

2016 Regular Session
HOUSE BILL NO. 331
BY REPRESENTATIVE GREGORY MILLER

ACT No. 109

1 AN ACT

2 To amend and reenact R.S. 13:850(A), (B), and (C) and 2562.25(A), (B), and (C) and Code
3 of Criminal Procedure Article 14.1(A), (B), and (C), relative to the filing of certain
4 documents in civil and criminal court; to provide procedures and requirements for
5 facsimile filing; to provide for the effectiveness of filing; to provide for the payment
6 of filing fees; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 13:850(A), (B), and (C) and 2562.25(A), (B), and (C) are hereby
9 amended and reenacted to read as follows:

10 §850. Facsimile transmission; filings in civil actions; fees; equipment and supplies

11 A. Any ~~paper~~ document in a civil action may be filed with the clerk of court
12 by facsimile transmission. All clerks of court shall make available for their use
13 equipment to accommodate facsimile filing in civil actions. Filing shall be deemed
14 complete at the time ~~that~~ the facsimile transmission is received ~~and a receipt of~~
15 ~~transmission has been transmitted to the sender~~ by the clerk of court. No later than
16 on the first business day after receiving a facsimile filing, the clerk of court shall
17 transmit to the filing party via facsimile a confirmation of receipt and include a
18 statement of the fees for the facsimile filing and filing of the original document. The
19 facsimile filing fee and transmission fee are incurred upon receipt of the facsimile
20 filing by the clerk of court and payable as provided in Subsection B of this Section.
21 The facsimile ~~when filed has~~ filing shall have the same force and effect as filing the
22 original document, if the filing party complies with Subsection B of this Section.

23 B. Within seven days, exclusive of legal holidays, after the clerk of court ~~has~~
24 ~~received the transmission, the party filing the document shall forward the following~~

1 to receives the facsimile filing, all of the following shall be delivered to the clerk of
2 court:

3 (1) The original ~~signed~~ document identical to the facsimile filing in number
4 of pages and in content of each page including any attachments, exhibits, and orders.

5 A document not identical to the facsimile filing or which includes pages not included
6 in the facsimile filing shall not be considered the original document.

7 (2) The ~~applicable filing fee~~ fees for the facsimile filing and filing of the
8 original document stated on the confirmation of receipt, if any.

9 (3) A transmission fee of five dollars.

10 C. If the filing party fails to comply with any of the requirements of
11 Subsection B of this Section, the facsimile filing shall have no force or effect. The
12 various district courts may provide by court rule for other matters related to filings
13 by facsimile transmission.

14 * * *

15 §2562.25. Facsimile transmission; filings in civil actions; fees; equipment and
16 supplies

17 A. Any document in a civil action may be filed with the clerk of court for the
18 First and Second Parish Courts of Jefferson Parish by facsimile transmission. The
19 clerk of court of the parish of Jefferson as the ex officio clerk of court for the First
20 and Second Parish Courts of Jefferson Parish shall make available for his use
21 equipment to accommodate facsimile filing in civil actions. Filing shall be deemed
22 complete at the time that the facsimile transmission is received ~~and a receipt of~~
23 ~~transmission has been transmitted to the sender~~ by the clerk of court. No later than
24 on the first business day after receiving a facsimile filing, the clerk of court shall
25 transmit to the filing party via facsimile a confirmation of receipt and include a
26 statement of the fees for the facsimile filing and filing of the original document. The
27 facsimile filing fee and transmission fee are incurred upon receipt of the facsimile
28 filing by the clerk of court and payable as provided in Subsection B of this Section.
29 The facsimile filing ~~when filed has~~ shall have the same force and effect as filing the
30 original document, if the party complies with Subsection B of this Section.

1 B. Within ~~five~~ seven days, exclusive of legal holidays, after the clerk of
 2 court ~~has received the transmission, the party filing the document shall forward the~~
 3 ~~following to~~ receives the facsimile filing, all of the following shall be delivered to
 4 the clerk of court:

5 (1) The original ~~signed~~ document identical to the facsimile filing in number
 6 of pages and in content of each page including any attachments, exhibits, and orders.
 7 A document not identical to the facsimile filing or which includes pages not included
 8 in the facsimile filing shall not be considered the original document.

9 (2) The ~~applicable filing fee~~ fees for the facsimile filing and filing of the
 10 original document stated on the confirmation of receipt, if any.

11 (3) A transmission fee of five dollars.

12 C. If the filing party fails to comply with any of the requirements of
 13 Subsection B of this Section, the facsimile filing shall have no force or effect. The
 14 First and Second Parish Courts of Jefferson Parish may provide by court rule for
 15 other matters related to filings by facsimile transmission.

16 * * *

17 Section 2. Code of Criminal Procedure Article 14.1(A), (B), and (C) are hereby
 18 amended and reenacted to read as follows:

19 Art. 14.1. Filing of pleadings and documents by facsimile transmission

20 A. Any ~~pleading or document filed in response to a traffic or criminal action~~
 21 may be filed with the clerk of court by facsimile transmission if permitted by the
 22 policy of the clerk of court. Upon receipt of the transmission, Filing shall be deemed
 23 complete at the time the facsimile transmission is received by the clerk of court. No
 24 later than on the first business day after receiving a facsimile filing, the clerk of court
 25 shall cause transmit to the filing party via facsimile a confirmation of receipt of
 26 transmission to be transmitted to the sender when such and include a statement of the
 27 fees for the facsimile filing and filing of the original document. is received in the
 28 office of the clerk of court. Such filing shall be deemed complete at the time when
 29 the facsimile transmission is received and the receipt of transmission has been
 30 transmitted to the sender. When filed, the The facsimile filing fee and transmission

1 fee are incurred upon receipt of the facsimile filing by the clerk of court and payable
 2 as provided in Subsection B of this Section. The facsimile ~~transmission~~ filing shall
 3 have the same force and effect as filing the original document, if the party complies
 4 with Paragraph B of this Article ~~from which the transmission was made.~~

5 B. Within ~~five~~ seven days, exclusive of legal holidays, after the clerk of
 6 court ~~has received the transmission and the sender has received notification of such~~
 7 receipt, ~~the party filing the facsimile transmitted document shall forward the~~
 8 following receives the facsimile filing, all of the following shall be delivered to the
 9 clerk of court:

10 (1) The original ~~signed~~ document identical to the facsimile filing in number
 11 of pages and in content of each page including any attachments, exhibits, and orders.
 12 A document not identical to the facsimile filing or which includes pages not included
 13 in the facsimile filing shall not be considered the original document.

14 (2) The ~~applicable filing fee~~ fees for the facsimile filing and filing of the
 15 original document stated on the confirmation of receipt, if any.

16 (3) A transmission fee of five dollars, if the defendant had not been declared
 17 indigent by the court.

18 C. If a the filing party who has made a filing through facsimile transmission
 19 ~~with the court~~ fails to comply with ~~the provisions of Paragraph B of this Article~~ any
 20 of the requirements of Paragraph B of this Article, the facsimile ~~file~~ filing shall have
 21 no force or effect.

* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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AN ACT

To amend and reenact Title VIII of the Code of Criminal Procedure, to be comprised of Articles 311 through 342, R.S. 15:85, and the introductory paragraph of R.S. 22:1441(A) and (A)(1) through (5), (C)(1), the introductory paragraph of (C)(2) and (C)(2)(a) through (e), and (D), to enact R.S. 22:1441(C)(3) through (5), and to repeal Code of Criminal Procedure Articles 327.1, 330.1, 330.2, 330.3, 334.1, 334.2, 334.3, 334.4, 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348, 349, 349.1, 349.2, 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9, relative to bail; to provide for the revision and reorganization of bail law; to provide for definitions; to provide for the right to bail; to provide for bail hearings and detention without bail; to provide for the authority to fix bail; to provide schedules of bail and factors in fixing bail; to provide for modification of bail; to provide for conditions, types, and restrictions of bail; to provide for bail with and without surety; to provide for cash deposits; to provide the requirements of the bail undertaking; to provide for notice of required appearance; to provide for discharge of the bail obligation; to provide relative to a defendant's failure to appear and issuance and notice of arrest warrant;

1 to provide for the filing of a rule to show cause; to provide for nonforfeiture
2 situations; to provide for notice and recordation of judgment; to provide for appeals;
3 to provide for enforcement of judgment; to provide relative to failure to satisfy a
4 judgment of bond forfeiture or claim under a criminal bond contract; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Title VIII of the Code of Criminal Procedure, to be comprised of Articles
8 311 through 342, is hereby amended and reenacted to read as follows:

9 TITLE VIII. BAIL

10 Art. 311. ~~Bail defined~~ **Definitions**

11 **For the purpose of this Title, the following definitions shall apply:**

12 **(1) Bail is the security given by a person to assure his a defendant's**
13 **appearance before the proper court whenever required. (Source: Art. 311)**

14 **(2) An appearance is a personal appearance before the court or the**
15 **court's designee, where the charges are pending.**

16 **(3) A surrender is the detention of the defendant at the request of the**
17 **surety by the officer originally charged with his detention on the original**
18 **commitment. When the surety has requested the surrender of the defendant, the**
19 **officer shall acknowledge the surrender by a certificate of surrender signed by**
20 **him and delivered to the surety.**

21 **(4) A constructive surrender is the detention of the defendant in another**
22 **parish of the state of Louisiana or a foreign jurisdiction under the following**
23 **circumstances:**

24 **(a) A warrant for arrest has been issued for the defendant in the**
25 **jurisdiction in which the bail obligation is in place.**

26 **(b) The surety has provided proof of the defendant's current**
27 **incarceration to the court in which the bail obligation is in place, the**
28 **prosecuting attorney, and the officer originally charged with the defendant's**
29 **detention.**

30 **(c) The surety has paid to the officer the reasonable costs of returning the**

1 defendant to the jurisdiction where the warrant for arrest was issued.

2 (5) A personal surety ~~must be~~ is a natural person domiciled in ~~this~~ the state
 3 of Louisiana who owns property in this state that is subject to seizure and is of
 4 sufficient value to satisfy, considering all his property, the amount specified in the
 5 bail ~~bond~~ undertaking. The value of the property ~~of the surety~~ shall exclude
 6 property ~~the amount~~ exempt from execution, and shall be over and above all his
 7 other liabilities including the amount of any other bail ~~bond~~ undertaking on which
 8 he may be principal or surety. ~~When~~ If there is more than one personal surety, then
 9 the requirements ~~of this Article~~ shall apply to the aggregate value of their property.
 10 ~~No~~ A personal surety shall not charge a fee or receive any compensation for posting
 11 a personal surety ~~bond~~ bail undertaking. (Source: Art. 315) A bail undertaking of
 12 a personal surety may be unsecured or secured. (Source: Art. 316)

13 (Source: C.Cr.P. Arts. 311, 315, and 316)

14 Art. 312. ~~Types and elections of bail~~ Right to bail before and after conviction

15 A. ~~The types of bail in Louisiana are:~~

16 (1) ~~Bail with a commercial surety.~~

17 (2) ~~Bail with a secured personal surety.~~

18 (3) ~~Bail with an unsecured personal surety.~~

19 (4) ~~Bail without surety, with or without security.~~

20 (5) ~~Bail with a cash deposit.~~

21 B. ~~Except as provided in Paragraphs C and D of this Article, all bail must be~~
 22 ~~posted in the full amount fixed by the court.~~

23 C. ~~When the court fixes the amount of bail, a secured bail undertaking may~~
 24 ~~be satisfied by a commercial surety, a cash deposit, or with the court's approval, by~~
 25 ~~a secured personal surety or a bond secured by the property of the defendant, or by~~
 26 ~~any combination thereof.~~

27 D. ~~When the court elects to release the defendant on an unsecured personal~~
 28 ~~surety or a bail without surety, that election shall be expressed in the bail order.~~

29 A. Except as provided in this Article and Article 331 ~~313~~, a person in
 30 custody who is charged with the commission of an offense is entitled ~~to be admitted~~

1 to bail before conviction ~~unless the person is charged with a crime of violence as~~
 2 ~~defined by law or with production, manufacture, distribution, or dispensing or~~
 3 ~~possession with intent to produce, manufacture, distribute, or dispense a controlled~~
 4 ~~dangerous substance as defined by the Louisiana Controlled Dangerous Substances~~
 5 ~~Law, and after a contradictory hearing, conducted pursuant to the provisions of~~
 6 ~~Article 330.1, the judge or magistrate finds by clear and convincing evidence that the~~
 7 ~~defendant may flee or poses an imminent danger to any other person or the~~
 8 ~~community. (Source: Art. 330)~~

9 **B. A person released on a previously posted bail undertaking for (1) a**
 10 **crime of violence as defined by R.S. 14:2(B) which carries a minimum**
 11 **mandatory sentence of imprisonment upon conviction or (2) the production,**
 12 **manufacture, distribution, or dispensing or possession with intent to produce,**
 13 **manufacture, distribute, or dispense a controlled dangerous substance as**
 14 **defined by the Louisiana Uniform Controlled Dangerous Substances Law, shall**
 15 **not be readmitted to bail when the person previously failed to appear and a**
 16 **warrant for arrest was issued and not recalled or the previous bail undertaking**
 17 **has been revoked or forfeited. If a person voluntarily appears without**
 18 **confinement by a law enforcement officer or bail recovery agent following a**
 19 **motion to revoke bail or issuance of an arrest warrant for failure to appear but**
 20 **prior to revocation or forfeiture, then he may be released only under one of the**
 21 **following circumstances:**

22 ~~(1) Notwithstanding the provisions of Subparagraphs (2) and (3) of this~~
 23 ~~Paragraph, after After a contradictory hearing, any a person who voluntarily~~
 24 ~~surrenders following revocation or forfeiture of bail may be released on the forfeited~~
 25 ~~or revoked previously posted bail undertaking provided the revocation or forfeiture~~
 26 ~~of the bail if the motion to revoke bail is rescinded by the court or the arrest~~
 27 ~~warrant is recalled and the surety is present or represented at the hearing and~~
 28 ~~consents gives written consent. Previous instances of revocation or and forfeiture~~
 29 ~~of bail in unrelated cases is are admissible at that contradictory the hearing. The~~
 30 ~~relief shall be available only at the first instance of revocation or forfeiture of that~~

1 bail and within six months of the forfeiture of the bail. **This relief is available only**
2 **once.** (Source: Art. 334.3(A)(4))

3 **(2)** Any person who voluntarily surrenders following revocation forfeiture
4 of bail **A person** may be released **on a new bail undertaking without a**
5 **contradictory hearing** only on bail with a commercial surety and in an amount
6 higher than the original bail. (Source: Art. 334.3(A)(2))

7 **C.** A defendant who has **been** surrendered **himself** under the provisions of
8 Article ~~345~~ **331**, or has been rearrested under the provisions of Article ~~346~~ **332**, is
9 entitled to bail in accordance with this Code. (Source: Art. 347)

10 **D.** A convicted person shall be remanded to jail to await sentence unless any
11 of the following occur:

12 (1) He is allowed to remain free on a bail ~~obligation~~ **undertaking** posted
13 prior to conviction by operation of Article ~~326(B)~~ **331(A)**, and the bail previously
14 fixed is in accordance with all of the applicable provisions of this Article.

15 (2) He is released by virtue of a bail ~~obligation~~ **undertaking** posted after
16 conviction, **which and the** bail was fixed in accordance with this Article. (Source:
17 Art. 332(A))

18 **E.** After conviction and before sentence, bail shall be allowed if the
19 maximum sentence which may be imposed is imprisonment for five years or less.
20 Bail may be allowed pending sentence if the maximum sentence which may be
21 imposed is imprisonment exceeding five years, except when the court has reason to
22 believe, based on competent evidence, that the release of the person convicted will
23 pose a danger to any other person or the community, or that there is a substantial risk
24 that the person convicted might flee. (Source: Art. 332(B))

25 **F.** After sentence and until final judgment, bail shall be allowed if a sentence
26 of five years or less is actually imposed. Bail may be allowed after sentence and until
27 final judgment if the sentence actually imposed exceeds imprisonment for five years,
28 except when the court has reason to believe, based on competent evidence, that the
29 release of the person convicted will pose a danger to any other person or the
30 community, or that there is a substantial risk that the person convicted might flee.

1 (Source: Art. 332(C))

2 G. After conviction of a capital offense, a defendant shall not be allowed bail.

3 (Source: Art. 332(E))

4 H. A person held without bail or unable to post bail may invoke the
5 supervisory jurisdiction of the court of appeal on a claim that the trial court has
6 improperly refused bail or a reduction of bail in aailable case. (Source: Art. 343)
7 (Source: C.Cr.P. Arts. 330, 332, 334.3, 343, and 347)

8 Art. 313. ~~Surety~~ Gwen's Law; bail hearings; detention without bail

9 ~~Surety as used in this Title is a legal suretyship pursuant to the provisions of~~
10 ~~the Louisiana Civil Code.~~

11 A.(1) This Article Paragraph may be cited as and referred to as "Gwen's
12 Law".

13 (2) A contradictory bail hearing, as provided for in this Article Paragraph,
14 may be held prior to setting bail for a person in custody who is charged with
15 domestic abuse battery, violation of protective orders, stalking, or any felony offense
16 involving the use or threatened use of force or a deadly weapon upon the defendant's
17 family member, as defined in R.S. 46:2132 or upon the defendant's household
18 member as defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined
19 in R.S. 46:2151. If the court orders a contradictory hearing, the hearing shall be held
20 within five days from the date of determination of probable cause, exclusive of
21 weekends and legal holidays. At the contradictory hearing, the court shall determine
22 the conditions of bail or whether the defendant should be held without bail pending
23 trial. If the court decides not to hold a contradictory hearing, it shall notify the
24 prosecuting attorney prior to setting bail. (Source: Art. 330.3(B))

25 (3) In addition to the factors listed in Article ~~334~~ 316, in determining whether
26 the defendant should be admitted to bail pending trial, or in determining the
27 conditions of bail, the judge or magistrate shall consider the following:

28 (a) The criminal history of the defendant.

29 (b) The potential threat or danger the defendant poses to the victim, the
30 family of the victim, or to any member of the public, especially children.

