SLS 10RS-742 ENGROSSED

Regular Session, 2010

SENATE BILL NO. 380

BY SENATOR MORRELL

CRIMINAL PROCEDURE. Provides for motions to sever an offense. (8/15/10)

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Arts. 495.1 and 704, relative to
3	severance of offenses; to provide for motions to sever criminal offenses and
4	defendants under certain circumstances; and to provide for related matters.
5	Be it enacted by the Legislature of Louisiana:
6	Section 1. Code of Criminal Procedure Arts. 495.1 and 704 are hereby amended and
7	reenacted to read as follows:
8	Art. 495.1. Severance of offenses
9	If it appears that a defendant or the state is prejudiced by a joinder of offenses
10	in an indictment or bill of information or by such joinder for trial together, the court
11	may order separate trials, grant a severance of offenses, or provide whatever other
12	relief justice requires.
13	A. Jointly indicted offenses shall be tried jointly unless:
14	(1) The state elects to try them separately; or
15	(2) The court, on motion of the defendant, and after contradictory
16	hearing with the district attorney, is satisfied that justice requires severance.
17	B. A motion to sever offenses shall be filed in writing, and shall be filed

1	not later than seven days prior to the trial.
2	* * *
3	Art. 704. Severance
4	A. Jointly indicted defendants shall be tried jointly unless:
5	(1) The state elects to try them separately; or
6	(2) The court, on motion of the defendant, and after contradictory hearing
7	with the district attorney, is satisfied that justice requires a severance.
8	B. A motion to sever defendants shall be filed in writing, and shall be
9	filed not later than seven days prior to the trial.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

Morrell (SB 380)

<u>Present law</u> relative to jointly indicted offenses, authorizes a court to order separate trials, grant a severance of offenses, or whatever other relief justice requires if it appears that a defendant or the state is prejudiced by a joinder of offenses in an indictment or bill or information or by joinder for trial.

<u>Proposed law</u> requires that jointly indicted offenses be tried jointly unless (1) the state elects to try the offenses separately or (2) the court, on motion of the defendant and after contradictory hearing, is satisfied that justice requires severance. Requires that a motion to sever offenses be in writing and be filed not later than seven days prior to trial.

<u>Present law</u> requires jointly indicted defendants to be tried jointly unless the state elects to try them separately or the court, on the defendants' motion and after a contradictory hearing with the district attorney, is satisfied that justice requires severance. <u>Proposed law</u> retains these provisions but requires that the motion to sever defendants be filed in writing not later than seven days prior to trial.

Effective August 15, 2010.

(Amends C. Cr. P. Arts. 495.1 and 704)