

2023 Regular Session

HOUSE BILL NO. 544

BY REPRESENTATIVE JORDAN

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

CIVIL/PROCEDURE: Provides relative to legislative continuances

1 AN ACT

2 To amend and reenact R.S. 13:4163(A)(1), (B), (C)(1)(introductory paragraph) and (c),
3 (D)(2), (E)(1)(a) and (b), (G), and (H)(2) and to enact R.S. 13:4163(C)(3), (E)(2)(C),
4 and (J), relative to civil procedure; to provide for continuances or extensions of
5 certain deadlines; to provide relative to legislators or employees; to provide for
6 judicial notice; to provide relative to grounds for continuance or extension; to
7 provide for deadlines; to provide relative to appeals and supervisory writs; to provide
8 relative to costs; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 13:4163(A)(1), (B), (C)(1)(introductory paragraph) and (c), (D)(2),
11 (E)(1)(a) and (b), (G), and (H)(2) are hereby amended and reenacted and R.S. 13:4163(C)(3),
12 (E)(2)(C), and (J) are hereby enacted to read as follows:

13 §4163. Ex parte motion for legislative continuance or extension of time; legislators
14 or employees engaged in legislative or constitutional convention activities
15 A.(1) A member of the legislature and a legislative employee shall have
16 peremptory grounds for continuance or extension of a criminal case, civil case, or
17 administrative proceeding as provided below. The continuance or extension ~~shall~~
18 may be sought by written motion specifically alleging these grounds.

19 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 B. The peremptory grounds for continuance or extension ~~is~~ are available to
2 and for the benefit of a member or legislative employee and may only be asserted or
3 waived by a member or employee; and any waiver shall be asserted either in open
4 court or filed into the record.

5 C.(1) Such peremptory grounds are available for the continuance of any type
6 of proceeding and the extension of any type of deadline or legal delay pertaining to
7 a criminal case, civil case, or administrative proceeding, if the presence,
8 participation, or involvement of a member or employee is required in any capacity,
9 including any pretrial or post-trial legal proceeding, during:

10 * * *

11 (c) Any time other than those provided in Subparagraph (a) or (b) of this
12 Paragraph when such person is engaged in activities, including travel, in connection
13 with or ordered by: (i) the legislature; (ii) any legislative committee or subcommittee
14 appointed by the president of the Senate or the speaker of the House of
15 Representatives; (iii) any committee or commission appointed by the governor or
16 other person authorized to make such appointments; ~~or~~ (iv) any constitutional
17 convention or commission; or (v) legislative duties for which the legislator is
18 eligible to receive a per diem.

19 * * *

20 (3) Notwithstanding any law to the contrary, a court shall take judicial notice
21 any time the legislature or any legislative committee convenes, and the member or
22 employee is required to attend.

23 D.

24 * * *

25 (2)(a) A motion for legislative continuance or extension shall be filed at no
26 cost to a member, employee, or a client of a member or employee.

27 (b) If a party or attorney opposes a motion for continuance or extension that
28 was granted by any court, upon motion of any party or upon its own motion, a court

1 may award attorney fees and court costs payable to the member or employee by the
2 party or attorney who opposed a motion for legislative continuance or extension.

3 E.(1)(a) If the grounds for a legislative continuance or extension are founded
4 upon the convening of a ~~regular~~ any legislative session or a constitutional
5 convention, the motion for legislative continuance or extension shall be timely if
6 filed no later than five calendar days prior to the ~~hearing or court~~ proceeding to be
7 continued.

8 (b)(i) If the grounds for a legislative continuance or extension are founded
9 upon any provision of Subparagraph (C)(1)(c) of this Section ~~or upon the issuance~~
10 ~~of a call for an extraordinary session of the legislature,~~ the motion for legislative
11 continuance or extension shall be timely if filed no later than five calendar days prior
12 to the ~~hearing~~ court or proceeding to be continued or no later than two days
13 following the issuance of the notice of the meeting or of the call for the extraordinary
14 legislative session, ~~which ever occurs last.~~ of a member or employee receiving
15 reasonable notice of any provision of Subparagraph (C)(1)(c) of this Section.

16 (ii) If the grounds for legislative continuance or extension are founded upon
17 any provision of Subparagraph (C)(1)(c) of this Section and the member or employee
18 is unable to comply with the notice requirements of this Paragraph, the member or
19 employee shall give notice at the earliest time practicable prior to the court
20 proceeding to be continued.

21 * * *

22 (2)

23 * * *

24 (c) If a legal deadline or delay has run, a motion to continue or extend a legal
25 deadline or delay shall be timely if filed within five days prior to a court proceeding
26 on a motion for sanctions or penalties brought by opposing counsel for the failure of
27 the member or employee to comply with the legal deadline or delay.