1 (c) Documented history or records of any of the following: substance abuse
2 by the defendant; threats of suicide by the defendant; the defendant's use of force or
3 threats of use of force against any victim; strangulation, forced sex, or controlling the
4 activities of any victim by the defendant; or threats to kill. Documented history or
5 records may include but are not limited to sworn affidavits, police reports, and
6 medical records. (Source: Art. 330.3(C))

7 (4) Following the contradictory hearing and based upon the judge's or
8 magistrate's review of the factors set forth in ~~Paragraph C~~ **Subparagraph(A)(3)** of
9 this Article, the judge or magistrate may order that the defendant not be admitted to
10 bail, upon proof by clear and convincing evidence either that the defendant might
11 flee, or that the defendant poses an imminent danger to any other person or the
12 community. (Source: Art. 330.3(D))

13 (5) If bail is granted, with or without a contradictory hearing, the judge or
14 magistrate shall comply with the provisions of Article ~~335.1 or 335.2~~ **320**, as
15 applicable. The judge or magistrate shall consider, as a condition of bail, a
16 requirement that the defendant wear an electronic monitoring device and be placed
17 under active electronic monitoring and house arrest. The conditions of the electronic
18 monitoring and house arrest shall be determined by the court and may include but are
19 not limited to limitation of the defendant's activities outside the home and a curfew.
20 The defendant may be required to pay a reasonable supervision fee to the supervising
21 agency to defray the cost of the required electronic monitoring and house arrest. A
22 violation of the conditions of bail may be punishable by revocation of the ~~bond~~ **bail**
23 **undertaking** and the issuance of a bench warrant for the defendant's arrest or
24 remanding of the defendant to custody or a modification of the terms of bail.
25 (Source: Art. 330.3(E))

26 **B.** Upon motion of the ~~prosecutor~~ **prosecuting attorney**, the judge or
27 magistrate may order the temporary detention of ~~the defendant~~ **a person in custody**
28 **who is charged with the commission of an offense**, for a period of not more than
29 five days, exclusive of weekends and legal holidays, pending the conducting of a
30 contradictory bail hearing. Following the contradictory hearing, upon proof by clear

1 and convincing evidence either that there is a substantial risk that the defendant
2 might flee or that the defendant poses an imminent danger to any other person or the
3 community, the judge or magistrate may order the defendant held without bail
4 pending trial. (Source: Art. 330.1)

5 C.(1) A contradictory bail hearing, as provided for in this Article, shall be
6 held prior to setting bail for a person in custody who is charged with the commission
7 of a sex offense and who has been previously convicted of a sex offense. (Source:
8 Art. 330.2(A))

9 (2) The court, after having been given notice of an applicable prior conviction
10 as described in ~~Paragraph F~~ Subparagraph (5) of this ~~Article~~ Paragraph, shall
11 order a contradictory hearing to be held within five days of receiving notice of the
12 prior conviction, exclusive of weekends and legal holidays. (Source: Art. 330.2(B))

13 (3) At the contradictory hearing the court, in addition to hearing whatever
14 evidence it finds relevant, shall, ~~with the consent~~ on motion of the prosecuting
15 attorney, perform an ~~ex parte~~ in camera examination of the evidence against the
16 accused. (Source: Art. 330.2(C))

17 (4) In addition to the factors listed in Article 334 ~~of the Code of Criminal~~
18 ~~Procedure~~ 316, the court shall take into consideration the previous criminal record
19 of the defendant; any potential threat or danger the defendant poses to the victim, the
20 family of the victim, or to any member of the public, especially children; and the
21 court shall give ample consideration to any statistical evidence prepared by the
22 United States Department of Justice relative to the likelihood of the defendant, or any
23 person in general who has been convicted of sexually inappropriate conduct with a
24 prepubescent child under the age of thirteen, to commit similar offenses against
25 juvenile victims in the future. (Source: Art. 330.2(D))

26 (5) For purposes of this ~~Article~~ Paragraph, "sex offense" means any offense
27 as defined as a sex offense in R.S. 15:541 when the victim is under the age of
28 thirteen at the time of commission of the offense and less than ten years have elapsed
29 between the date of the commission of the current offense and the expiration of the
30 maximum sentence of the previous conviction. (Source: Art. 330.2(F))

1 **D.(1)** A person charged with the commission of a capital offense shall not be
 2 admitted to bail if the proof is evident and the presumption great that he is guilty of
 3 the capital offense. When a person charged with the commission of a capital offense
 4 makes an application for admission to bail, the judge shall hold a hearing
 5 contradictorily with the state. (Source: Art. 331(A) and (B))

6 **(2)** The burden of proof **at the contradictory bail hearing:**

7 **(a)** Prior to indictment is on the state to show that the proof is evident and the
 8 presumption great that the defendant is guilty of the capital offense.

9 **(b)** After indictment is on the defendant to show that the proof is not evident
 10 or the presumption is not great that he is guilty of the capital offense. (Source: Art.
 11 331(C))

12 (Source: C.Cr.P. Arts. 330.1, 330.2, 330.3, and 331)

13 Art. 314. ~~Commercial surety~~ **Authority to fix bail; bail order**

14 ~~A surety company authorized to do business in the state of Louisiana may~~
 15 ~~become surety for the release of a person on bail. The sufficiency of security posted~~
 16 ~~in the form of an appearance bond by a surety company, as required by the~~
 17 ~~provisions of Title 22 of the Louisiana Revised Statutes of 1950, shall be determined~~
 18 ~~solely by the commissioner of insurance.~~

19 **A.** The following magistrates, throughout their several territorial
 20 jurisdictions, shall have authority to fix bail:

21 (1) District courts **and their commissioners** having criminal jurisdiction, in
 22 all cases.

23 (2) City or parish courts and municipal and traffic courts of New Orleans
 24 having criminal jurisdiction, in cases not capital.

25 (3) Mayor's courts and traffic courts in criminal cases within their trial
 26 jurisdiction.

27 (4) Juvenile and family courts in criminal cases within their trial jurisdiction.

28 (5) Justices of the peace in cases not capital or necessarily punishable at hard
 29 labor. (Source: Art. 333)

30 **B.** An order fixing bail shall be in writing, set the type and a single amount

1 of bail for each charge, designate the officer or officers authorized to accept the bail,
 2 and shall be signed **electronically or by any other means** by the magistrate. An
 3 order fixing bail may issue on request of the state or defendant, or on the initiative
 4 of the ~~judge or~~ magistrate. (Source: Art. 338)

5 Art. 315. Personal surety **Schedules of bail**

6 ~~A personal surety must be a natural person domiciled in this state who owns~~
 7 ~~property in this state that is subject to seizure and is of sufficient value to satisfy,~~
 8 ~~considering all his property, the amount specified in the bail bond. The value of the~~
 9 ~~property of the surety shall exclude property exempt from execution, and shall be~~
 10 ~~over and above all his other liabilities including the amount of any other bail bond~~
 11 ~~on which he may be principal or surety. When there is more than one personal~~
 12 ~~surety, the requirements of this Article shall apply to the aggregate value of their~~
 13 ~~property. No personal surety shall charge a fee or receive any compensation for~~
 14 ~~posting a personal surety bond.~~

15 **A.** Unless the bail is fixed by a schedule in accordance with ~~Paragraph B~~ **this**
 16 **Article**, the amount of bail in felony cases shall be specifically fixed in each case.
 17 **In noncapital felony cases, a bail schedule according to the offense charged may**
 18 **be fixed by a district court. In misdemeanor cases, a bail schedule according to**
 19 **the offense charged may be fixed by a district, parish or city court for offenses**
 20 **committed within its trial jurisdiction.** (Source: Art. 340(A)) When more than one
 21 court has trial jurisdiction ~~over an offense~~, the applicable bail schedule shall be that
 22 of the court in which the case is to be tried. (Source: Art. 341(A))

23 **B.** The court order setting the bail schedule shall fix the amount of bail for
 24 each offense listed, designate the officer or officers authorized to accept the bail, and
 25 order that bail be taken in conformity with the schedule. It may also contain a general
 26 provision designating the amount of bail for any **noncapital felony and**
 27 **misdemeanor** not listed in the schedule. A copy of the schedule shall be sent to all
 28 jails, sheriff's offices, and police stations within the judicial district, parish, or city;
 29 ~~respectively~~. A bail schedule may be revised or rescinded at any time. (Source: Art.
 30 341(B)) The type or form of bail shall not be sent in ~~the~~ **a** bail schedule. (Source:

1 Art. 341(A))

2 C. A person charged with the commission of a ~~felony~~ **an offense** for which
3 bail is fixed by a schedule may give bail according to the schedule or demand a
4 special order fixing bail. **The bail amount fixed by schedule may be modified by**
5 **the court in accordance with Article 319.** (Source: Art. 340(C))

6 (Source: C.Cr.P. Arts. 340 and 341)

7 Art. 316. ~~Types of personal surety~~ **Factors in fixing amount of bail**

8 ~~There are two types of personal surety in Louisiana: unsecured, and secured.~~

9 The amount of bail shall be ~~such that, in the judgment of the court,~~
10 ~~commissioner, or magistrate, it will insure~~ **fixed in an amount that will ensure** the
11 presence of the defendant, as required, and the safety of any other person and the
12 community, having regard to:

13 **(1)** The seriousness of the offense charged, including but not limited to
14 whether the offense is a crime of violence or involves a controlled dangerous
15 substance.

16 **(2)** The weight of the evidence against the defendant.

17 **(3)** The previous criminal record of the defendant.

18 **(4)** The ability of the defendant to give bail.

19 **(5)** The nature and seriousness of the danger to any other person or the
20 community that would be posed by the defendant's release.

21 **(6)** The defendant's voluntary participation in a pretrial drug testing program.

22 **(7)** The absence or presence **in the defendant** of any controlled dangerous
23 substance ~~in the defendant's blood at the time of arrest.~~

24 **(8)** Whether the defendant is currently out on a ~~bond~~ **bail undertaking** on a
25 previous felony arrest for which he is awaiting institution of prosecution,
26 arraignment, trial, or sentencing.

27 **(9)** Any other circumstances affecting the probability of defendant's
28 appearance.

29 **(10)** The type or form of bail.

30 (Source: C.Cr.P. Art. 334)

1 Art. 317. ~~Unsecured personal surety~~ **Organization performing or providing**
 2 **pretrial services**

3 ~~A person in custody may be released by order of the court on an unsecured~~
 4 ~~personal surety bond. An unsecured personal surety is a personal surety where the~~
 5 ~~surety meets all the qualifications of law and lives and resides in the state of~~
 6 ~~Louisiana without specifically mortgaging or giving a security interest in any~~
 7 ~~property as security to guarantee the surety's performance.~~

8 Any ~~nonprofit~~ organization which is contracted, employed, or which receives
 9 public funds to perform or provide pretrial services, such as screening of any
 10 defendant, shall verify all background information provided by a defendant or
 11 otherwise obtained by the organization regarding the defendant.

12 (Source: C.Cr.P. Art. 334.6)

13 Art. 318. ~~Secured personal surety~~ **Juvenile records in fixing bail**

14 ~~A secured personal surety is a personal surety who meets all the~~
 15 ~~qualifications of law and specifically mortgages immovable property located in the~~
 16 ~~state of Louisiana.~~

17 **A.** For the purpose of fixing bail, a **magistrate court** may make a written
 18 request of any juvenile court for an abstract containing only the delinquent acts of
 19 a defendant currently before the requesting **magistrate court**. The request shall be
 20 promptly complied with; however, not more than forty-eight hours, exclusive of
 21 Saturdays, Sundays, and legal holidays, shall lapse before the requested information
 22 is deposited in the mail, addressed to the requesting court.

23 **B.** The requesting court shall not copy, duplicate, or otherwise reproduce
 24 such juvenile records, and these shall be deposited in the mail and addressed to the
 25 issuing juvenile court within seventy-two hours, exclusive of Saturdays, Sundays,
 26 and legal holidays, after bail is determined.

27 ~~C. Failure to comply with the provisions of this Article shall subject the~~
 28 ~~violating court to disciplinary action by the Supreme Court of Louisiana upon receipt~~
 29 ~~by the judicial administrator of the supreme court of a written complaint,~~
 30 ~~subsequently substantiated.~~

1 (Source: C.Cr.P. Art. 337)

2 Art. 319. ~~Conditions for providing a property bond~~ **Modifications of bail**

3 ~~A. A defendant or a secured personal surety, pursuant to Article 312, may~~
4 ~~establish a legal mortgage over immovable property in favor of the state of Louisiana~~
5 ~~or the proper political subdivision to secure a bail obligation.~~

6 ~~B. The mortgage is established upon the recordation of a written mortgage,~~
7 ~~in authentic form satisfactory to the officer authorized to receive the bail, in the~~
8 ~~mortgage records of the parish where the immovable is located that:~~

9 ~~(1) Contains the name and signature of the person making the mortgage.~~

10 ~~(2) Describes the immovable and declares that a mortgage is given over it as~~
11 ~~security for the performance of the bail obligation.~~

12 ~~(3) Certifies that the person making the mortgage owns the immovable and~~
13 ~~states its value, in excess of the amount of all encumbrances against it.~~

14 ~~(4) Attaches to it a copy of the order fixing the bail obligation.~~

15 ~~C. The person providing the security shall deliver a certified copy of the~~
16 ~~recorded statement establishing the mortgage and a mortgage certificate to the officer~~
17 ~~authorized to receive the bail. The officer may require additional evidence of~~
18 ~~ownership and value of the mortgaged property including a copy of the current tax~~
19 ~~assessment.~~

20 ~~D.(1) The recorder shall cancel the mortgage from his records upon the order~~
21 ~~of the court.~~

22 ~~(2) In all other cases, the effect of its recordation shall cease ten years after~~
23 ~~its recordation unless it is reinscribed in the manner otherwise provided by law.~~

24 ~~E. Any materially false or incorrect statements made by a person who~~
25 ~~intentionally and knowingly gives a mortgage or security interest pursuant to this~~
26 ~~Article shall be prima facie proof of a violation of the provisions of R.S. 14:125,~~
27 ~~false swearing.~~

28 **A.** The court having trial jurisdiction over the offense charged, on its own
29 motion or on motion of the state **prosecuting attorney** or defendant, for good cause,
30 may either increase or reduce the amount of bail, or require new or additional

1 security. For purposes of this Article, good cause for increase of bail specifically
 2 includes but is not limited to the rearrest of the defendant on offenses alleged to have
 3 been committed while out on ~~bond~~ **a bail undertaking**. The modification of any bail
 4 order wherein a bail ~~bond~~ **undertaking** has been posted by a criminal defendant and
 5 his sureties shall upon ~~said~~ **the** modification terminate the liability of the defendant
 6 and his sureties under the previously existing bail ~~contract~~ **undertaking**. A new bail
 7 **undertaking** must be posted in the amount of the new bail order. (Source: Art. 342)

8 **B.** The defendant or his surety may, at any time before a breach of the bail
 9 undertaking and with approval of the court in which the prosecution is pending,
 10 substitute another form of security authorized by this Code. The original security,
 11 including a surety, shall be released when the substitution of security is made.
 12 (Source: Art 328)

13 (Source: C.Cr.P. Arts. 328 and 342)

14 Art. 320. ~~Those who may not be sureties~~ **Conditions of bail undertaking**

15 ~~A person shall not be released on bail for which an attorney at law, a judge,~~
 16 ~~or ministerial officer of a court becomes a surety or provides money or property for~~
 17 ~~bail; but the invalidity of such bail shall not be a defense to an action to forfeit and~~
 18 ~~enforce the bail.~~

19 **A. Definitions. For the purpose of this Article:**

20 **(1)** ~~For the purposes of this Subsubparagraph, "firearm"~~ **"Firearm"** means
 21 any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder
 22 weapon, or assault rifle that is designed to fire or is capable of firing fixed cartridge
 23 ammunition or from which a shot or projectile is discharged by an explosive.

24 (Source: Art. 335.1(A)(1)(c))

25 **(2)** "Global positioning monitoring system" means a system that
 26 electronically determines and reports the location of an individual by means of an
 27 ankle bracelet transmitter or similar device worn by the individual that transmits
 28 latitude and longitude data to monitoring authorities through global positioning
 29 satellite technology but does not contain or operate any global positioning system
 30 technology or radio frequency identification technology or similar technology that

1 is implanted in or otherwise invades or violates the corporeal body of the individual.

2 (Source: Art. 335.1(C)(1))

3 **(3) "Immediate family member" means the spouse, mother, father, aunt,**
4 **uncle, sibling, or child of the victim, whether related by blood, marriage, or**
5 **adoption.**

6 **(4)** "Informed consent" means that the victim was given information
7 concerning all of the following before consenting to participate in global positioning
8 system monitoring:

9 **(a)** The victim's right to refuse to participate in global positioning system
10 monitoring and the process for requesting the court to determine the victim's
11 participation after it has been ordered.

12 **(b)** The manner in which the global positioning monitoring system
13 technology functions and the risks and limitations of that technology, and the extent
14 to which the system will track and record the victim's location and movements.

15 **(c)** The boundaries imposed on the defendant during the global positioning
16 system monitoring.

17 **(d)** Sanctions that the court may impose on the defendant for violating an
18 order issued under this Article.

19 **(e)** The procedure that the victim is to follow if the defendant violates an
20 order issued under this Article or if global positioning monitoring system equipment
21 fails.

22 **(f)** Identification of support services available to assist the victim to develop
23 a safety plan to use if the court's order issued under this Article is violated or if the
24 global positioning monitoring system equipment fails.

25 **(g)** Identification of community services available to assist the victim in
26 obtaining shelter, counseling, education, child care, legal representation, and other
27 help in addressing the consequences and effects of domestic violence or stalking.

28 **(h)** The nonconfidential nature of the victim's communications with the court
29 concerning global positioning system monitoring and the restrictions to be imposed
30 upon the defendant's movements. (Source: Art. 335.1(C)(2))

1 **B. Conditions of bail generally.** ~~Except as provided in Paragraph B, the~~ **The**
2 condition of the bail undertaking in district, juvenile, parish, and city courts shall be
3 that the defendant will appear at all stages of the proceedings to answer the charge
4 before the court in which he may be prosecuted, will submit himself to the orders and
5 process of the court, and will not leave the state without written permission of the
6 court. (Source: Art. 326(A)) The court may impose any additional ~~condition~~
7 **conditions** of release that is **are** reasonably related to assuring the appearance of the
8 defendant before the court **and guarding the safety of any other individual or the**
9 **community.** (Source: Art. 335)

10 **C. Operating a vehicle while intoxicated.** The court shall require as a
11 condition of release on bail that any person who is charged with a second or
12 subsequent violation of R.S. 14:32.1, 39.1, 39.2, 98, ~~98.1~~ **98.6**, or a parish or
13 municipal ordinance that prohibits the operation of a motor vehicle while under the
14 influence of alcohol or drugs to install an ignition interlock device on any vehicle
15 which he operates. The defendant shall have fifteen days from the date that he is
16 released on bail to comply with this requirement, and the ignition interlock device
17 shall remain on the vehicle or vehicles during the pendency of the criminal
18 proceedings. ~~Failure to comply with this condition of release shall result in the~~
19 ~~revocation of bail and reincarceration of the defendant.~~ Under exceptional
20 circumstances, the court may waive the provisions of this Article but shall indicate
21 the reasons therefor to the law enforcement agency who has custody of the alleged
22 offender documentation. (Source: Art. 336.2)

23 **D. Drug offenses and crimes of violence.** Every person arrested for a
24 violation of the Uniform Controlled Dangerous Substances Law or a crime of
25 violence as provided in R.S. 14:2(B) shall be required to submit to a pretrial drug test
26 for the presence of designated substances in accordance with the provisions of this
27 Article and rules of court governing such testing. (Source: Art. 336(A)(1)) Every
28 person arrested for a **any other** felony, ~~not otherwise required to submit to a pretrial~~
29 ~~drug test as provided for in Subparagraph (1) of this Paragraph,~~ may be required to
30 submit to a pretrial drug test for the presence of designated substances in accordance

1 with the provisions of this Article and rules of court governing such testing. (Source:
2 Art. 336(A)(2)) Every person arrested for a misdemeanor may be required to submit
3 to a pretrial drug test for the presence of designated substances in accordance with
4 the provisions of this Article and rules of court governing such testing. (Source: Art.
5 336(A)(3))

6 **E. Pretrial drug testing program.** The court may, ~~and in all municipalities~~
7 ~~with a population of three hundred thousand or more persons shall,~~ implement a
8 pretrial drug testing program. **All persons released under the provisions of the**
9 **pretrial drug testing program must submit to continued random testing and**
10 **refrain from the use or possession of any controlled dangerous substance or any**
11 **substance designated by the court. A pretrial drug testing program** which shall
12 provide for the following: (Source: Art. 336(B))

13 **(1)** Mandatory participation for all persons arrested for violations of state
14 law. **Additionally, all persons testing positive for the presence of one or more of**
15 **the designated substances set forth in Subparagraph (2) of this Paragraph, who**
16 **are not otherwise required to participate, shall submit to a pretrial drug testing**
17 **program.** (Source: Art. 336(B)(1))

18 **(2)** Drug testing to determine the presence of ~~phencyclidine (PCP), opiates~~
19 ~~(heroin), cocaine, methadone, amphetamines, or marijuana,~~ **any controlled**
20 **dangerous substance identified in the Uniform Controlled Substances Law** prior
21 to first court appearance and random testing thereafter to verify that the person is
22 drug free. (Source: Art. 336(B)(2))

23 **(3)** Restrictions on the use of any and all test results to ensure that they are
24 used only for the benefit of the court to determine appropriate conditions of release,
25 monitoring compliance with court orders, and assisting in determining appropriate
26 sentences. A form statement shall be signed by the law enforcement agency and the
27 person in custody stipulating that under no circumstances shall the information be
28 used as evidence or as the basis for additional charges. (Source: Art. 336(B)(3))

29 **(4)** Reasonable testing procedures to ensure the fair administration of the test
30 and protection for the chain of custody for any evidence obtained. (Source: Art.

