officer assigned to him, or by any probation officer  
 3 or parole officer assigned or directed by the Department of Public Safety and  
 4 Corrections to conduct the search, with or without a warrant of arrest or with or  
 5 without a search warrant, when the probation officer or the parole officer has  
 6 reasonable suspicion to believe that the person who is on probation is engaged in or  
 7 has been engaged in criminal activity.

8 \* \* \*

9 Section 2. The provisions of this Act are intended to legislatively overrule the  
 10 Louisiana Supreme Court's decision in *State of Louisiana v. Kayla Brignac*, 2017-KK-0448  
 11 (Sup. Ct. 10/18/17), to the extent that the court held that a warrantless search of a  
 12 probationer's residence violates the provisions of Code of Criminal Procedure Article  
 13 895(A)(13)(a) when the search is not conducted by the probation officer assigned to the  
 14 probationer by the Department of Public Safety and Corrections.

---

The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alden A. Clement Jr.

---

DIGEST

SB 15 Original

2018 Regular Session

Mizell

Present law provides that when the court places a defendant on probation, it is to require the defendant to refrain from criminal conduct and to pay a supervision fee, and it may impose any specific conditions reasonably related to his rehabilitation, including that the defendant will agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity.

Proposed law retains present law and adds that these searches may also be conducted by any probation officer or parole officer assigned or directed by the Dept. of Public Safety and Corrections to conduct the search.

Proposed law provides that the provisions of proposed law are intended to legislatively overrule the La. Supreme Court's decision in *State of Louisiana v. Kayla Brignac*, 2017-KK-0448 (Sup. Ct. 10/18/17), to the extent that the court held that a warrantless search of a probationer's residence violates the provisions of C.Cr.P. Art. 895(A)(13)(a) when the search is not conducted by the probation officer assigned to the probationer by the Dept. of Public Safety and Corrections.

Effective August 1, 2018.

(Amends C.Cr.P. Art. 895(A)(13)(a))