28 * * *

Present law (R.S. 13:4163(A)) provides that a continuance or extension shall be sought by written motion specifically alleging the peremptory grounds for a continuance or extension of a criminal case, civil case, or administrative proceeding.

Proposed law changes present law to provide that the continuance or extension may be sought by written motion.

Present law (R.S. 13:4163(B)) provides that peremptory grounds for continuance or extension may only be asserted or waived by a member or employee.

Proposed law retains present law and provides that any waiver shall be asserted in open court or filed into the record.

Present law (R.S. 13:4163(C)) provides that such peremptory grounds as provided in present law shall be available in the following times:

- (1) Any time between 30 days prior to the original call of order and 30 days following adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to the convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when the person is engaged in activities connected to or ordered by the legislature, any legislative committee or subcommittee, any committee or convention appointed by the governor or other authorized person, or any constitutional convention or commission.

Proposed law expands present law and provides that the peremptory grounds are available when such person is engaged in activities in connection with the legislator's duty for which the legislator is eligible to receive a per diem.

Proposed law provides that a court shall take judicial notice any time the legislature or any legislative committee convenes and the member or employee is required to attend.

Present law (R.S. 13:4163(D)(2)) provides that a motion for legislative continuance or extension shall be filed at no cost to the member, employee, or a member or employee's client.

Proposed law retains present law and provides that if a party or attorney opposes a motion for continuance or extension, the court may award attorney fees, court costs, and sanctions against an attorney who opposes a motion for continuance or extension.

Present law (R.S. 13:4163(E)(1)) provides if the grounds for a legislative continuance or extension are founded upon the convening of a regular legislative session or constitutional convention, the motion shall be timely if filed no later than five calendar days prior to the hearing to be continued.

Proposed law changes present law to provide that if the grounds for the legislative continuance or extension are founded upon the convening of any legislative session, the motion shall be filed no later than five calendar days prior to the court proceeding to be continued.

Proposed law provides that members or employees give notice at the earliest time practicable prior to for activities in connection with present law (R.S. 13:4163(C)(1)(c)).

Proposed law (R.S. 13:4163(E)(3)(c)) provides that if a legal deadline or delay has run, a motion for continuance or extension shall be timely if filed within five days prior to the court proceeding on a motion for sanctions or penalties.

Present law (R.S. 13:4163(G)) provides that actions taken against a person who has filed a motion for legislative continuance or extension and resulting from such person or attorney to appear or comply with the court shall be an absolute nullity and set aside by the court upon a filing of a motion by the aggrieved person or attorney.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law shall be considered an absolute nullity and shall be set aside by the court at no cost to the member, employee, or member or employee's client.

Present law (R.S. 13:4163(H)) provides that any person who has filed a motion for legislative continuance or extension which has been denied or not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law may be appealed to or a supervisory writ may be filed with the supreme court or courts of appeal at no cost to a member, employee, or member or employee's client.

Proposed law (R.S. 13:4163(J)) provides that proposed law shall not interrupt prescription.

(Amends R.S. 13:4163(A)(1),(B), (C)(1)(c), (D)(2), (E)(1)(a) and (b), (G), and (H)(2); Adds R.S. 13:4163(C)(3), (E)(2)(c), and (J))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for the permissive ordering of attorney fees, court costs, and sanctions and remove the \$1,000 minimum for attorney fees.
2. Provide that any waiver of privilege shall be revocable.
3. Provide that continuances and extensions are not applicable to incidental demands and third party demands barred by prescription or peremption.
4. Provide for the applicability of continuances and extensions to organizational and veto sessions.
5. Remove provision authorizing the timely filing of a continuance or extension prior to a proceeding on a motion for sanctions or penalties brought by opposing counsel for the failure to comply with a legal deadline.
6. Remove permissive applicability of the continuance or extension to cases before the Supreme Court of La.
7. Remove authority to request a judicial recusal for denials of continuance or extensions.
8. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Provide that a continuance or extension may be sought by written motion.
2. Provide that waivers of a continuance or extension may be asserted in open court or filed into the record.

3. Remove the inapplicability of proposed law to incidental and third party demands barred by prescription or peremption as provided in C.C.P. Art. 1041.
4. Delete language related to sanctions against attorneys under C.C.P. Art. 863.
5. Combine legislative sessions and remove language related to organizational, extraordinary, and veto sessions.
6. Provide that if a legal deadline or delay has run, a motion to continue or extend is timely if filed within five days prior to a court proceeding on a motion for sanctions or penalties.
7. Provide that proposed law does not interrupt prescription.
8. Make technical changes.