1 336(B)(4))

2 **F. Implementation of pretrial drug testing program.** The implementation
3 of any pretrial drug testing program authorized pursuant to the provisions of this
4 Article shall be contingent upon receipt by the court requiring the test of sufficient
5 federal or other funding to conduct the testing program in accordance with the
6 provisions of this Article and any rules of court. No elected official who is in any
7 way connected with the administration of the pretrial drug testing program provided
8 for in this Article, either directly or indirectly, shall have any financial interest, either
9 directly or indirectly, in any drug testing company participating in such pretrial drug
10 testing program. All contracts awarded to any drug testing company authorized to
11 conduct the pretrial drug testing program provided for in this Article shall be
12 awarded in accordance with the provisions governing public bids, R.S. 38:2181 et
13 seq. (Source: Art. 336(E), (F) and (G))

14 **G. Domestic offenses, stalking, and sex offenses.** In determining conditions
15 of release of a defendant who is alleged to have committed an offense against the
16 defendant's family or household member, as defined in R.S. 46:2132(4), or against
17 the defendant's dating partner, as defined in R.S. 46:2151, or who is alleged to have
18 committed the offense of domestic abuse battery under the provisions of R.S.
19 14:35.3, or who is alleged to have committed the offense of stalking under the
20 provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault as
21 defined in R.S. 46:2184, **or who is alleged to have committed the offense of first**
22 **degree rape under the provisions of R.S. 14:42,** the court shall consider **the**
23 **previous criminal history of the defendant and** whether the defendant poses a
24 threat or danger to the victim. If the court determines that the defendant poses such
25 a threat or danger, it shall require as a condition of bail that the defendant refrain
26 from going to the residence or household of the victim, the victim's school, and the
27 victim's place of employment or otherwise contacting the victim in any manner
28 whatsoever, and shall refrain from having any further contact with the victim.
29 (Source: Art. 335.1(A)(1)(a)) ~~In making a determination relative to the granting of~~
30 ~~release or the conditions of such release of a defendant who is alleged to have~~

1 committed the offense of aggravated or first degree rape as provided in R.S.
2 14:42(A)(4), the court shall take into consideration the previous criminal record of
3 the defendant, any potential threat or danger the defendant poses to the victim, the
4 family of the victim, or to any member of the public, especially children; and **The**
5 **court shall also consider** any statistical evidence prepared by the United States
6 Department of Justice relative to the likelihood of such defendant or any person in
7 general who has raped or molested victims under the age of thirteen years to commit
8 sexual offenses against a victim under the age of thirteen in the future. (Source: Art.
9 336.1(A))

10 **H. Uniform Abuse Prevention Order. (1)** If, as part of a bail restriction, an
11 order is issued pursuant to the provisions of this Paragraph **for purposes of**
12 **preventing violent or threatening acts or harassment against, or contact or**
13 **communication with or physical proximity to, another person for the purpose**
14 **of preventing domestic abuse, stalking, dating violence, or sexual assault,** the
15 judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided
16 in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the
17 clerk of court for filing, on the next business day after the order is issued. The clerk
18 of the issuing court shall transmit the Uniform Abuse Prevention Order to the
19 Judicial Administrator's Office, Louisiana Supreme Court, for entry into the
20 Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile
21 transmission or direct electronic input as expeditiously as possible, but no later than
22 the end of the next business day after the order is filed with the clerk of court. The
23 clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention
24 Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief
25 law enforcement officer of the parish where the person or persons protected by the
26 order reside. A copy of the Uniform Abuse Prevention Order shall be retained on file
27 in the office of the chief law enforcement officer until otherwise directed by the
28 court. (Source: Art. 335.1(A)(1)(b))

29 **(2)** ~~Except as provided in Subsubparagraph (d) of this Subparagraph, if, **If,**~~
30 as part of a bail restriction, an order is issued pursuant to the provisions of this

1 Paragraph, the court shall also order that the defendant be prohibited from possessing
2 a firearm for the duration of the Uniform Abuse Prevention Order. (Source: Art.
3 335.1(A)(1)(c))

4 **I. Global positioning monitoring. (1)(a)** In addition, the court ~~may~~ **shall**
5 order the a defendant who is alleged to have committed the offense of first degree
6 **rape under the provisions of R.S. 14:42 and may order a defendant who is**
7 **alleged to have committed an offense against the defendant's family or**
8 **household member, as defined in R.S. 46:2132(4), or against the defendant's**
9 **dating partner, as defined in R.S. 46:2151, or who is alleged to have committed**
10 **the offense of domestic abuse battery under the provisions of R.S. 14:35.3, or**
11 **who is alleged to have committed the offense of stalking under the provisions of**
12 **R.S. 14:40.2, or who is alleged to have committed a sexual assault as defined in**
13 **R.S. 46:2184** to be equipped with a global positioning monitoring system as a
14 condition of release on bail ~~pursuant to Paragraph B of this Article.~~ (Source: Art.
15 335.1(A)(2)(a))

16 **(b)** In determining whether to order a defendant, as a condition of release on
17 bail, to participate in global positioning system monitoring, the court shall consider
18 the likelihood that the defendant's participation in global positioning system
19 monitoring will deter the defendant from seeking to harm, injure, or otherwise
20 threaten the victim prior to trial. (Source: Art. 335.1(A)(2)(b))

21 **(c)** The defendant shall be released on bail pursuant to the provisions of this
22 Article only if he agrees to pay the cost of the global positioning monitoring system
23 and monitoring fees associated with the device, or agrees to perform community
24 service in lieu of paying such costs. (Source: Art. 335.2(A)(2)(c))

25 **(2)** If the court orders the defendant to be equipped with a global positioning
26 monitoring system as a condition of release on bail, the court may order the
27 defendant, with the informed consent of the victim, to provide the victim of the
28 charged crime with an electronic receptor device which is capable of receiving the
29 global positioning system information and which notifies the victim if the defendant
30 is located within an established proximity to the victim. The court, in consultation

1 with the victim, shall determine which areas the defendant shall be prohibited from
 2 accessing and shall establish the proximity to the victim within which a defendant
 3 shall be excluded. In making this determination, the court shall consider a list,
 4 provided by the victim, which includes those areas from which the victim desires the
 5 defendant to be excluded. (Source: Art. 335.2(B)(1))

6 (3) The victim shall be furnished with telephone contact information for the
 7 local law enforcement agency in order to request immediate assistance if the
 8 defendant is located within that proximity to the victim. The court shall order the
 9 global positioning monitoring system provider to program the system to notify local
 10 law enforcement if the defendant violates the order. The victim, at any time, may
 11 request that the court terminate the victim's participation in the global positioning
 12 monitoring system of the defendant. The court shall not impose sanctions on the
 13 victim for refusing to participate in global positioning system monitoring provided
 14 for in this Paragraph. (Source: Art. 335.2(B)(2),(3),(4), and (5))

15 (4) In addition to electronic monitoring, the court shall consider house
 16 arrest. The conditions of the electronic monitoring and house arrest shall be
 17 determined by the court, and may include but are not be limited to limitation of the
 18 defendant's activities outside of the home and a curfew. (Source: Art. 336.1(B))

19 J. Crimes of violence. If the defendant has been charged with a crime of
 20 violence as defined in R.S. 14:2(B), the court shall require as a condition of bail
 21 that the defendant be prohibited from communicating, by electronic
 22 communication, in writing, or orally, with a victim of the offense, or with any
 23 of the victim's immediate family members while the case is pending. This
 24 condition does not apply if the victim consents in person or through a
 25 communication through the local prosecuting agency. If an immediate family
 26 member of the victim consents in person or through a communication through
 27 the local prosecuting agency, then the defendant may contact that person.

28 K. Violations. Violation of ~~such~~ any condition by the defendant shall be
 29 considered as a constructive contempt of court, and shall ~~be grounds for~~ result in the
 30 revocation of bail, ~~but does not give rise to a forfeiture~~ and issuance of a bench

1 warrant for the defendant's arrest or remanding the defendant to custody. The
 2 court may also modify bail by either increasing the amount of bail or adding
 3 additional conditions of bail. (Source: Art. 335)

4 (Source: C.Cr.P. Arts. 326, 335, 335.1, 335.2, 336, 336.1, and 336.2)

5 Art. 321. Affidavit of surety Types of bail; restrictions

6 ~~A personal surety shall execute an affidavit that he possesses the sufficiency~~
 7 ~~and qualifications prescribed by Article 315 and that he is not disqualified from~~
 8 ~~becoming a surety by Article 320. The affidavit shall list the number and amount of~~
 9 ~~undischarged bail bonds, if any, entered into by the surety. The officer accepting the~~
 10 ~~bail may require the surety to state in his affidavit the nature and value of his~~
 11 ~~property not exempt from execution, and the amount of his liabilities. An officer~~
 12 ~~authorized to accept the bail shall have authority to administer any affidavit required~~
 13 ~~of the person signing a bail bond.~~

14 A. The types of bail in Louisiana are:

15 (1) Bail with a commercial surety.

16 (2) Bail with a secured personal surety.

17 (3) Bail with an unsecured personal surety.

18 (4) Bail without surety, ~~with or without security.~~

19 (5) Bail with a cash deposit. (Source: Art. 312(A))

20 B. ~~Except as provided in Paragraphs C and D of this Article, all~~ All bail must
 21 be posted in the full amount fixed by the court. When the court fixes the amount of
 22 bail, a secured bail undertaking may be satisfied by a commercial surety, a cash
 23 deposit, or with the court's approval, by a secured personal surety or a ~~bond~~ bail
 24 undertaking secured by the property of the defendant, or by any combination
 25 thereof. When the court elects to release the defendant on an unsecured personal
 26 surety or a bail without surety, that election shall be expressed in the bail order.
 27 (Source: Art. 312(B),(C), and (D))

28 C. ~~Notwithstanding any other provision of law to the contrary, any~~ Any
 29 defendant who has been arrested for any of the following ~~crimes~~ offenses shall not
 30 be released ~~by the court on the defendant's own recognizance or on the signature of~~

1 ~~any other person~~ **on his personal undertaking or with an unsecured personal**
 2 **surety**: (Source: Art. 334.4(A))

3 **(1)** A crime of violence as defined by R.S. 14:2(B). (Source: Art. 334.2(5))

4 ~~(2) The court shall not release any defendant who has been arrested for a A~~
 5 felony offense, an element of which is the discharge, use, or possession of a firearm
 6 ~~on his personal undertaking without security or with an unsecured personal surety.~~
 7 (Source: Art. 334.1)

8 **(3) A sex offense as defined by R.S. 15:541 when the victim is under the**
 9 **age of thirteen at the time of commission of the offense and less than ten years**
 10 **have elapsed between the date of the commission of the current offense and the**
 11 **expiration of the maximum sentence of the previous conviction.** (Source: Art.
 12 330.2(F))

13 **(4)** R.S. 14:32.1 (vehicular homicide). (Source: Art. 334.4(A)(1))

14 **(5) R.S. 14:35.3 (domestic abuse battery).** (Source: Art. 334.2(1))

15 **(6) R.S. 14:37.7 (domestic abuse aggravated assault).** (Source: Art.
 16 334.2(2))

17 **(7)** R.S. 14:40.3 (cyberstalking), if the person has two prior convictions for
 18 the same offense. (Source: Art. 334.4(A)(2))

19 **(8)** R.S. 14:44.2 (aggravated kidnapping of a child). (Source: Art.
 20 334.4(A)(3))

21 **(9) R.S. 14:46 (false imprisonment).** (Source: Art. 334.2(3))

22 **(10) R.S. 14:46.1 (false imprisonment while the offender is armed with**
 23 **a dangerous weapon).** (Source: Art. 334.2(4))

24 **(11)** R.S. 14:87.1 (killing a child during delivery). (Source: Art. 334.4(A)(5))

25 **(12)** R.S. 14:87.2 (human experimentation). (Source: Art. 334.4(A)(6))

26 **(13)** R.S. 14:93.3 (cruelty to persons with infirmities), if the person has a
 27 prior conviction for the same offense. (Source: Art. 334.4(A)(7))

28 **(14)** R.S. 14:98 (operating a vehicle while intoxicated), if the person has a
 29 prior conviction for the same offense. (Source: Art. 334.4(A)(8))

30 **(15)** R.S. 14:102.1(B) (aggravated cruelty to animals). (Source: Art.

1 334.4(A)(9))

2 (16) R.S. 14:102.8 (injuring or killing of a police animal). (Source: Art.

3 334.4(A)(10))

4 (17) R.S. 14:110.1 (jumping bail).

5 (18) R.S. 14:110.1.1 (out-of-state bail jumping).

6 (19) Violation of an order issued pursuant to R.S. 9:361 et seq., R.S. 9:372,

7 R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq., Code of

8 Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles

9 30, 320, and 871.1. (Source: Art. 334.2(6))

10 (20) The production, manufacturing, distribution, or dispensing or the

11 possession with the intent to produce, manufacture, distribute or dispense a

12 controlled dangerous substance in violation of R.S. 40:966(B), 967(B), 968(B),

13 969(B), or 970(B) of the Uniform Controlled Dangerous Substances Law. (Source:

14 Art. 334.4(A)(11))

15 **D. There shall be a presumption that any defendant who has either been**

16 **arrested for a new felony offense or has at any time failed to appear in court on**

17 **the underlying felony offense after having been notified in open court shall not**

18 **be released on his own recognizance or on the signature of any other person.**

19 **This presumption may be overcome after contradictory hearing in open court**

20 **only if the judge determines by clear and convincing evidence that the relevant**

21 **factors warrant this type of release.** (Source: Art. 334.4(B))

22 (Source: C.Cr.P. Arts. 312, 330.2, 334.1, 334.2, and 334.4)

23 Art. 322. ~~Declaration of residence by defendant and surety; social security number;~~

24 ~~waiver of notice~~ **Commercial surety**

25 ~~A. The defendant and personal surety signing a bail bond shall write the~~

26 ~~address at which each can be served under their respective signatures and the last~~

27 ~~four digits of their social security number. The defendant and his counsel may, by~~

28 ~~joint affidavit filed of record in the proceeding in which the bond was given, appoint~~

29 ~~his counsel as his agent for service of notice to appear. The appointment shall be~~

30 ~~conclusively presumed to continue until the defendant files of record an affidavit~~

1 A. A secured personal surety is a personal surety who ~~meets all the~~
 2 ~~qualifications of law~~ **satisfies all the requirements of Article 311(5)** and
 3 specifically mortgages immovable property located in the state of Louisiana.
 4 (Source: Art. 318)

5 **B. Bail without surety may be secured by a mortgage on the property of**
 6 **the defendant pursuant to this Article or unsecured.** A ~~defendant or a secured~~
 7 ~~personal surety, pursuant to Article 312,~~ may establish a ~~legal~~ mortgage over
 8 immovable property in favor of the state of Louisiana or the proper political
 9 subdivision to secure a bail ~~obligation~~ **undertaking**. (Source: Art. 319(A))

10 C. The mortgage is established upon the recordation of a written mortgage,
 11 in authentic form satisfactory to the officer authorized to receive the bail, in the
 12 mortgage records of the parish where the immovable is located that:

13 **(1)** Contains the name and signature of the person making the mortgage.

14 **(2)** Describes the immovable and declares that a mortgage is given over it as
 15 security for the performance of the bail obligation.

16 **(3)** Certifies that the person making the mortgage owns the immovable and
 17 states its value, in excess of the amount of all encumbrances against it.

18 **(4)** Attaches to it a copy of the order fixing ~~the bail obligation~~. (Source: Art.
 19 319(B))

20 D. The person providing the security shall deliver a certified copy of the
 21 recorded statement establishing the mortgage and a mortgage certificate to the officer
 22 authorized to receive the bail. The officer may require additional evidence of
 23 ownership and value of the mortgaged property including a copy of the current tax
 24 assessment. (Source: Art. 319(C))

25 **E.(1)** The recorder shall cancel the mortgage from his records upon the order
 26 of the court. (Source: Art. 319(D)(1))

27 **(2)** In all other cases, the effect of its recordation shall cease ten years after
 28 its recordation unless it is reinscribed in the manner otherwise provided by law.
 29 (Source: Art. 319(D)(2))

30 F. Any materially false or incorrect statements made by a person who

1 intentionally and knowingly gives a mortgage or security interest pursuant to this
2 Article shall be prima facie proof of a violation of the provisions of R.S. 14:125,
3 false swearing. (Source: Art. 319(E))

4 (Source: C.Cr.P. Arts. 318 and 319)

5 Art. 324. Cash deposits **Unsecured personal surety**

6 ~~A.(1) In lieu of a surety the defendant may furnish his personal undertaking,
7 secured by a deposit with an officer authorized to accept the bail.~~

8 ~~(2) The deposit shall consist of any of the following which are equal to the
9 amount of the bail:~~

10 ~~(a) Cash.~~

11 ~~(b) A certified or cashier's check on any state or national bank.~~

12 ~~(c) Bonds of the United States government negotiable by delivery.~~

13 ~~(d) Bonds of the state of Louisiana or any political subdivision thereof
14 negotiable by delivery.~~

15 ~~(e) United States postal money orders or money orders issued by any state or
16 national bank.~~

17 ~~(3) The court in the parishes of St. John the Baptist and St. Charles, by
18 written rule, may alter the percentage amount of bail to be deposited with the officer
19 authorized to accept the bond and authorize the officer to charge an administrative
20 fee, not to exceed fifteen dollars, for processing the bond.~~

21 ~~B. Upon final disposition of all cases in which a deposit of money, checks,
22 bonds, or money orders has been made pursuant to this Article, and said deposits
23 have remained unclaimed for a period of one year from the date of the final
24 disposition, the officer authorized to accept said bail shall apply and use one-half of
25 such funds for the operation and maintenance of the office of the clerk of court, or
26 the office of the clerk of the criminal district court, or the office of the clerk of the
27 criminal district court in Orleans Parish, and one-half to the local governing authority
28 after advertising his intention to so utilize the funds by publication in the official
29 parish journal of a notice to the public containing an itemized list of all of such funds
30 on deposit, containing the names and last known addresses of defendants and the~~

1 docket numbers of the cases involved. The publication shall be made once within
 2 thirty days after the final disposition of the case as aforesaid. The clerk shall also
 3 send a notice by certified mail to each of such defendants at the last known address
 4 of the defendant. Any interest earned on the funds deposited for bail shall be
 5 disbursed as provided in Paragraph E of this Article.

6 C. After the publication and mailing of the notice by certified mail, the clerk
 7 of court, or the clerk of the criminal district court in Orleans Parish shall petition the
 8 court of proper jurisdiction for permission to utilize the funds for the use, operation,
 9 and maintenance of the office of the clerk of court or the clerk of criminal district
 10 court in Orleans Parish.

11 D. When bail has been given in conformity with this Article, the money,
 12 check, bond, or money order shall not be subject to garnishment, attachment, or
 13 seizure under any legal process. An assignment or sale thereof by the owner, to be
 14 valid, must be in the form of an authentic act and filed in the proceedings in the court
 15 having jurisdiction to discharge the bail. The property shall remain on deposit and
 16 the assignment or sale shall be contingent upon the nonforfeiture of the bail.

17 E. When money, checks, or money orders have been given for bail in
 18 conformity with this Article, those funds may be deposited by the officer authorized
 19 to accept bail into an interest-bearing account established exclusively for the deposit
 20 of such funds. Interest earned on the deposits in the account shall be used solely for
 21 the operation and maintenance of the office of the clerk of court.

22 A. A person in custody may be released by order of the court on an unsecured
 23 personal surety bond **bail undertaking**. An unsecured personal surety is a personal
 24 surety where the surety ~~meets all the qualifications of law~~ satisfies all the
 25 requirements of Article 311(5) and lives and resides in the state of Louisiana
 26 without specifically mortgaging or giving a security interest in any property as
 27 security to guarantee the surety's performance. (Source: Art. 317)

28 B. A personal surety shall execute an affidavit that he possesses the
 29 sufficiency and qualifications ~~prescribed by Article 315 of a personal surety~~ and
 30 that he is not disqualified from becoming a surety by Article 320 327. The affidavit

1 shall list the number and amount of undischarged bail ~~bonds~~ **undertakings**, if any,
 2 entered into by the **personal** surety. The officer accepting the bail may require the
 3 **personal** surety to state in his affidavit the nature and value of his property not
 4 exempt from execution, and the amount of his liabilities. An officer authorized to
 5 accept the bail shall have authority to administer any affidavit required of the person
 6 signing a bail ~~bond~~ **undertaking**. (Source: Art. 321)

7 (Source: C.Cr.P. Arts. 317 and 321)

8 Art. 325. Bail without surety

9 A person in custody may be released by order of the court on his personal
 10 bail undertaking without the necessity of furnishing a surety, **unless otherwise**
 11 **provided in this Title.**

12 Art. 326. ~~Condition of the bail undertaking~~ **Cash deposits**

13 ~~A. Except as provided in Paragraph B, the condition of the bail undertaking~~
 14 ~~in district, juvenile, parish, and city courts shall be that the defendant will appear at~~
 15 ~~all stages of the proceedings to answer the charge before the court in which he may~~
 16 ~~be prosecuted, will submit himself to the orders and process of the court, and will not~~
 17 ~~leave the state without written permission of the court. The bail obligation shall run,~~
 18 ~~subject to the provisions of Article 626, in favor of the state of Louisiana, or the city~~
 19 ~~or parish whose ordinance is charged to have been violated, with the proceeds to be~~
 20 ~~disposed of according to law. No error, inaccuracy, or omission in naming the~~
 21 ~~obligee on the bond is a defense to an action thereon.~~

22 ~~B.(1) Upon conviction and imposition of sentence or the pronouncement of~~
 23 ~~sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the~~
 24 ~~bail undertaking shall cease and the surety shall be relieved of all obligations under~~
 25 ~~the bond.~~

26 ~~(2) Upon conviction in any felony case, the bail undertaking shall cease and~~
 27 ~~the surety shall be relieved of all obligations under the bond.~~

28 ~~(3) In all cases, if necessary to assure the presence of the defendant at all~~
 29 ~~future stages of the proceedings, the court may in its discretion, in accordance with~~
 30 ~~Article 332 require the defendant to post another bond or other acceptable security,~~

1 or may release the defendant on bail without surety as provided for in Article 325.
 2 The court may continue the existing bail undertaking with the written approval of the
 3 surety on the bond. Such approval must be obtained from the surety after conviction.

4 A.(1) In lieu of a surety the defendant may furnish ~~his personal~~ a bail
 5 undertaking, secured by a deposit with an officer authorized to accept the bail. The
 6 deposit shall consist of any of the following which are equal to the amount of the
 7 bail:

8 (a) Cash.

9 (b) A certified or cashier's check on any state or national bank.

10 (c) Bonds of the United States government negotiable by delivery.

11 (d) Bonds of the state of Louisiana or any political subdivision thereof
 12 negotiable by delivery.

13 (e) United States postal money orders or money orders issued by any state or
 14 national bank.

15 (2) The court in the parishes of St. John the Baptist and St. Charles, by
 16 written rule, may alter the percentage amount of bail to be deposited with the officer
 17 authorized to accept the ~~bond~~ bail undertaking and authorize the officer to charge
 18 an administrative fee, not to exceed fifteen dollars, for processing the ~~bond~~ bail
 19 undertaking.

20 B. Upon final disposition of all cases in which a deposit of money, checks,
 21 bonds, or money orders has been made pursuant to this Article, and ~~said the~~ deposits
 22 have remained unclaimed for a period of one year from the date of the final
 23 disposition, the officer authorized to accept ~~said the~~ bail shall apply and use one-half
 24 of such funds for the operation and maintenance of the office of the clerk of court,
 25 or the office of the clerk of the criminal district court, or the office of the clerk of the
 26 criminal district court in Orleans Parish, and one-half to the local governing authority
 27 after advertising his intention to so utilize the funds by publication in the official
 28 parish journal of a notice to the public containing an itemized list of all of such funds
 29 on deposit, containing the names and last known addresses of defendants and the
 30 docket numbers of the cases involved. The publication shall be made once within

1 thirty days after the final disposition of the case as aforesaid. The clerk shall also
 2 send a notice by certified mail to each of such defendants at the last known address
 3 of the defendant. Any interest earned on the funds deposited for bail shall be
 4 disbursed as provided in Paragraph E of this Article.

5 C. After the publication and mailing of the notice by certified mail, the clerk
 6 of court, or the clerk of the criminal district court in Orleans Parish shall petition the
 7 court of proper jurisdiction for permission to utilize the funds for the use, operation,
 8 and maintenance of the office of the clerk of court or the clerk of criminal district
 9 court in Orleans Parish.

10 D. When bail has been given in conformity with this Article, the money,
 11 check, bond, or money order shall not be subject to garnishment, attachment, or
 12 seizure under any legal process. An assignment or sale thereof by the owner, to be
 13 valid, must be in the form of an authentic act and filed in the proceedings in the court
 14 having jurisdiction to discharge the bail. The property shall remain on deposit and
 15 the assignment or sale shall be contingent upon the nonforfeiture of the bail.

16 E. When money, checks, or money orders have been given for bail in
 17 conformity with this Article, those funds may be deposited by the officer authorized
 18 to accept bail into an interest-bearing account established exclusively for the deposit
 19 of such funds. Interest earned on the deposits in the account shall be used solely for
 20 the operation and maintenance of the office of the clerk of court.

21 (Source: C.Cr.P. Art. 324)

22 Art. 327. ~~Requisites of the bail undertaking~~ **Those who may not be sureties**

23 ~~A. The bail undertaking shall:~~

24 ~~(1) Be in writing.~~

25 ~~(2) State the court before which the defendant is bound to appear.~~

26 ~~(3) Be entered into before an officer who is authorized to take it.~~

27 ~~(4) State a single amount of bail for each charge.~~

28 ~~B. The bail undertaking shall be enforceable if the above requirements are~~
 29 ~~met; and no officer may refuse to accept the posting of a bail bond and releasing a~~
 30 ~~defendant on bail if the provisions of Code of Criminal Procedure Article 314 and~~

1 the conditions set by this Article are met. A person shall not be discharged from his
2 bail undertaking, nor shall a judgment of forfeiture be stayed, set aside, or reversed,
3 nor the collection of any such judgment be barred or defeated by reason of any defect
4 of form, omission of a recital, or of a condition of the undertaking, by reason of a
5 failure to note or record the default of any defendant or surety, or because of any
6 other irregularity.

7 A person shall not be released on bail for which an attorney at law, a judge,
8 or ministerial officer of a court becomes a surety or provides money or property for
9 bail; but the invalidity of such bail shall not be a defense to an action to forfeit and
10 enforce the bail.

11 (Source: C.Cr.P. Art. 320)

12 Art. 328. ~~Substitution of security~~ **Bail undertaking**

13 ~~The defendant or his surety may, at any time before a breach of the bail~~
14 ~~undertaking and with approval of the court in which the prosecution is pending,~~
15 ~~substitute another form of security authorized by this Code. The original security,~~
16 ~~including a surety, shall be released when the substitution of security is made.~~

17 **A.** The bail undertaking shall:

18 **(1)** Be in writing.

19 **(2)** State the court before which the defendant is bound to appear.

20 **(3)** Be entered into before an officer who is authorized to take it.

21 **(4)** State a single amount of bail for each charge. (Source: Art. 327(A))

22 **B.** The bail undertaking shall be enforceable if the above requirements are
23 met; and no officer may refuse to accept the posting of a bail ~~bond~~ **undertaking** and
24 releasing a defendant on bail if ~~the provisions of Code of Criminal Procedure Article~~
25 ~~314 and the conditions set by this Article~~ **Title** are met. A person shall not be
26 discharged from his bail undertaking, nor shall a judgment of forfeiture be stayed,
27 set aside, or reversed, nor the collection of any such judgment be barred or defeated
28 by reason of any defect of form, omission of a recital, or of a condition of the
29 undertaking, by reason of a failure to note or record the default of any defendant or
30 surety, or because of any other irregularity. (Source: Art. 327(B)) The bail ~~obligation~~

1 undertaking shall run, subject to the provisions of Article 626, in favor of the state
 2 of Louisiana, or the city or parish whose ordinance is charged to have been violated,
 3 with the proceeds to be disposed of according to law. No error, inaccuracy, or
 4 omission in naming the obligee on the ~~bond~~ bail undertaking is a defense to an
 5 action thereon. (Source: Art. 326(A))

6 (Source: C.Cr.P. Arts. 326 and 327)

7 Art. 329. ~~Contract to indemnify surety~~ Declaration of residence; waiver of notice

8 ~~A contract to indemnify a surety against loss on a bail bond is valid and~~
 9 ~~enforceable.~~

10 A. The defendant and personal surety signing a bail ~~bond~~ undertaking shall
 11 write the address at which each can be served and mailing address, if different,
 12 under their respective signatures and the last four digits of their social security
 13 number. The defendant and his counsel may, with the court's approval, by joint
 14 affidavit filed of record in the ~~proceeding~~ matter in which the ~~bond~~ bail
 15 undertaking was given, appoint his counsel as his agent for service of to whom
 16 notice to appear can be sent. The appointment shall be conclusively presumed to
 17 continue until the defendant, with court approval, files of record an affidavit
 18 revoking or changing the appointment. The affidavit shall include the address at
 19 ~~which to serve his counsel~~ to which notice to appear can be sent. A commercial
 20 surety shall ~~inscribe~~ place its proper mailing address and electronic address on the
 21 face of the power of attorney used to execute the ~~bond~~ bail undertaking. The agent
 22 or bondsman posting the ~~bond~~ bail undertaking shall ~~write~~ place his proper mailing
 23 address under his signature. A ~~bail~~ bond forfeiture judgment shall not be denied
 24 or set aside because of the invalidity of the information required by this Article or
 25 for the failure to include the information required by the provisions of this Article.
 26 (Source: Art. 322(A))

27 B. When a person who is required to sign his name or to make a declaration
 28 in writing under the provisions of this ~~Code~~ Title swears that he cannot sign or write,
 29 the officer authorized to receive the signature or declaration in writing may, at the
 30 request of the person, sign for him or make for him the declaration in writing, with

1 the same binding effect as if the person had himself signed or himself made the
 2 declaration in writing; provided that the declaration and signature shall be witnessed
 3 and signed by at least two competent witnesses. (Source: Art. 323)

4 C. When a person who is required to sign his name or to make a
 5 declaration in writing under the provisions of this Title indicates that he cannot
 6 speak or write the English language, the officer authorized to receive the
 7 signature or declaration in writing may provide either an interpreter or a
 8 written form in the person's native language, enabling him to sign his name or
 9 make a declaration in writing.

10 D. Each address provided pursuant to Paragraph A of this Article shall be
 11 conclusively presumed to continue for all proceedings ~~on the bond~~ until the party
 12 providing the address changes it by filing a written declaration in the ~~proceeding~~
 13 matter for which the ~~bond~~ bail undertaking was filed. (Source: Art. 322(B))

14 E. Except for the notice required by Article 330, By ~~by~~ signing the ~~bail~~
 15 bond undertaking, the defendant and his surety waive any right ~~to~~ of notice ~~to~~
 16 appear, except that provided for in Articles 344 and 349.3 including actual notice.
 17 (Source: Art. 322(C))

18 (Source: C.Cr.P. Arts. 322 and 323)

19 Art. 330. ~~Bail before conviction~~ Notice of defendant's required appearance

20 ~~Except as provided in Article 331, a person in custody charged with the~~
 21 ~~commission of an offense is entitled to be admitted to bail before conviction unless~~
 22 ~~the person is charged with a crime of violence as defined by law or with production,~~
 23 ~~manufacture, distribution, or dispensing or possession with intent to produce,~~
 24 ~~manufacture, distribute, or dispense a controlled dangerous substance as defined by~~
 25 ~~the Louisiana Controlled Dangerous Substances Law, and after a contradictory~~
 26 ~~hearing, conducted pursuant to the provisions of Article 330.1, the judge or~~
 27 ~~magistrate finds by clear and convincing evidence that the defendant may flee or~~
 28 ~~poses an imminent danger to any other person or the community.~~

29 A. When a bail ~~bond~~ undertaking fixes an appearance date, the defendant
 30 appears as ordered, and notice of the next appearance date is given to the defendant,

1 no additional notice of that appearance date is required to be given to the defendant
 2 or the personal surety or the commercial surety or the agent or bondsman who posted
 3 the ~~bond~~ **bail undertaking** for the commercial surety.

4 **B.** When a bail ~~bond~~ **undertaking** does not fix the appearance date, written
 5 notice of the time, date, and place the defendant is first ordered by the court to appear
 6 shall be given to the defendant or his duly appointed agent and his personal surety
 7 or the commercial surety or the agent or bondsman who posted the ~~bond~~ **bail**
 8 **undertaking** for the commercial surety.

9 **C.** If the defendant appears as ordered and the proceeding is continued to a
 10 specific date, the defendant and the personal surety or the commercial surety or the
 11 agent or bondsman who posted the ~~bond~~ **bail undertaking** for the commercial surety
 12 and who has been given initial notice pursuant to Paragraph A or B of this Article,
 13 need not be given notice of the new appearance date. If the defendant fails to appear
 14 as ordered, or the proceeding is not continued to a specific date, the defendant or his
 15 duly appointed agent, the personal surety or the agent or bondsman who posted the
 16 ~~bond~~ **bail undertaking** for the commercial surety shall be given notice of the new
 17 appearance date.

18 **D.** Notice required pursuant to the provisions of this Article to the defendant
 19 and the personal surety or the commercial surety or the agent or bondsman who
 20 posted the ~~bond~~ **bail undertaking** for the commercial surety shall be made to the
 21 address provided pursuant to Article ~~322~~ **329**. Notice may be:

22 **(1)** Delivered by an officer designated by the court at least two days prior to
 23 the appearance date.

24 **(2)** Mailed by United States first class mail **or by electronic means in**
 25 **accordance with Article 329** at least five days prior to the appearance date.

26 **E.** Failure to give the notice required by this Article relieves the surety from
 27 liability on a judgment of bond forfeiture for the nonappearance of the defendant on
 28 that particular date.

29 (Source: C.Cr.P. Art. 344)

30 Art. 331. ~~Capital offenses~~ **Discharge of bail obligation**

1 ~~A. A person charged with the commission of a capital offense shall not be~~
2 ~~admitted to bail if the proof is evident and the presumption great that he is guilty of~~
3 ~~the capital offense.~~

4 ~~B. When a person charged with the commission of a capital offense makes~~
5 ~~an application for admission to bail, the judge shall hold a hearing contradictorily~~
6 ~~with the state.~~

7 ~~C. The burden of proof:~~

8 ~~(1) Prior to indictment is on the state to show that the proof is evident and the~~
9 ~~presumption great that the defendant is guilty of the capital offense.~~

10 ~~(2) After indictment is on the defendant to show that the proof is not evident~~
11 ~~or the presumption is not great that he is guilty of the capital offense.~~

12 A. (1) Upon conviction and imposition of sentence or the pronouncement of
13 sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the
14 bail undertaking shall cease and the surety shall be relieved of all obligations under
15 the ~~bond~~ **bail undertaking**. (Source: Art. 326(B)(1))

16 (2) Upon conviction in any felony case, the bail undertaking shall cease and
17 the surety shall be relieved of all obligations under the ~~bond~~ **bail undertaking**.
18 (Source: Art. 326(B)(2))

19 (3) In all cases, if necessary to assure the presence of the defendant at all
20 future stages of the proceedings, the court may in its discretion, in accordance with
21 Article 312 require the defendant to post another ~~bond~~ **bail undertaking** or other
22 acceptable security, or may release the defendant on bail without surety as provided
23 for in Article 325. The court may continue the existing bail undertaking with the
24 written approval of the surety on the ~~bond~~ **bail undertaking**. Such approval must be
25 obtained from the surety after conviction. (Source: Art. 326(B)(3))

26 B. When the district attorney dismisses an indictment or information and
27 institutes a subsequent indictment or information for the same offense or for a lesser
28 offense based on the same facts, the court shall reinstate any bail discharged when
29 the district attorney dismissed the initial indictment or information if the surety
30 consents to the reinstatement expressly and in writing. Orleans Parish district judges

1 with criminal jurisdiction sitting en banc may adopt rules effectuating telephonic
 2 communication and verification of ~~bonds~~ **bail undertakings** and releases. (Source:
 3 Art. 334.5(A) and (B))

4 C. (1) A surety may surrender the defendant ~~or the defendant may surrender~~
 5 ~~himself, in open court or to the officer charged with his detention, at any time prior~~
 6 ~~to forfeiture or within the time allowed by law for setting aside a judgment of~~
 7 ~~forfeiture of the bail bond.~~ For the purpose of surrendering the defendant, the surety
 8 may arrest him. **The surety shall pay a fee of twenty-five dollars to the officer**
 9 **charged with the defendant's detention for accepting the surrender, processing**
 10 **the paperwork, and giving the surety a certificate of surrender.** Upon ~~the~~
 11 ~~surrender of the defendant, the officer shall detain the defendant in his custody as~~
 12 ~~upon the original commitment and shall acknowledge the surrender by a certificate~~
 13 ~~signed by him and delivered to the surety. The officer shall retain a copy and~~
 14 forward a copy of the certificate **of surrender** to the **clerk of court and the**
 15 **prosecuting attorney.**

16 ~~(2) After compliance with the provisions of Paragraph F of this Article~~ **Upon**
 17 **surrender of the defendant at any time prior to the expiration of one hundred**
 18 **eighty days after the notice of warrant for arrest was sent,** the surety shall be
 19 fully and finally discharged and relieved, ~~as provided for in Paragraphs C and D of~~
 20 ~~this Article,~~ of all obligations under the ~~bond~~ **bail undertaking by operation of law,**
 21 **without the need to file a motion or other pleading.** (Source: Art. 345(A))

22 **D. A surety may constructively surrender the defendant only within one**
 23 **hundred eighty days of when the notice of warrant for arrest was sent. After the**
 24 **constructive surrender of the defendant, the surety shall be fully and finally**
 25 **discharged and relieved of all obligations under the bail undertaking by**
 26 **operation of law, without the need to file a motion or other pleading.**

27 E. At any time prior to ~~forfeiture or within the time allowed by law for setting~~
 28 ~~aside a judgment for forfeiture of the bail bond~~ **the defendant's failure to appear**
 29 **or within one hundred eighty days after the notice of warrant for arrest is sent,**
 30 the surety may **file with the clerk of court and** present to the court a certificate of

1 death naming the defendant as the deceased party. The certificate shall be under seal
 2 of the authority confirming the defendant's death. Upon proof that the surety is
 3 unable to obtain a certificate of death, the surety or the court may invoke a
 4 contradictory hearing in order to establish proof of death by clear and
 5 convincing evidence. If the court determines that the defendant is deceased
 6 thereafter, the surety shall be fully and finally discharged and relieved of any and
 7 all obligations under the ~~bond~~ bail undertaking. (Source: Art. 345(E))

8 F.(1) Forty-five days after the defendant's failure to appear and while
 9 there is still an active arrest warrant in the proceeding for which the bond was
 10 posted, the surety or bail bond producer who posted the bond may file with the
 11 clerk of court where the charges are pending an affidavit requesting the
 12 defendant be remanded and surrendered upon his appearance before the court.
 13 The clerk of court shall forward a copy of the affidavit to the court before which
 14 the charges are pending. The affidavit must meet all the requirements set forth
 15 in R.S. 22:1585 and be filed before the court where the charges are pending. A
 16 copy of the affidavit must be provided to the prosecuting attorney.

17 (2) Upon the appearance of the defendant within one hundred eighty
 18 days of when the notice of warrant for arrest was sent, the court shall grant the
 19 relief requested and remand the defendant to the custody of the officer
 20 originally charged with the defendant's detention. Upon remand and payment
 21 by the surety of the twenty-five dollar fee to the officer charged with the
 22 defendant's detention, the court shall relieve the surety of all obligations under
 23 the bail undertaking.

24 G. During the period provided for surrendering the defendant Any time after
 25 the defendant's failure to appear and the issuance of the warrant of arrest, the
 26 surety may request that the officer originally charged with the detention of a ~~felony~~
 27 defendant place the name of the ~~felony~~ defendant into the National Crime
 28 Information Center registry. The officer shall determine if the placement of the
 29 name is authorized by the rules governing the National Crime Information
 30 Center registry within thirty days of the request. If not authorized, the officer

1 shall provide notice to the surety of the reason for nonplacement. If placement
 2 is authorized, the surety shall pay to that officer a fee of twenty-five dollars for
 3 processing the placement. If; authorized and after payment of the twenty-five-dollar
 4 fee, the name of the defendant is removed from the National Crime Information
 5 Center registry without cause during the period provided for surrendering the
 6 defendant, ~~the surety shall be relieved of all obligations under the bond~~ the period
 7 for filing a rule to show cause under Article 335 shall be suspended until the
 8 name of the defendant is placed back in the registry. (Source: Art. 345(G))

9 H. In the case of any fee required under the provisions of this Article, the
 10 officer charged with the defendant's detention shall provide the surety with a receipt
 11 indicating the amount of the fee collected, the name of the defendant, the purpose of
 12 the fee collected, ~~the date and time the defendant was surrendered;~~ the name of the
 13 person from whom the fee was collected, ~~and~~ information sufficient to identify any
 14 applicable ~~bond~~ bail undertaking, and the date and time the defendant was
 15 surrendered. (Source: Art. 345(H))

16 I. The court shall order the bail ~~bond~~ obligation canceled when there is no
 17 further liability thereon. (Source: Art. 348)

18 (Source: C.Cr.P. Arts. 326, 334.5, 345, and 348)

19 Art. 332. ~~Bail after conviction~~ Court order for arrest of defendant

20 ~~A. A convicted person shall be remanded to jail to await sentence unless any~~
 21 ~~of the following occur:~~

22 ~~(1) He is allowed to remain free on a bail obligation posted prior to~~
 23 ~~conviction by operation of Article 326(B), and the bail previously fixed is in~~
 24 ~~accordance with all of the applicable provisions of this Article.~~

25 ~~(2) He is released by virtue of a bail obligation posted after conviction, which~~
 26 ~~bail was fixed in accordance with this Article.~~

27 ~~B. After conviction and before sentence, bail shall be allowed if the~~
 28 ~~maximum sentence which may be imposed is imprisonment for five years or less.~~

29 ~~Bail may be allowed pending sentence if the maximum sentence which may be~~
 30 ~~imposed is imprisonment exceeding five years, except when the court has reason to~~

1 believe, based on competent evidence, that the release of the person convicted will
 2 pose a danger to any other person or the community, or that there is a substantial risk
 3 that the person convicted might flee.

4 C. ~~After sentence and until final judgment, bail shall be allowed if a sentence~~
 5 ~~of five years or less is actually imposed. Bail may be allowed after sentence and until~~
 6 ~~final judgment if the sentence actually imposed exceeds imprisonment for five years,~~
 7 ~~except when the court has reason to believe, based on competent evidence, that the~~
 8 ~~release of the person convicted will pose a danger to any other person or the~~
 9 ~~community, or that there is a substantial risk that the person convicted might flee.~~

10 D. ~~In those instances above in which bail shall be allowed, the court shall~~
 11 ~~consider whether the release of the person convicted or sentenced will pose a danger~~
 12 ~~to any other person or the community in determining the amount of bail.~~

13 E. ~~After conviction of a capital offense, a defendant shall not be allowed bail.~~

14 The court in which the defendant is held to answer may issue a warrant for
 15 the arrest and commitment of the defendant who is at large on bail when any of the
 16 following are true:

17 (1) There has been a breach of the bail undertaking.

18 (2) It appears that a surety has become insufficient, is dead, cannot be found,
 19 or has ceased to meet the qualifications of law or does not own adequate immovable
 20 property within the state.

21 (3) The court is satisfied that the bail should be increased or new or additional
 22 security required.

23 (Source: C.Cr.P. Art. 346)

24 Art. 333. ~~Authority to fix bail~~ **Failure to appear; issuance of arrest warrant**

25 ~~The following magistrates, throughout their several territorial jurisdictions,~~
 26 ~~shall have authority to fix bail:~~

27 ~~(1) District courts having criminal jurisdiction, in all cases.~~

28 ~~(2) City or parish courts and municipal and traffic courts of New Orleans~~
 29 ~~having criminal jurisdiction, in cases not capital.~~

30 ~~(3) Mayor's courts and traffic courts in criminal cases within their trial~~

1 jurisdiction:

2 ~~(4) Juvenile and family courts in criminal cases within their trial jurisdiction.~~

3 ~~(5) Justices of the peace in cases not capital or necessarily punishable at hard~~
4 ~~labor.~~

5 If at the time fixed for appearance the defendant, **who was properly noticed,**
6 fails to appear as required by the court, the judge ~~may,~~ **court shall, on its own**
7 **motion** or ~~shall~~ on motion of the prosecuting attorney, **immediately** issue a warrant
8 for the arrest of the defendant.

9 (Source: C.Cr.P. Art. 349.1)

10 Art. 334. Factors in determining amount of bail **Notice of warrant of arrest**

11 ~~The amount of bail shall be such that, in the judgment of the court,~~
12 ~~commissioner, or magistrate, it will insure the presence of the defendant, as required,~~
13 ~~and the safety of any other person and the community, having regard to:~~

14 ~~(1) The seriousness of the offense charged, including but not limited to~~
15 ~~whether the offense is a crime of violence or involves a controlled dangerous~~
16 ~~substance.~~

17 ~~(2) The weight of the evidence against the defendant.~~

18 ~~(3) The previous criminal record of the defendant.~~

19 ~~(4) The ability of the defendant to give bail.~~

20 ~~(5) The nature and seriousness of the danger to any other person or the~~
21 ~~community that would be posed by the defendant's release.~~

22 ~~(6) The defendant's voluntary participation in a pretrial drug testing program.~~

23 ~~(7) The absence or presence of any controlled dangerous substance in the~~
24 ~~defendant's blood at the time of arrest.~~

25 ~~(8) Whether the defendant is currently out on bond on a previous felony~~
26 ~~arrest for which he is awaiting institution of prosecution, arraignment, trial, or~~
27 ~~sentencing.~~

28 ~~(9) Any other circumstances affecting the probability of defendant's~~
29 ~~appearance.~~

30 ~~(10) The type or form of bail.~~

1 ~~After entering the fact of the signing of the judgment of bond forfeiture in the~~
2 ~~court minutes, the clerk of court shall promptly mail notice of the signing of the~~
3 ~~judgment of bond forfeiture.~~ **After a warrant for arrest is issued, the clerk of**
4 ~~court shall, within sixty days, send a notice of warrant for arrest to the~~
5 ~~prosecuting attorney.~~ **The notice of the signing of the judgment shall also be mailed**
6 ~~sent by United States certified mail with return receipt affixed thereto or electronic~~
7 ~~means to the defendant, the bail agent or bondsman, if any, and the personal~~
8 ~~surety, the agent, or bondsman who posted the bond for the commercial surety, and~~
9 ~~the commercial surety at the addresses designated in Article 322 or an address~~
10 ~~registered with the Louisiana Department of Insurance. Notice shall be sent by~~
11 ~~electronic means or by certified mail return receipt requested to the commercial~~
12 ~~surety. All notices shall be sent to the addresses provided pursuant to Article~~
13 ~~329 or an address registered with the Louisiana Department of Insurance. The~~
14 ~~notice to the commercial surety shall include the power of attorney number used to~~
15 ~~execute the bail undertaking bond without which the bond obligation of the~~
16 ~~commercial surety shall be suspended until the power of attorney number is supplied,~~
17 ~~provided the commercial surety provides notice to the clerk of court who mailed the~~
18 ~~notice to the surety of the failure to include such number in the notice by certified~~
19 ~~mail not later than thirty days following receipt of notice of the judgment. If the~~
20 ~~power of attorney number is not provided to the commercial surety within thirty days~~
21 ~~after the date of receipt by the clerk of court of the notice that it was not included in~~
22 ~~the notice of the judgment, the commercial surety shall be released from the bond~~
23 ~~obligation. Failure to include the power of attorney number shall not affect the~~
24 ~~validity or enforcement of a resulting judgment.~~ (Source: Art. 349.3(A)(1)) **After**
25 ~~mailing sending the notice of the signing of the judgment of bond forfeiture warrant~~
26 ~~for arrest, the clerk of court shall execute an affidavit of the mailing a certificate~~
27 ~~that notice was sent and place the affidavit and the return receipts certificate in the~~
28 ~~record. (Source: Art. 349.3(B)) Failure to mail send notice of the signing of the~~
29 ~~judgment to the commercial surety within sixty days after the defendant fails to~~
30 ~~appear shall release the sureties surety of all obligations under the bond bail~~

1 undertaking. (Source: Art. 349.3(C))

2 (Source: C.Cr.P. Art. 349.3)

3 Art. 335. ~~Other conditions related to the appearance of the defendant~~ Period for
4 filing a rule to show cause

5 ~~The court may impose any additional condition of release that is reasonably~~
6 ~~related to assuring the appearance of the defendant before the court. Violation of~~
7 ~~such condition by the defendant shall be considered as a constructive contempt of~~
8 ~~court, and shall be grounds for revocation of bail, but does not give rise to a~~
9 ~~forfeiture.~~

10 If the defendant fails to make an appearance and has not been
11 surrendered or constructively surrendered within one hundred eighty days of
12 the execution of the certificate that notice of warrant for arrest was sent, the
13 prosecuting attorney may file a rule to show cause requesting that a bond
14 forfeiture judgment be rendered. The rule to show cause shall be mailed to the
15 defendant and served on all other parties against whom a judgment is sought.
16 The rule to show cause shall be set for a contradictory hearing. The time period
17 for filing a rule to show cause to obtain a judgment of bond forfeiture does not
18 begin until after the notice of warrant for arrest is sent.

19 Art. 336. ~~Release conditioned on participation in pretrial drug testing program~~ Proof
20 necessary at rule to show cause

21 ~~A.(1) Every person arrested for a violation of the Uniform Controlled~~
22 ~~Dangerous Substances Law or a crime of violence as provided in R.S. 14:2(B) shall~~
23 ~~be required to submit to a pretrial drug test for the presence of designated substances~~
24 ~~in accordance with the provisions of this Article and rules of court governing such~~
25 ~~testing. A person arrested for the above referenced crimes, who tests positive for the~~
26 ~~presence of one or more of the designated substances set forth in Subparagraph (2)~~
27 ~~of Paragraph B of this Article or any person arrested for a violation of R.S. 40:961~~
28 ~~through 1036, if released by order of court on his personal surety, shall meet the~~
29 ~~requirements of Article 315 for a personal surety and shall, as a condition of bail, be~~
30 ~~required to participate in a pretrial drug testing program.~~

1 ~~(2) Every person arrested for a felony, not otherwise required to submit to a~~
2 ~~pretrial drug test as provided for in Subparagraph (1) of this Paragraph, may be~~
3 ~~required to submit to a pretrial drug test for the presence of designated substances~~
4 ~~in accordance with the provisions of this Article and rules of court governing such~~
5 ~~testing. A person arrested for a felony who tests positive for the presence of one or~~
6 ~~more of the designated substances set forth in Subparagraph (2) of Paragraph B of~~
7 ~~this Article or any person arrested for a violation of R.S. 40:961 through 1036, if~~
8 ~~released by order of court on his personal surety, shall meet the requirements of~~
9 ~~Article 315 for a personal surety and may, as a condition of bail, be required to~~
10 ~~participate in a pretrial drug testing program.~~

11 ~~(3) Every person arrested for a misdemeanor may be required to submit to a~~
12 ~~pretrial drug test for the presence of designated substances in accordance with the~~
13 ~~provisions of this Article and rules of court governing such testing. A person arrested~~
14 ~~for a misdemeanor who tests positive for the presence of one or more of the~~
15 ~~designated substances set forth in Subparagraph (2) of Paragraph B of this Article~~
16 ~~or any person arrested for a violation of R.S. 40:961 through 1036, if released by~~
17 ~~order of court on his personal surety, shall meet the requirements of Article 315 for~~
18 ~~a personal surety and may, as a condition of bail, be required to participate in a~~
19 ~~pretrial drug testing program.~~

20 ~~(4) The provisions of this Paragraph requiring mandatory pretrial drug testing~~
21 ~~shall be contingent upon receipt of adequate funding to cover the costs of such~~
22 ~~testing, as provided in Paragraph E of this Article.~~

23 ~~B. The court may, and in all municipalities with a population of three~~
24 ~~hundred thousand or more persons shall, implement a pretrial drug testing program~~
25 ~~which shall provide for the following:~~

26 ~~(1) Mandatory participation for all persons arrested for violations of state~~
27 ~~law.~~

28 ~~(2) Drug testing to determine the presence of phencyclidine (PCP), opiates~~
29 ~~(heroin), cocaine, methadone, amphetamines, or marijuana, prior to first court~~
30 ~~appearance and random testing thereafter to verify that the person is drug free.~~

1 ~~(3) Restrictions on the use of any and all test results to ensure that they are~~
2 ~~used only for the benefit of the court to determine appropriate conditions of release,~~
3 ~~monitoring compliance with court orders, and assisting in determining appropriate~~
4 ~~sentences. A form statement shall be signed by the law enforcement agency and the~~
5 ~~person in custody stipulating that under no circumstances shall the information be~~
6 ~~used as evidence or as the basis for additional charges.~~

7 ~~(4) Reasonable testing procedures to ensure the fair administration of the test~~
8 ~~and protection for the chain of custody for any evidence obtained.~~

9 ~~C. If the person fails to comply with the pretrial drug testing program rules,~~
10 ~~the court may hold him in contempt and impose sanctions the court deems~~
11 ~~appropriate, including the posting of additional bail.~~

12 ~~D. No person shall be released under the provisions of the pretrial drug~~
13 ~~testing program unless he agrees to do the following:~~

14 ~~(1) Submit to continued random testing to verify that he is drug free.~~

15 ~~(2) Refrain from the use or possession of any controlled dangerous substance~~
16 ~~or any substance designated by the court.~~

17 ~~E. The implementation of any pretrial drug testing program authorized~~
18 ~~pursuant to the provisions of this Article shall be contingent upon receipt by the court~~
19 ~~requiring the test of sufficient federal or other funding to conduct the testing program~~
20 ~~in accordance with the provisions of this Article and any rules of court.~~

21 ~~F. No elected official who is in any way connected with the administration~~
22 ~~of the pretrial drug testing program provided for in this Article, either directly or~~
23 ~~indirectly, shall have any financial interest, either directly or indirectly, in any drug~~
24 ~~testing company participating in such pretrial drug testing program.~~

25 ~~G. All contracts awarded to any drug testing company authorized to conduct~~
26 ~~the pretrial drug testing program provided for in this Article shall be awarded in~~
27 ~~accordance with the provisions governing public bids, R.S. 38:2181 et seq.~~

28 ~~**A. The court at a contradictory hearing shall forfeit the bail undertaking**~~
29 ~~**and sign a judgment of bond forfeiture upon proof of all of the following:**~~

30 ~~**(1) The bail undertaking.**~~

1 (2) The power of attorney, if any.

2 (3) Notice to the defendant and the surety as required by Article 334.

3 (4) Proof that more than one hundred eighty days have elapsed since the
4 notice of warrant for arrest was sent. (Source: Art. 349.2(A))

5 ~~B. The court shall immediately issue a warrant for the arrest of the person~~
6 ~~failing to appear and order a judgment decreeing the forfeiture of the bond and~~ The
7 judgment of bond forfeiture shall be issued against the defendant and his sureties
8 in solido for the full amount of the ~~bond~~ bail. A bail agent who represents the surety
9 as an insurance agent shall not be solidarily liable for the judgment of bond
10 forfeiture ~~of a bond~~ against the defendant and his sureties. In the event that a bail
11 agent who represents the surety as an insurance agent is held solidarily liable, then
12 that bail agent may request to be released from the judgment, ~~and~~ However, the
13 release of the bail agent shall have no effect on the judgment decreeing the forfeiture
14 of the ~~bond~~ bail undertaking against the defendant and his sureties. (Source: Art.
15 349(B) and (C))

16 C. The judgment shall include the address and the last four digits of the social
17 security number for the defendant and ~~his~~ the personal sureties. A judgment of bond
18 forfeiture shall not be set aside because of the invalidity of the information required
19 by the provisions of this Article or for the failure to include the information required
20 by this Article. (Source: Art. 349.2(B))
21 (Source: C.Cr.P. Arts. 349 and 349.2)

22 Art. 337. ~~Juvenile records to determine bail~~ Interruption of the period for
23 obtaining a bond forfeiture judgment

24 ~~A. For the purpose of fixing bail, a magistrate may make a written request of~~
25 ~~any juvenile court for an abstract containing only the delinquent acts of a defendant~~
26 ~~currently before the requesting magistrate. The request shall be promptly complied~~
27 ~~with; however, not more than forty-eight hours, exclusive of Saturdays, Sundays, and~~
28 ~~legal holidays, shall lapse before the requested information is deposited in the mail,~~
29 ~~addressed to the requesting court.~~

30 ~~B. The requesting court shall not copy, duplicate, or otherwise reproduce~~

1 such juvenile records, and these shall be deposited in the mail and addressed to the
 2 issuing juvenile court within seventy-two hours, exclusive of Saturdays, Sundays,
 3 and legal holidays, after bail is determined.

4 ~~C. Failure to comply with the provisions of this Article shall subject the~~
 5 ~~violating court to disciplinary action by the Supreme Court of Louisiana upon receipt~~
 6 ~~by the judicial administrator of the supreme court of a written complaint,~~
 7 ~~subsequently substantiated.~~

8 **An appearance by the defendant shall interrupt the period for obtaining**
 9 **a bond forfeiture judgment. An appearance by the defendant does not relieve**
 10 **the surety of its bail undertaking obligations.**

11 Art. 338. Form and contents of bail order **Nonforfeiture situations**

12 ~~An order fixing bail shall be in writing, set the type and a single amount of~~
 13 ~~bail for each charge, designate the officer or officers authorized to accept the bail,~~
 14 ~~and shall be signed by the magistrate. An order fixing bail may issue on request of~~
 15 ~~the state or defendant, or on the initiative of the judge or magistrate.~~

16 **A.** A judgment decreeing the forfeiture of an appearance bond **a bail**
 17 **undertaking** shall not be rendered if it is shown to the satisfaction of the court
 18 **proven, at or prior to the hearing on a rule to show cause,** that the defendant,
 19 principal in **on the bond bail undertaking,** is prevented from attending **failed to**
 20 **appear in court** because of any of the following: (Source: Art. 349.9(A))

21 **(1) He is The defendant was** serving in the armed forces of the United
 22 States. (Source: Art. 349.9(A)(3))

23 **(2) He is The defendant was** a member of the Louisiana National Guard
 24 called to duty pursuant to R.S. 29:7. ~~This provision does not apply to appearances~~
 25 ~~in a state military court.~~ (Source: Art. 349.9(A)(4))

26 **(3) The defendant was prevented from appearing due to a state of**
 27 **emergency declared by the governor.**

28 **B. There shall be a rebuttable presumption that the calling of the**
 29 **defendant to duty pursuant to R.S. 29:7 prevented the defendant, principal on**
 30 **the bail undertaking, from attending court.**

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(a) The term "serving in the armed forces of the United States" refers to service within (1) the armed forces on active duty, (2) the National Guard while on full-time National Guard Duty, or (3) a Reserve Component while performing inactive-duty training. See 10 U.S.C. § 976(a)(1) (2015); see also 10 U.S.C. § 101(d) (2015) (defining the terms "active duty," "full-time National Guard duty," and "inactive-duty training").

(b) Note that federal law currently provides that "[a] court may not enforce a bail undertaking during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal." 50 App. U.S.C. § 513(c) (2015); see also 50 App. U.S.C. § 511 (2015) (defining the terms "military service" and "period of military service").

(Source: C.Cr.P. Art. 349.9)

Art. 339. Notice of judgment

A. Notice of the signing of judgment of bond forfeiture shall be mailed by the clerk of court to the counsel of record for each party, and to each party not represented by counsel pursuant to Code of Civil Procedure Article 1913.

B. The clerk shall file a certificate in the record showing the date on which the notice of the signing of the judgment was mailed.

~~Art. 340. Amount of bail in felony cases; schedules of bail in noncapital cases~~

Recordation of judgment

~~A. Unless the bail is fixed by a schedule in accordance with Paragraph B, the amount of bail in felony cases shall be specifically fixed in each case. A person shall not be released on bail pursuant to a general order which authorizes the sheriff, or other officers, to take bail and fixes the amount thereof at a certain sum for particular felonies.~~

~~B. A schedule of bail according to the offense charged in noncapital felony cases may be fixed by a district court. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any noncapital felony not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district. A bail~~

1 ~~schedule may be revised or rescinded at any time.~~

2 ~~C. A person charged with the commission of a felony for which bail is fixed~~
 3 ~~by a schedule may give bail according to the schedule or demand a special order~~
 4 ~~fixing bail.~~

5 ~~D. Bail herein may be set above the scheduled amount if the court deems it~~
 6 ~~appropriate or the district attorney moves for good cause to have the bail set above~~
 7 ~~the scheduled amount and the court finds it appropriate.~~

8 A. ~~After mailing notice of the signing of the judgment of bond forfeiture, the~~
 9 The ~~district attorney shall~~ may ~~cause the judgment to be recorded in every parish in~~
 10 ~~which the recordation may be proper. Every such recordation shall be without cost,~~
 11 pursuant to R.S. 13:4521, ~~and shall operate as a judicial mortgage against the~~
 12 ~~defendant and all his sureties.~~

13 B. ~~Prior to recordation, the district attorney shall verify the inclusion of~~
 14 ~~information on the judgment, namely, the address and the last four digits of the~~
 15 ~~social security number for the defendant and his~~ the personal ~~sureties. Third parties~~
 16 ~~may rely upon the accuracy of the information required by the provisions of this~~
 17 ~~Article for purposes of distinguishing the identity of the defendant and his sureties.~~
 18 ~~Any judgment of bond forfeiture containing inaccurate information required by the~~
 19 ~~provisions of this Article shall be deemed ineffective as a judicial mortgage to third~~
 20 ~~parties who rely upon that information.~~

21 (Source: C.Cr.P. Art. 349.4)

22 Art. 341. ~~Schedules of bail in misdemeanor cases~~ Appeals

23 ~~A. Schedules of bail according to the offense charged in misdemeanor cases~~
 24 ~~may be fixed by district, parish, and city courts for offenses within their respective~~
 25 ~~trial jurisdictions. The type or form of bail shall not be set in the bail schedule. When~~
 26 ~~more than one court has trial jurisdiction over an offense, the applicable bail~~
 27 ~~schedule shall be that of the court in which the case is to be tried.~~

28 ~~B. The court order setting the bail schedule shall fix the amount of bail for~~
 29 ~~each offense listed, designate the officer or officers authorized to accept the bail, and~~
 30 ~~order that bail be taken in conformity with the schedule. It may also contain a general~~

1 ~~provision designating the amount of bail for any misdemeanor not listed in the~~
 2 ~~schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police~~
 3 ~~stations within the judicial district, parish, or city, respectively. A bail schedule may~~
 4 ~~be revised or rescinded at any time.~~

5 ~~C. If a bail schedule has been set up and bail has not previously been~~
 6 ~~specially fixed, a person charged with the commission of a misdemeanor has the~~
 7 ~~right either to give bail according to the bail schedule, or to demand a special order~~
 8 ~~fixing type or form of bail and amount of bail.~~

9 **The rights of appeal of a bail undertaking forfeiture judgment shall be**
 10 **governed by the Code of Civil Procedure Article 2081 et seq.**

11 (Source: Art. 349.6)

12 Art. 342. ~~Increase or reduction of bail; sufficiency of security~~ **Enforcement of**
 13 **judgment**

14 ~~The court having trial jurisdiction over the offense charged, on its own~~
 15 ~~motion or on motion of the state or defendant, for good cause, may either increase~~
 16 ~~or reduce the amount of bail, or require new or additional security. For purposes of~~
 17 ~~this Article, good cause for increase of bail specifically includes but is not limited~~
 18 ~~to the rearrest of the defendant on offenses alleged to have been committed while out~~
 19 ~~on bond. The modification of any bail order wherein a bail bond has been posted by~~
 20 ~~a criminal defendant and his sureties shall upon said modification terminate the~~
 21 ~~liability of the defendant and his sureties under the previously existing bail contract.~~
 22 ~~A new bail must be posted in the amount of the new bail order.~~

23 **After the delay for filing a suspensive appeal has elapsed or when a**
 24 **judgment becomes final and definitive, the prosecuting attorney may file a rule**
 25 **to show cause in accordance with R.S. 22:1441 or collect the judgment in the**
 26 **same manner as a civil judgment.**

27 (Source: C.Cr.P. Art. 349.7)

28 Section 2. R.S. 15:85 is hereby amended and reenacted to read as follows:

29 §85. Failure to satisfy judgment of bond forfeiture

30 A. If a **defendant fails to appear after January 1, 2017, and a** judgment of

1 bond forfeiture rendered ~~after June 22, 1993~~, against a commercial surety company
 2 has not been satisfied ~~within two hundred ten days after the date of mailing the~~
 3 ~~notice of the signing of the judgment of bond forfeiture for bonds that have a face~~
 4 ~~value under fifty thousand dollars, or within four hundred days from mailing the~~
 5 ~~notice of the signing of the judgment of bond forfeiture for bonds which have a face~~
 6 ~~value of fifty thousand dollars or more, nor has a suspensive appeal or other~~
 7 ~~proceeding challenging the bond forfeiture~~ been timely filed **perfected**, the
 8 prosecuting attorney may file with the ~~district~~ court, in the parish where the ~~bond~~
 9 **bail undertaking** is forfeited, a rule to show cause why that commercial surety
 10 company should not be prohibited from executing criminal bail ~~bonds~~ **undertakings**
 11 before the court issuing the judgment of bond forfeiture.

12 B. At the rule to show cause, the court may consider only issues which would
 13 interrupt the enforceability of the judgment. The court may issue an order enjoining
 14 the commercial surety company from posting criminal bail ~~bonds~~ **undertakings**
 15 before the court issuing the judgment of bond forfeiture if the judgment is ~~not~~ **has**
 16 **not been** satisfied within ten days and if the court finds all of the following:

17 (1) A **defendant failed to appear after January 1, 2017, and a** judgment
 18 of bond forfeiture has been rendered, ~~after June 22, 1993~~, against the commercial
 19 surety.

20 (2) Proper notice pursuant to Code of Criminal Procedure Article 349.3 **339**
 21 has been mailed.

22 ~~(4)~~**(3)** The defendant has ~~neither~~ **not** been surrendered, **constructively**
 23 **surrendered**, nor appeared within one hundred eighty days of ~~the date of mailing the~~
 24 ~~notice of the signing of the judgment of bond forfeiture for bonds that have a face~~
 25 ~~value of fifty thousand dollars or more, and the defendant has not been surrendered~~
 26 ~~together with ten percent of the total amount of the bond more than one hundred~~
 27 ~~eighty days but within two hundred seventy days after the date of mailing the notice~~
 28 ~~of the signing of the judgment of bond forfeiture~~ **the execution of the certificate**
 29 **that notice of warrant for arrest was sent.**

30 ~~(3)~~**(4)** ~~No~~ **The time delays for taking a suspensive appeal, as set forth in**

1 Code of Civil Procedure Article 2123, have run and no suspensive appeal has
2 been taken.

3 (5) ~~Two hundred ten days have passed since the date of mailing the notice of~~
4 ~~the signing of the judgment of bond forfeiture for bonds that have a face value under~~
5 ~~fifty thousand dollars, or four hundred days have passed since the date of mailing the~~
6 ~~notice of the signing of the judgment of bond forfeiture for bonds that have a face~~
7 ~~value of fifty thousand dollars or more.~~

8 (6) ~~The judgment of bond forfeiture has not been satisfied by payment of the~~
9 ~~full amount for bonds that have a face value under fifty thousand dollars, or has not~~
10 ~~been satisfied by the surrender or the appearance of the defendant together with~~
11 ~~payment in cash of ten percent of the total bond amount for bonds that have a face~~
12 ~~value of fifty thousand dollars or more, if applicable.~~

13 C. The burden of proof at the hearing shall be upon the commercial surety by
14 a preponderance of evidence and shall be limited to documents contained in the
15 official court record where the judgment was rendered. The surety company may use
16 evidence not contained in the record to show that it did not receive ~~post-forfeiture~~
17 notice of the signing of the judgment of bond forfeiture ~~or the post-forfeiture~~
18 ~~notice was not properly mailed.~~

19 Section 3. The introductory paragraph of R.S. 22:1441(A) and (A)(1) through (5),
20 (C)(1), the introductory paragraph of (C)(2) and (C)(2)(a) through (e), and (D) are hereby
21 amended and reenacted and R.S. 22:1441(C)(3) through (5) are hereby enacted to read as
22 follows:

23 §1441. Failure to timely satisfy claim under criminal bond contract

24 A. ~~Any~~ A prosecuting attorney may file with the office of the commissioner
25 of ~~insurance's office~~ insurance a rule to show cause if all the following are true:

26 (1) A defendant failed to appear after January 1, 2017, and a judgment
27 of bond forfeiture has been rendered ~~after June 22, 1993~~, against the commercial
28 surety underwriter.

29 (2) Notice pursuant to Code of Criminal Procedure Article ~~349.3~~ 339 has
30 been mailed.

1 (3) All time delays for taking a suspensive appeal, as set forth in Code of
 2 Civil Procedure Article 2123, have run and no ~~No~~ suspensive appeal has been
 3 taken.

4 (4) The defendant has neither been surrendered, constructively surrendered,
 5 nor appeared within one hundred eighty days of ~~mailing of the notice of the signing~~
 6 ~~of the judgment of bond forfeiture~~ the execution of the certificate that notice of
 7 warrant for arrest was sent.

8 (5) More than one hundred eighty days ~~has~~ have ~~lapsed from the mailing of~~
 9 ~~the notice of the signing of the judgment of bond forfeiture~~ since the execution of
 10 the certificate that notice of warrant for arrest was sent.

11 * * *

12 C.(1) Within thirty days of the filing of a rule to show cause by the
 13 prosecuting attorney with the commissioner of insurance, the commissioner of
 14 insurance shall ~~notify~~ provide written notice to the insurance company, ~~the~~ or
 15 commercial surety, or Lloyd's Association, in writing, at the address of the home
 16 office of that organization by certified mail, setting a time, place, and date of the
 17 ~~hearing,~~ of the filing of the rule to show cause and bail bond forfeiture judgment
 18 ordering the insurance company or commercial surety to pay the judgment of
 19 bond forfeiture. ~~which shall not be more than sixty days from the date of receipt of~~
 20 ~~notice from the prosecuting attorney. If after the hearing, the hearing officer finds~~
 21 ~~that there is no just cause or legal reason for the surety's nonpayment, the~~
 22 ~~commissioner shall take any action deemed necessary for collection of the amount~~
 23 ~~owed, including suspension of the surety from doing business in the state of~~
 24 ~~Louisiana.~~

25 (2) The commissioner shall order the commercial surety underwriter to ~~pay~~
 26 immediately pay the judgment of bond forfeiture, if the commissioner finds that all
 27 of the following are true:

28 (a) A defendant failed to appear after January 1, 2017, and a judgment
 29 of bond forfeiture has been rendered ~~after June 22, 1993,~~ against the commercial
 30 surety underwriter.

1 (b) Notice pursuant to Code of Criminal Procedure Article ~~349.3~~ 339 has
2 been mailed.

3 (c) ~~No~~ All time delays for taking a suspensive appeal, as set forth in Code
4 of Civil Procedure Article 2123, have run and no suspensive appeal has been
5 taken.

6 (d) The defendant has neither been surrendered, constructively surrendered,
7 nor appeared within one hundred eighty days of ~~mailing of the notice of the signing~~
8 ~~of the judgment of bond forfeiture~~ the execution of the certificate that notice of
9 warrant for arrest was sent.

10 (e) More than one hundred eighty days has ~~has~~ have lapsed ~~from the mailing of~~
11 ~~the notice of the signing of the judgment of bond forfeiture~~ since the execution of
12 the certificate that notice of warrant for arrest was sent.

13 * * *

14 (3) Within thirty days after the commercial surety or insurance company is
15 notified by the commissioner of the rule to show cause and bail bond forfeiture, the
16 commercial surety or insurance company shall provide to the commissioner evidence
17 that the forfeiture was paid, or that a motion contesting the validity of the bail bond
18 forfeiture was filed in the court where the judgment of bail bond forfeiture was
19 rendered. The commercial surety or insurance company may, for good cause shown,
20 petition the commissioner in writing for an extension of time. The granting or denial
21 of the extension shall be at the sole discretion of the commissioner.

22 (4) If, after thirty days, the commercial surety or insurance company has not
23 provided evidence that the judgment of bail bond forfeiture was paid or that a motion
24 contesting the validity of the judgment of bail bond forfeiture was filed, the
25 commissioner shall petition the division of administrative law to hold a hearing,
26 naming the commercial surety or insurance company as the respondent requiring the
27 commercial surety or insurance company to show cause why the commissioner's
28 order to pay the bond forfeiture should not be upheld and confirmed. Upon receipt
29 of the commissioner's petition to hold a hearing, the division of administrative law
30 shall notify the commercial surety or insurance company at the address of the home

1 office of that organization of the setting of the time, place, and date for a hearing to
2 be held in the manner provided in Chapter 12 of this Title, R.S. 22:2191 et seq.

3 (5) At the hearing, the administrative law judge ~~must~~ shall rule whether the
4 following are true:

5 (a) A defendant failed to appear after January 1, 2017, and a judgment of
6 bond forfeiture has been rendered, against the commercial surety underwriter.

7 (b) Notice pursuant to Code of Criminal Procedure Article 339 has been
8 mailed.

9 (c) All time delays for taking a suspensive appeal, as set forth in Code of
10 Civil Procedure Article 2123, have run and no suspensive appeal has been
11 taken.

12 (d) The defendant has neither been surrendered, constructively
13 surrendered, nor appeared within one hundred eighty days of the execution of
14 the certificate that notice of warrant for arrest was sent.

15 (e) More than one hundred eighty days have lapsed since the execution
16 of the certificate that notice of warrant for arrest was sent.

17 (f) The judgment of bond forfeiture has not been satisfied by payment.

18 D.(1) The burden of proof at the hearing shall be upon the commercial surety
19 by a preponderance of evidence and shall be limited to documents contained in the
20 official court record where the judgment was rendered. The surety company may use
21 evidence not contained in the record to show that it did not receive ~~post-forfeiture~~
22 notice of the signing of the judgment of bond forfeiture ~~or the post-forfeiture~~
23 ~~notice required pursuant to Code of Criminal Procedure Article 349.3 was not~~
24 ~~properly mailed.~~

25 (2) If the commercial surety or insurance company does not meet the
26 burden of proof set forth in Paragraph (1) of this Subsection, then the
27 administrative law judge shall enter an order upholding and confirming the
28 commissioner's order to the commercial surety or insurance company to pay
29 the bond forfeiture.

30 * * *

1 Section 4. Code of Criminal Procedure Articles 327.1, 330.1, 330.2, 330.3, 334.1,
2 334.2, 334.3, 334.4, 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348,
3 349, 349.1, 349.2, 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9 are hereby repealed
4 in their entirety.

5 Section 5. The provisions of this Act shall become effective on January 1, 2017.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 150

BY SENATORS PERRY AND RISER

1 AN ACT

2 To enact Code of Criminal Procedure Article 330.4, relative to bail and bail hearings; to
3 require the detention of a noncitizen defendant pending a bail hearing on a charge
4 involving a fatality; to provide relative to bail hearing procedures; to provide relative
5 to conditions of bail; to provide relative to revocation of bail and issuance of arrest
6 warrants; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 330.4 is hereby enacted to read as
9 follows:

10 **Art. 330.4. Detention of noncitizen defendant pending bail hearing**

11 **A. A contradictory bail hearing, as provided for in this Article, shall be**
12 **held prior to setting bail for any person in custody who is not a citizen of the**
13 **United States or not lawfully admitted for permanent residence and who is**
14 **charged with the commission of an offense in which there was a fatality. The**
15 **hearing shall be held within five days from the date of determination of**
16 **probable cause, exclusive of weekends and legal holidays. At the contradictory**
17 **hearing, the court shall determine the conditions of bail or whether the**
18 **defendant should be held without bail pending trial.**

19 **B. In determining whether the defendant should be admitted to bail**
20 **pending trial, or in determining the conditions of bail, the judge or magistrate**
21 **shall consider the following:**

22 **(1) The criminal history of the defendant.**

23 **(2) The nature and seriousness of the danger to any other person or the**
24 **community that would be posed by the defendant's release.**

25 **(3) Documented history or records of substance abuse by the defendant.**

26 **(4) The seriousness of the offense charged and the weight of the evidence**
27 **against the defendant.**

1 **(5) The risk that the defendant might flee.**

2 **C. Following the contradictory hearing and based upon the judge's or**
3 **magistrate's review of the factors set forth in Paragraph B of this Article, the**
4 **judge or magistrate may order that the defendant not be admitted to bail, upon**
5 **proof by clear and convincing evidence that the defendant might flee, or that the**
6 **defendant poses an imminent danger to any other person or the community.**

7 **D. If bail is granted, the judge or magistrate may consider, as a condition**
8 **of bail, a requirement that the defendant wear an electronic monitoring device**
9 **and be placed under active electronic monitoring and house arrest. The**
10 **conditions of the electronic monitoring and house arrest shall be determined by**
11 **the court and may include but are not limited to limitation of the defendant's**
12 **activities outside the home and a curfew. The defendant may be required to pay**
13 **a reasonable supervision fee to the supervising agency to defray the cost of the**
14 **required electronic monitoring and house arrest.**

15 **E. Any violation of the conditions of bail may be punishable by**
16 **revocation of the bond and the issuance of a bench warrant for the defendant's**
17 **arrest or remanding of the defendant to custody or a modification of the terms**
of bail.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session

ACT No. 232

HOUSE BILL NO. 76

BY REPRESENTATIVE HAVARD

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AN ACT

To enact Code of Criminal Procedure Article 404(F), relative to jury commissions; to provide for the functions of the jury commission in the parishes of East Feliciana and West Feliciana; to transfer the functions of the jury commission to the clerks of court of East Feliciana Parish and West Feliciana Parish; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 404(F) is hereby enacted to read as follows:

Art. 404. Appointment of jury commissions; term of office; oath; quorum; performance of functions of jury commissions in certain parishes

* * *

F. In the parishes of East Feliciana and West Feliciana, the function of the jury commission shall be performed by the clerks of court of East Feliciana Parish and West Feliciana Parish or by a deputy clerk of court designated by the respective clerk in writing to act in his stead in all matters affecting the jury commission. The clerk of court or his designated deputy shall have the same powers, duties, and responsibilities, and shall be governed by all applicable provisions of law pertaining to jury commissioners. The clerks of court of East Feliciana Parish and West Feliciana Parish shall perform the duties and responsibilities otherwise imposed upon

1 him by law with respect to jury venires, shall coordinate the jury venire process, and
2 shall receive the compensation generally authorized for a jury commissioner.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

AN ACT

To amend and reenact Code of Criminal Procedure Articles 413(B) and 414(B), and to repeal R.S. 15:114 and Code of Criminal Procedure Articles 412 and 414(C), relative to grand juries; to provide relative to jury venire and subpoena; to provide relative to the impaneling of grand juries; to provide relative to the time for impaneling grand juries; to provide relative to grand jury rotation and selection; to remove certain provisions of law that were declared unconstitutional relative to grand juries in Orleans Parish; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 413(B) and 414(B) are hereby amended and reenacted to read as follows:

Art. 413. Method of impaneling of grand jury; selection of foreman

* * *

B. The sheriff or his designee, or the clerk or a deputy clerk of court, or ~~in Orleans Parish~~ the jury commissioner shall draw indiscriminately and by lot from the envelope containing the remaining names on the grand jury venire a sufficient number of names to complete the grand jury. The envelope containing the remaining names shall be replaced into the grand jury box for use in filling vacancies as provided in Article 415. The court shall cause a random selection to be made of one person from the impaneled grand jury to serve as foreman of the grand jury.

* * *

Art. 414. Time for impaneling grand juries; period of service

* * *

B. ~~In parishes other than Orleans,~~ The court shall fix the time at which a grand jury shall be impaneled, but no grand jury shall be impaneled for more than

eight months, nor less than four months, except in the parish of Cameron in which the grand jury may be impaneled for a year.

* * *

Section 2. R.S. 15:114 is hereby repealed in its entirety.

Section 3. Code of Criminal Procedure Articles 412 and 414(C) are hereby repealed in their entirety.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

BY REPRESENTATIVE CONNICK AND SENATORS ALARIO, BARROW, BISHOP, BOUDREAUX, BROWN, CARTER, CHABERT, ERDEY, GATTI, JOHNS, LAFLEUR, LONG, LUNEAU, MILLS, MIZELL, MORRELL, PETERSON, GARY SMITH, AND WARD

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 571.1, relative to time limitations
3 for prosecution; to provide for time limitations for certain sex offenses; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 571.1 is hereby amended and
7 reenacted to read as follows:

8 Art. 571.1. Time limitation for certain sex offenses

9 Except as provided by Article 572 of this Chapter, the time within which to
10 institute prosecution of the following sex offenses, regardless of whether the crime
11 involves force, serious physical injury, death, or is punishable by imprisonment at
12 hard labor shall be thirty years: attempted first degree rape, also formerly titled
13 aggravated rape (R.S. 14:27, R.S. 14:42), attempted second degree rape, also
14 formerly titled forcible rape (R.S. 14:27, R.S. 14:42.1), sexual battery (R.S. 14:43.1),
15 second degree sexual battery (R.S. 14:43.2), oral sexual battery (R.S. 14:43.3),
16 human trafficking (R.S. 14:46.2(B)(2) or (3)), trafficking of children for sexual
17 purposes (R.S. 14:46.3), felony carnal knowledge of a juvenile (R.S. 14:80), indecent
18 behavior with juveniles (R.S. 14:81), pornography involving juveniles (R.S.
19 14:81.1), molestation of a juvenile (R.S. 14:81.2), prostitution of persons under
20 eighteen (R.S. 14:82.1), enticing persons into prostitution (R.S. 14:86), crime against

1 nature (R.S. 14:89), aggravated crime against nature (R.S. 14:89.1), crime against
2 nature by solicitation (R.S. 14:89.2(B)(3)), that involves a victim under seventeen
3 years of age. This thirty-year period begins to run when the victim attains the age of
4 eighteen.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session

ACT No. 352

HOUSE BILL NO. 42

BY REPRESENTATIVES DWIGHT, BACALA, TERRY BROWN, CARPENTER,
DAVIS, HOFFMANN, JACKSON, MORENO, JAY MORRIS, NORTON, SMITH,
AND STOKES

1 AN ACT

2 To enact Code of Criminal Procedure Article 573.2, relative to time limitations for initiating
3 prosecutions; to provide relative to time limitations in which to institute prosecution
4 for the crime of video voyeurism; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 573.2 is hereby enacted to read as
7 follows:

8 Art. 573.2. Running of time limitations; exception; video voyeurism

9 The time limitations established by Article 572 of this Code shall not
10 commence to run as to the crime of video voyeurism (R.S. 14:283) until the crime
11 is discovered by the victim.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session
HOUSE BILL NO. 190
BY REPRESENTATIVE CONNICK

ACT No. 82

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 718.1(A) and to enact Code of
3 Criminal Procedure Article 718.1(D), relative to disposing of sensitive evidence; to
4 provide for those authorized to retain sensitive evidence of certain criminal offenses;
5 to declare certain evidence as contraband; to provide with respect to court orders
6 regarding certain evidence; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 718.1(A) is hereby amended and
9 reenacted and Code of Criminal Procedure Article 718.1(D) is hereby enacted to read as
10 follows:

11 Art. 718.1. Evidence of obscenity, video voyeurism, or pornography involving
12 juveniles; prohibition on reproduction of pornography involving juveniles

13 A. In any criminal proceeding, any property or material that is alleged to
14 constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully
15 possessed, video voyeurism as defined in R.S. 14:283, or pornography involving
16 juveniles as defined in R.S. 14:81.1, shall remain in the care, custody, and control of
17 the investigating law enforcement agency, the court, or the district attorney.

18 * * *

19 D. Any material described in Paragraph A of this Article shall be contraband
20 and shall not be disseminated or viewed by anyone other than as provided for in this
21 Article or for the purposes of prosecution of the related criminal offenses. The court

1 may issue any orders it deems appropriate to ensure that the privacy concerns of the
2 victim are addressed.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session
HOUSE BILL NO. 802

ACT No. 509

BY REPRESENTATIVE JACKSON

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893(A) and (E)(1)(b) and R.S.
3 13:5304(B)(10)(b) and R.S. 15:574.2(C)(2)(a) and 574.4(B)(1), and to enact Code
4 of Criminal Procedure Article 890.3 and R.S. 15:824.2, and to repeal R.S.
5 15:827.1(E)(3)(b), relative to crimes of violence and parole eligibility; to provide a
6 procedure by which certain crimes of violence are designated as such in the court
7 minutes; to provide relative to certain benefits and restrictions based upon this
8 designation; to provide with respect to deferral of sentences; to provide for
9 participation in certain programs; to provide relative to parole eligibility for persons
10 convicted of crimes of violence; to change the number of votes required to grant
11 parole for offenders convicted of a crime of violence who meet certain conditions;
12 to provide relative to the eligibility to participate in reentry preparation programs;
13 to create the Programs to Reduce Recidivism Fund; to provide for the purposes of
14 the fund; to provide for the appropriation of monies into the fund; to provide for the
15 administration of the fund; to provide for the distribution of monies from the fund;
16 to provide relative to the calculation of savings realized by the Department of Public
17 Safety and Corrections; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Code of Criminal Procedure Article 893(A) and (E)(1)(b) are hereby
20 amended and reenacted and Code of Criminal Procedure Article 890.3 is hereby enacted to
21 read as follows:

22 Art. 890.3. Sentencing for crimes of violence

23 A. Except as provided in Paragraph B of this Article, when a defendant is
24 sentenced for any offense, or the attempt to commit any offense, defined or
25 enumerated as a crime of violence in R.S. 14:2(B), upon the written recommendation

1 of the district attorney, the court may designate in the minutes whether such offense
 2 is a crime of violence only for the following purposes:

3 (1) To determine a defendant's eligibility for suspension or deferral of
 4 sentence pursuant to Code of Criminal Procedure Article 893.

5 (2) To determine a defendant's eligibility for participation in a drug division
 6 probation program pursuant to R.S. 13:5304.

7 B. The following crimes of violence enumerated in R.S. 14:2(B) shall be
 8 designated by the court in the minutes as a crime of violence:

9 (1) Solicitation for murder.

10 (2) First degree murder.

11 (3) Second degree murder.

12 (4) Manslaughter.

13 (5) Aggravated or first degree rape.

14 (6) Forcible or second degree rape.

15 (7) Simple or third degree rape.

16 (8) Sexual battery.

17 (9) Second degree sexual battery.

18 (10) Intentional exposure to AIDS virus.

19 (11) Aggravated kidnapping.

20 (12) Second degree kidnapping.

21 (13) Aggravated arson.

22 (14) Armed robbery.

23 (15) Assault by drive-by shooting.

24 (16) Carjacking.

25 (17) Terrorism.

26 (18) Aggravated second degree battery.

27 (19) Aggravated assault with a firearm.

28 (20) Armed robbery; use of firearm; additional penalty.

29 (21) Second degree robbery.

30 (22) Disarming of a peace officer.

1 (23) Second degree cruelty to juveniles.

2 (24) Aggravated crime against nature.

3 (25) Trafficking of children for sexual purposes.

4 (26) Human trafficking.

5 (27) Home invasion.

6 * * *

7 Art. 893. Suspension and deferral of sentence and probation in felony cases

8 A. When it appears that the best interest of the public and of the defendant
9 will be served, the court, after a first or second conviction of a noncapital felony,
10 may suspend, in whole or in part, the imposition or execution of either or both
11 sentences, where suspension is allowed under the law, and in either or both cases
12 place the defendant on probation under the supervision of the division of probation
13 and parole. The court shall not suspend the sentence of a conviction for an offense
14 that is designated in the court minutes as a crime of violence ~~as defined in R.S.~~
15 ~~14:2(B)(1), (2), (3), (4), (5), (9), (10), (11), (12), (13), (14), (15), (16), (18), (20),~~
16 ~~(21), (22), (26), (27), or (28)~~ pursuant to Article 890.3, or of a second conviction if
17 the second conviction is for a violation of R.S. 14:73.5, 81.1, or 81.2. The period of
18 probation shall be specified and shall not be less than one year nor more than five
19 years. The suspended sentence shall be regarded as a sentence for the purpose of
20 granting or denying a new trial or appeal. Supervised release as provided for by
21 Chapter 3-E of Title 15 of the Louisiana Revised Statutes of 1950 shall not be
22 considered probation and shall not be limited by the five-year period for probation
23 provided for by the provisions of this Paragraph.

24 * * *

25 E.(1)

26 * * *

27 (b) The court shall not defer a sentence under this provision for an offense
28 or an attempted offense ~~which~~ that is designated in the court minutes as a crime of
29 violence pursuant to Article 890.3 or that is defined or enumerated as a crime of
30 ~~violence under R.S. 14:2(B) or a sex offense as defined by R.S. 15:541(14.1)~~ R.S.

1 §824.2. Programs to Reduce Recidivism Fund

2 A. The Programs to Reduce Recidivism Fund, hereinafter referred to as the
 3 "fund", is hereby created in the state treasury. Interest earned on the investment of
 4 monies in the fund shall be deposited in and credited to the fund. Unexpended and
 5 unencumbered monies in the fund at the close of each fiscal year shall remain in the
 6 fund. Monies in the fund shall be appropriated, administered, and used solely and
 7 exclusively for the purposes provided by this Section.

8 B. The fund shall be comprised of all monies appropriated, donated, or
 9 otherwise made available to provide funding for the purposes set forth in the
 10 provisions of this Section. Any funds realized from a reduction in the amount of
 11 time a person convicted of a crime of violence is required to serve prior to being
 12 eligible for parole consideration as provided for in R.S. 15:574.4(B) shall also be
 13 appropriated to the fund. All of such monies required to be deposited in the state
 14 treasury in accordance with Article VII, Section 9(A) of the Constitution of
 15 Louisiana shall be deposited in the fund after first meeting the requirements of
 16 Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond
 17 Security and Redemption Fund.

18 C. Monies in the fund shall be appropriated and used for the following
 19 purposes:

20 (1) To defray the operational expenses of probation and parole and reentry
 21 initiatives.

22 (2) To assist in establishing and reimbursing the operational expenses of
 23 local corrections rehabilitative programs that do the following:

24 (a) Provide inmates housed in local facilities with fundamental resources in
 25 the areas of employment, life skills training, and job placement.

26 (b) Provide the inmates with access to as many support services as possible
 27 to appreciably increase the likelihood of successful reentry into society and to reduce
 28 recidivism.

29 D. The fund shall be administered by the Louisiana Commission on Law
 30 Enforcement and the Administration of Criminal Justice and the Department of

1 Public Safety and Corrections, hereinafter referred to as "the administrators".
 2 Monies in the fund shall be distributed to probation and parole, reentry initiatives,
 3 and local prison facilities through a grant program established by the administrators.
 4 The administrators shall allocate funds as necessary for the purposes provided in
 5 Subsection C of this Section. The administrators shall promulgate such rules,
 6 regulations, and procedures as are necessary in administering the provisions of this
 7 Section.

8 Section 5. R.S. 15:827.1(E)(3)(b) is hereby repealed in its entirety.

9 Section 6. The provisions of Sections 3 and 5 of this Act shall have prospective
10 application only and shall apply only to persons convicted on or after the effective date of
11 this Act.

12 Section 7. The Department of Public Safety and Corrections shall measure and
13 document cost savings from the implementation of this Act. The Department of Public
14 Safety and Corrections shall establish a baseline for measurement using the average number
15 of inmates incarcerated at each type of penal or correctional institution as defined in R.S.
16 15:824 and at local parish jails or institutions in Fiscal Year 2015-2016. The Department
17 of Public Safety and Corrections shall provide information regarding the estimated savings
18 to the legislature. The Louisiana Legislature shall appropriate the savings realized by the
19 provisions of this Act to be deposited in the fund created by, and for the purposes set forth
20 in, R.S. 15:824.2 enacted in Section 4 of this Act.

21 Section 8. The provisions of Sections 1, 2, 6, 7 and this Section of this Act shall be
22 effective August 1, 2016.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session
HOUSE BILL NO. 1052
BY REPRESENTATIVE HENRY

ACT No. 676

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AN ACT

To amend and reenact Code of Criminal Procedure Article 893(B)(1)(b) and to enact Chapter 33-C of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:5371 through 5373, and Code of Criminal Procedure Article 893(B)(1)(a)(iv)(dd), relative to a probation pilot program in the 24th Judicial District Court; to provide for the Swift and Certain Probation Pilot Program; to provide for applicability; to provide for eligibility; to provide for the suspension of sentence for certain cases; to provide for the effects of completion of the program; to provide with respect to funds realized from participation in the program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 33-C of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:5371 through 5373, is hereby enacted to read as follows:

CHAPTER 33-C. SWIFT AND CERTAIN PROBATION PILOT PROGRAM

§5371. Creation

The provisions of this Chapter are to create a pilot program in the 24th Judicial District Court entitled the Swift and Certain Probation Pilot Program.

§5372. Goals of the Swift and Certain Probation Pilot Program

The goals of the Swift and Certain Probation Pilot Program created under this Chapter include the following:

- (1) To reduce alcoholism and drug abuse and dependency among offenders.
- (2) To reduce the number of new crimes.
- (3) To reduce criminal recidivism.

1 (4) To reduce the alcohol- and drug-related workload of the courts.

2 (5) To increase the personal, familial, and societal accountability of
3 offenders.

4 (6) To promote effective interaction and use of resources among criminal
5 justice personnel and community agencies.

6 (7) To reduce the overcrowding of prisons.

7 §5373. Swift and Certain Probation Pilot Program; 24th Judicial District Court;
8 creation

9 A. The 24th Judicial District Court, by rule adopted by a majority of the
10 judges sitting en banc, may establish the Swift and Certain Probation Pilot Program
11 to be administered by the presiding judge or judges of a special division of court
12 established by the court or any judge of the district court if the presiding judge or
13 judges are unavailable. The judicial district is authorized to provide funding for any
14 expenses related to the administration and operation of the pilot program.

15 B. Any funds realized from a reduction in the amount of time a person would
16 have been required to serve in prison if the defendant had not been placed on
17 probation as provided by this Chapter shall be appropriated to the Department of
18 Public Safety and Corrections and shall be used to defray the additional operational
19 expenses of probation and parole and reentry initiatives. The Department of Public
20 Safety and Corrections shall measure and document cost savings from the
21 implementation of this Chapter and provide information to the legislature regarding
22 the estimated savings annually.

23 C. The terms of the probation pilot program shall be decided by the presiding
24 judge or judges, which shall be in conformity with the principles of the original
25 Hawaii Opportunity Probation with Enforcement (HOPE) program. Probationers in
26 the program receive swift, predictable, and immediate sanctions typically resulting
27 in several days in jail for each detected violation, such as drug use or missed
28 appointments with a probation officer. Sanctions imposed pursuant to this Chapter
29 shall be served without diminution of sentence or credit for time served.

1 §1519.6. Funding and budget

2 * * *

3 E.(1) Notwithstanding any provision of law to the contrary, the LSU Health
4 Science Center - Health Care Services Division, the LSU Health Sciences Center -
5 New Orleans, and the LSU Health Sciences Center - Shreveport are hereby
6 authorized and directed to deposit into the state general fund all receipts of lease
7 payments for the public/private partnership leases of state hospital buildings and
8 equipment net of clinic and hospital lease payments made by the LSU Health
9 Science Center - Health Care Services Division.

10 (2) The health care services division shall transfer to the Department of
11 Health and Hospitals, or its successor, all revenues received from the public private
12 partnership hospitals for the provision of accountable care services.

13 Section 2. R.S. 39:91(A) is hereby amended and reenacted to read as follows:

14 §91. Deepwater Horizon Economic Damages Collection Fund

15 A.(1) There shall be established in the state treasury as a special permanent
16 trust fund named the Deepwater Horizon Economic Damages Collection Fund. After
17 allocation of money to the Bond Security and Redemption Fund as provided in
18 Article VII, Section 9(B) of the Constitution of Louisiana, the treasurer shall deposit
19 in and credit to the Fiscal Year 2015-2016 Deficit Elimination Fund as created in
20 Subsection D of this Section, the first two hundred million dollars of the proceeds
21 of the settlement, judgment, or final disposition of the state's economic damages
22 claims asserted in State of Louisiana v. BP Exploration & Production, et al., MDL
23 NO. 2179 (E.D.LA. pending) (hereinafter "DWH litigation") to recover economic
24 damages sustained by the state from the Deepwater Horizon explosion and oil spill
25 that occurred on or about April 20, 2010, at the MC 252 site in the Gulf of Mexico.

26 (2) All settlement proceeds received on behalf of the state shall be reported
27 to the Joint Legislative Committee on the Budget.

28 * * *

1 Section 3. R.S. 47:302.2(C)(1)(b) is hereby amended and reenacted to read as
2 follows:

3 §302.2. Disposition of certain collections in the city of Shreveport

4 * * *

5 C. Subject to an annual appropriation by the legislature, monies in the fund
6 shall be used as follows:

7 (1) For allocation from all monies in the fund in the following amounts:

8 * * *

9 (b) One and one-half percent ~~for African-American Multi-Cultural Tourism~~
10 Commission to be divided equally with fifty percent to Pamoja Art Society and fifty
11 percent to Rho Omega and Friends, Inc., and one and one-half percent for the
12 Shreveport Bossier African American Chamber of Commerce.

13 * * *

14 Section 4. R.S. 49:259(A) through (D) is hereby amended and reenacted to read as
15 follows:

16 §259. Department of Justice Legal Support Fund

17 A. There is hereby established in the state treasury a special fund to be
18 known as the Department of Justice Legal Support Fund, hereinafter referred to as
19 the "fund". The fund shall be comprised of proceeds recovered by the attorney
20 general on behalf of the state from court judgments, settlements, fines, fees,
21 forfeitures and penalties, from the recovery or award of any attorney fees as provided
22 in R.S. 42:262, or from proceeds recovered by the attorney general from any other
23 source ~~from~~ which revenues are ~~designated~~ received by the attorney general for
24 deposit into the fund, except those judgments and recoveries made on or pertaining
25 to any office of risk management litigation, ~~or~~ litigation involving the Department
26 of Natural Resources ~~and~~ or the Department of Environmental Quality, or to the
27 settlement funds, judgments, or final disposition of the claims asserted in State of
28 Louisiana v. BP Exploration & Production, et al., consolidated with In Re: Oil Spill
29 by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL

1 No. 2179 (E.D. La.) (hereinafter "DWH litigation"), as provided in Subsection D of
2 this Section.

3 B.(1) After satisfying the requirements of the Bond Security and Redemption
4 Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana, the
5 treasurer shall ~~pay~~ transfer into the fund each fiscal year ~~an amount equal to~~ from the
6 proceeds received as provided in Subsection A of this Section ~~in~~ an amount which
7 together with the balance in the fund as of each July first is sufficient to bring the
8 balance in the fund to ten million dollars annually. Annual deposits into the fund
9 shall not exceed a total of ten million dollars ~~The~~ and the balance of the fund shall
10 not exceed ten million dollars. Any proceeds ~~remaining~~ received as provided in
11 Subsection A of this Section, after making the total annual deposit into the fund of
12 ten million dollars shall be deposited into the state general fund.

13 (2) The attorney general shall notify the state treasurer, the Joint Legislative
14 Committee on the Budget, and the commissioner of administration immediately upon
15 receipt of any proceeds received as provided in Subsection A of this Section.

16 C.(1) The monies in the fund shall be annually appropriated to the
17 Department of Justice solely for the purposes of defraying the costs of expert
18 witnesses, consultants, contract legal counsel, technology, specialized employee
19 training and education, and public education initiatives. Monies in the fund may also
20 be used to defray the expense of employees hired, including attorneys and support
21 staff, and to pay related expenses to represent the state. ~~Monies appropriated from~~
22 ~~the fund shall be used to supplement the Department of Justice budget and shall in~~
23 ~~no way be used to displace, replace, or supplant appropriations from the state general~~
24 ~~fund for operations of the Department of Justice below the level of state general fund~~
25 ~~appropriations for that department in the current fiscal year.~~

26 (2) No employee salary or wages or other expenses, to be paid from the
27 recovery or award of any attorney fees as provided in R.S. 42:262, including the
28 recovery or award of any attorney fees resulting from the Court Order [Regarding
29 Payment of the Gulf States' Attorneys' Fees and Costs] (Rec. Doc. 15441) issued in

1 the DWH litigation on October 5, 2015, shall be paid by the Department of Justice,
2 until funding is approved by the Joint Legislative Committee on the Budget.

3 (3) Each fiscal year, monies shall be deposited into the fund in an amount
4 sufficient to bring the unencumbered balance in the fund to ten million dollars.

5 D. Notwithstanding the provisions of Subsection A of this Section, no
6 proceeds shall be deposited into the fund from court-awarded judgments and
7 settlements involving the Department of Natural Resources as specified in R.S.
8 30:136.3(B)(1), nor any judgments, settlements, or recoveries which are designated
9 for credit to the Hazardous Waste Site Cleanup Fund, the Environmental Trust Fund,
10 or any other funds administered by the Department of Environmental Quality under
11 the Environmental Quality Act. Notwithstanding the provisions of Subsection A of
12 this Section, no proceeds shall be deposited into the fund from court-awarded
13 judgments and settlements involving the Department of Transportation and
14 Development. Notwithstanding the provisions of Subsection A of this Section, no
15 proceeds shall be deposited into the fund from judgments, settlements, or recoveries
16 arising from the DWH litigation, including but not limited to litigation expenses,
17 assessment costs, court costs or attorney fees.

18 * * *

19 Section 5. Code of Criminal Procedure Article 895.1(F)(3)(e) is hereby amended and
20 reenacted to read as follows:

21 Art. 895.1. Probation; restitution; judgment for restitution; fees

22 * * *

23 F. When the court places the defendant on supervised probation, it shall
24 order as a condition of probation the payment of a monthly fee of eleven dollars.
25 The monthly fee established in this Paragraph shall be in addition to the fee
26 established in Paragraph C of this Article and shall be collected by the Department
27 of Public Safety and Corrections and shall be transmitted, deposited, appropriated,
28 and used in accordance with the following provisions:

29 * * *

1 hereby authorized and directed to transfer the excess High Risk Pool Funds to the Mega-
2 Project Development Fund.

3 Section 8. Notwithstanding any law to the contrary, upon receipt of any monies
4 received on behalf of the state as a result of the settlement, judgment, or final disposition of
5 the state's claims asserted in State of Louisiana v. BP Exploration & Production, et al.
6 (E.D.La.), consolidated with In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf
7 of Mexico, on April 20, 2010, MDL 2179 (E.D. La.), including (1) Twenty Million Dollars
8 paid pursuant to the Court Order [Regarding Payment of the Gulf States' Attorneys' Fees and
9 Costs (Rec. Doc. 15441)] issued on October 5, 2015 (hereinafter "attorneys' fees and costs"),
10 (2) the recovery of the unreimbursed Natural Resource Damage assessment (NRDA) costs
11 incurred by the Trustees and the natural resource damage (NRD) payments due pursuant to
12 the Consent Decree Among Defendant BP Exploration & Production Inc. (BPXP), the
13 United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and
14 Texas (Consent Decree), and (3) the economic damages owed under the Settlement
15 Agreement Between the Gulf State and the BP Entities With Respect to Economic and Other
16 Claims Arising From the Deepwater Horizon Incident (Economic Damages Settlement
17 Agreement), the attorney general shall notify the state treasurer, the Joint Legislative
18 Committee on the Budget, and the commissioner of administration. The state treasurer shall
19 immediately transfer the Twenty Million Dollar payment for attorneys' fees and costs
20 pursuant to the Court Order to the Oil Spill Contingency Fund. The state treasurer is further
21 authorized and directed to transfer, immediately upon receipt of the first installment of the
22 NRDA costs paid in accordance with the Consent Decree, Nineteen Million One Hundred
23 Twenty-five Thousand Dollars to the Natural Resources Restoration Trust Fund. The second
24 installment of Nineteen Million One Hundred Twenty-five Thousand Dollars for NRDA
25 costs and all future NRD payments made pursuant to the Consent Decree shall also be
26 transferred to the Natural Resources Restoration Trust Fund, in accordance with La. R.S.
27 30:2480.2. The state treasurer shall immediately upon receipt of the initial payment of
28 economic damages in the amount of Two Hundred Million Dollars, transfer these funds in
29 accordance with R.S. 39:91. All future payments of economic damages, as set forth in the
30 Economic Damages Settlement Agreement, shall also be transferred in accordance with R.S.

1 39:91. In order to comply with this section, immediately upon signature of the governor of
 2 this Act, the attorney general is hereby directed to remit from the Attorney General's
 3 Consumer Support Escrow Account the amount of seven million dollars which was
 4 transferred to the Attorney General's Consumer Support Escrow Account on May 17, 2016,
 5 to the state treasurer and costs made pursuant to the October 5, 2015 Court Order or the
 6 NRDA payments made pursuant to the Consent Decree.

7 Section 9. When the Department of Revenue prevails in the suit, appeal or, petition
 8 associated with the legislative instrument which originated as House Concurrent Resolution
 9 No. 8 of the 2015 Regular Session of the Louisiana Legislature, the amount paid under
 10 protest and held in escrow in accordance with R.S. 47:1576, the proceeds thereof shall be
 11 transferred to the state general fund.

12 Section 10. The attorney general is hereby directed to remit from the Attorney
 13 General's Consumer Support Escrow Account the amount of \$7,028,196 to the state
 14 treasurer. Notwithstanding any law to the contrary, the treasurer shall transfer the
 15 \$7,028,196 to the state general fund.

16 Section 11. This Act shall become effective upon signature by the governor or, if not
 17 signed by the governor, upon expiration of the time for bills to become law without signature
 18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 20 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 655

HOUSE BILL NO. 146

BY REPRESENTATIVES MORENO, AMEDEE, BAGLEY, BAGNERIS, BILLIOT, BOUIE, CARPENTER, GARY CARTER, EDMONDS, EMERSON, FALCONER, GAINES, GLOVER, HALL, HILFERTY, HORTON, JACKSON, JAMES, LEGER, LYONS, MARCELLE, NORTON, PIERRE, REYNOLDS, SMITH, WHITE, AND ZERINGUE

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AN ACT

To enact Code of Criminal Procedure Article 895(O), relative to limitations of liability for court-approved mentors; to provide a limitation of liability to certain persons mentoring offenders on probation; to provide a limitation of liability for the court, and court officers, agents, and employees; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 895(O) is hereby enacted to read as follows:

Art. 895. Conditions of probation

* * *

O.(1) Any mentor of an offender on probation under the supervision of any court division created pursuant to R.S. 13:5304, 5354, 5366, or 5401 shall not be liable for any injury or loss caused or suffered by an offender that arises out of the performance of duties as a mentor, unless the injury or loss was caused by the gross negligence or intentional acts of the mentor.

(2) Neither the court nor any officer, agent, or employee of the court shall be liable for any injury or loss to the offender, the mentor, or any third party for the actions of the mentor or the offender.

1 (3) As provided in this Subsection, "mentor" means a person approved by
 2 the court who volunteers to provide support and personal, educational, rehabilitation,
 3 and career guidance to the offender during probation and who has either completed
 4 a court-approved mentor training program or who has successfully completed his
 5 sentence pursuant to R.S. 13:5304, 5354, 5366, or 5401.

6 (4) Nothing in this Subparagraph shall affect the vicarious liability of the
 7 employer pursuant to Civil Code Article 2320 or the ability of an employee to file
 8 a claim for workers' compensation.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session
HOUSE BILL NO. 172

ACT No. 213

BY REPRESENTATIVE JEFFERSON

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 900(A)(6)(b), relative to
3 technical parole violations; to provide for earning of credit for time served prior to
4 revocation; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 900(A)(6)(b) is hereby amended and
7 reenacted to read as follows:

8 Art. 900. Violation hearing; sanctions

9 A. After an arrest pursuant to Article 899 of this Code, the court shall cause
10 a defendant who continues to be held in custody to be brought before it within thirty
11 days for a hearing. If a summons is issued pursuant to Article 899 of this Code, or
12 if the defendant has been admitted to bail, the court shall set the matter for a
13 violation hearing within a reasonable time. The hearing may be informal or
14 summary. If the court decides that the defendant has violated, or was about to
15 violate, a condition of his probation it may:

16 * * *

17 (6)

18 * * *

19 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
20 any defendant who has been placed on probation by the court for the conviction of
21 an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex
22 offense as defined in R.S. 15:541(24), and who has had his probation revoked under
23 the provisions of this Article for his first technical violation of his probation as
24 determined by the court, shall be required to serve a sentence of not more than ninety

2016 Regular Session
HOUSE BILL NO. 180
BY REPRESENTATIVE JEFFERSON

ACT No. 214

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AN ACT

To amend and reenact Code of Criminal Procedure Article 901(C), relative to probation; to provide relative to the revocation of probation for the commission of another offense; to provide for credit for time served prior to the revocation hearing; to provide that certain sentences may be served consecutively or concurrently; to provide exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 901(C) is hereby amended and reenacted to read as follows:

Art. 901. Revocation for commission of another offense

* * *

C. In cases of revocation provided for in this Article:

(1) No credit shall be allowed for time spent on probation or for the time elapsed during suspension of the sentence; ~~and,~~

(2) When the new conviction is a Louisiana conviction, the court shall specify in the minutes whether the sentence shall run consecutively or concurrently with the sentence for the new conviction, ~~unless the court originally imposing the suspension or probation specifically orders that said sentences are to be served concurrently, in which case the court minutes shall reflect the date from which the sentences are to run concurrently.~~

1 (3) The defendant may be given credit for time served prior to the revocation
2 hearing for time served in actual custody while being held for a probation violation
3 in a local detention facility, state institution, or out-of-state institution pursuant to
4 Article 880 of this Code.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session

ACT No. 125

HOUSE BILL NO. 7

BY REPRESENTATIVE PRICE

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 978(B)(1), 989, and 992 and to enact Code of Criminal Procedure Articles 976(A)(4) and 978(E), relative to expungement; to provide for eligibility for an expungement in cases of factual innocence; to provide for the expungement of certain crimes of violence after a cleansing period; to provide for the expungement forms to be used; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 978(B)(1), 989, and 992 are hereby amended and reenacted and Code of Criminal Procedure Articles 976(A)(4) and 978(E) are hereby enacted to read as follows:

Art. 976. Motion to expunge record of arrest that did not result in a conviction

A. A person may file a motion to expunge a record of his arrest for a felony or misdemeanor offense that did not result in a conviction if any of the following apply:

* * *

(4) The person was judicially determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8. The person may seek to have the arrest and conviction which formed the basis for the wrongful conviction expunged without the limitations or time delays imposed by the provisions of this Article or any other provision of law to the contrary.

* * *

1 Art. 978. Motion to expunge record of arrest and conviction of a felony offense

2 * * *

3 B. No expungement shall be granted nor shall a person be permitted to file
4 a motion to expunge the record of arrest and conviction of a felony offense if the
5 person was convicted of the commission or attempted commission of any of the
6 following offenses:

7 (1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless
8 otherwise authorized in Paragraph E of this Article.

9 * * *

10 E.(1) Notwithstanding any other provision of law to the contrary, after a
11 contradictory hearing, the court may order the expungement of the arrest and
12 conviction records of a person pertaining to a conviction of aggravated battery,
13 second degree battery, aggravated criminal damage to property, simple robbery,
14 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
15 following conditions are proven by the petitioner:

16 (a) More than ten years have elapsed since the person completed any
17 sentence, deferred adjudication, or period of probation or parole based on the felony
18 conviction.

19 (b) The person has not been convicted of any other criminal offense during
20 the ten-year period.

21 (c) The person has no criminal charge pending against him.

22 (d) The person has been employed for a period of ten consecutive years.

23 (2) The motion filed pursuant to this Paragraph shall include a certification
24 from the district attorney which verifies that, to his knowledge, the applicant has no
25 convictions during the ten-year period and no pending charges under a bill of
26 information or indictment. The motion shall be heard by contradictory hearing as
27 provided by Article 980.

28 * * *

1 Art. 989. Motion for expungement forms to be used

2 STATE OF LOUISIANA

3 JUDICIAL DISTRICT FOR THE PARISH OF

4 _____

5 No.: _____

Division: " _____ "

6 State of Louisiana

7 vs.

8 _____

9 MOTION FOR EXPUNGEMENT

10 NOW INTO COURT comes mover, who provides the court with the
11 following information in connection with this request:

12 I. DEFENDANT INFORMATION

13 NAME: _____

14 (Last, First, MI)

15 DOB: _____/_____/_____ (MM/DD/YYYY)

16 GENDER _____ Female _____ Male

17 SSN (last 4 digits): XXX-XX-_____

18 RACE: _____

19 DRIVER LIC.# _____

20 ARRESTING AGENCY: _____

21 SID# (if available): _____

22 ARREST NUMBER: _____

23 Mover is entitled to expunge the record of his arrest/conviction pursuant to
24 Louisiana Code of Criminal Procedure Article 971 et seq. and states the following
25 in support:

26 II. ARREST INFORMATION

27 1. Mover was arrested on _____/_____/_____ (MM/DD/YYYY)

28 2. _____ YES _____ NO A supplemental sheet with arrests and/or
29 convictions is attached after page 2 of this
30 Motion.

- 1 () Not prosecuted for any
- 2 offense arising out of this charge.
- 3 () Pre-trial Diversion Program.
- 4 () Charge dismissed
- 5 () Found not guilty/judgment of acquittal

ITEM NO. 3

La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

() Time expired for prosecution _____

(MM/DD/YYYY)

() Not prosecuted for any offense

arising out of this charge.

() Pre-trial Diversion Program.

() Charge dismissed

() Found not guilty/judgment of acquittal

____ Yes ____ No **MISDEMEANOR CONVICTIONS**

ITEM NO. 1

La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

() More than 5 years have passed

since completion of sentence.

ITEM NO. 2

La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

1 () More than 5 years have passed
2 since completion of sentence.

3 Yes No **FELONY CONVICTIONS**

4 **ITEM NO. 1** La. Rev. Stat. Ann. § :

5 () Conviction set aside/dismissed / /
6 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

7 () More than 10 years have passed
8 since completion of sentence

9 **ITEM NO. 2** La. Rev. Stat. Ann. § :

10 () Conviction set aside/dismissed / /
11 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

12 () More than 10 years have passed
13 since completion of sentence

14 Yes No **OPERATING A MOTOR VEHICLE WHILE**
15 **INTOXICATED CONVICTIONS**

16 Mover has attached the following:

17 () A copy of the proof from the Department of Public Safety and
18 Corrections, office of motor vehicles, that it has received from the
19 clerk of court a certified copy of the record of the plea, fingerprints
20 of the defendant, and proof of the requirements set forth in C.Cr.P.
21 Art. 556, which shall include the defendant's date of birth, last four
22 digits of social security number, and driver's license number

23 5. Mover has attached to this Motion the following pertinent documents:

24 Criminal Background Check from the La. State Police/Parish Sheriff
25 dated within the past 30 days (required).

1 Art. 992. Order of expungement form to be used

2 STATE OF LOUISIANA

3 JUDICIAL DISTRICT FOR THE PARISH OF

4 _____

5 No.: _____

Division: " _____ "

6 State of Louisiana

7 vs.

8 _____

9 ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

10 Considering the Motion for Expungement

11 The hearing conducted and evidence adduced herein, OR

12 Affidavits of No Opposition filed,

13 IT IS ORDERED, ADJUDGED AND DECREED

14 THE MOTION IS DENIED for Item(s) No. , , , the following
15 reasons (check all that apply):

16 More than five years have not elapsed since Mover completed the
17 misdemeanor conviction sentence.

18 More than ten years have not elapsed since Mover completed the felony
19 conviction sentence.

20 Mover was convicted of one of the following ineligible felony
21 offenses:

22 A violation of the Uniform Controlled Dangerous Substances
23 Law which is ineligible to be expunged.

24 An offense currently listed as a sex offense that requires
25 registration pursuant to La. Rev. Stat. Ann. 15:540 et seq., at
26 the time the Motion was filed, regardless of whether the duty
27 to register was ever imposed.

28 An offense defined or enumerated as a "crime of violence"
29 pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the
30 Motion was filed.

1 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
2 of any other statutorily defined law enforcement or administrative duties, or for the
3 purpose of the requirements of sex offender registration and notification pursuant to
4 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
5 person for good cause shown, or as otherwise authorized by law.

6 NAME: _____
7 (Last, First, MI)

8 DOB: ____/____/____ (MM/DD/YY)

9 GENDER: ____ Female ____ Male

10 SSN (last 4 digits): XXX-XX-_____

11 RACE: _____

12 DRIVER LIC.# _____

13 ARRESTING AGENCY: _____

14 SID# (if available): _____

15 ARREST NUMBER (ATN): _____

16 AGENCY ITEM NUMBER: _____

17 ARREST DATE: ____/____/____ (MM/DD/YY)

18 **THUS ORDERED AND SIGNED** this ____ day of _____, 20____
19 at _____, Louisiana.

20 _____
21 JUDGE

22 **PLEASE SERVE:**

- 23 1. District Attorney: _____
- 24 2. Arresting Agency: _____
- 25 3. Parish Sheriff: _____
- 26 4. Louisiana Bureau of Criminal Identification and Information _____
- 27 5. Attorney for Defendant (or defendant) _____
- 28 6. Clerk of Court _____

29 Section 2. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2016 Regular Session
HOUSE BILL NO. 194

ACT No. 8

BY REPRESENTATIVES JAMES AND HUNTER AND SENATORS CARTER AND MILLS

1 AN ACT

2 To enact Code of Criminal Procedure Article 983(F)(5), relative to expungement of arrest
3 records in misdemeanor and felony cases; to provide for an exemption of fees in
4 certain expungement cases; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 983(F)(5) is hereby enacted to read
7 as follows:

8 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
9 disbursements

10 * * *

11 F. An applicant for the expungement of a record shall not be required to pay
12 any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and
13 Information, sheriff, the district attorney, or any other agency to obtain or execute
14 an order of a court of competent jurisdiction to expunge the arrest from the
15 individual's arrest record if a certification obtained from the district attorney is
16 presented to the clerk of court which verifies that the applicant has no felony
17 convictions and no pending felony charges under a bill of information or indictment
18 and at least one of the following applies:

19 * * *

20 (5) Concerning the arrest record which the applicant seeks to expunge, the
21 applicant was determined by the district attorney to be a victim of a violation of R.S.
22 14:67.3 (unauthorized use of "access card"), a violation of R.S. 14:67.16 (identity

