

2020 Regular Session

SENATE BILL NO. 194

BY SENATOR HEWITT

JUDGES. Requires judges to file personal financial disclosure forms as a public record.
(gov sig)

AN ACT

To enact Chapter 1-D of Title 13 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 13:65 through 67, relative to personal financial disclosure statements for judges and justices of the peace; to require all elected judges and justices of the peace to file an annual financial statement with the office of the judicial administrator for the Louisiana Supreme Court; to provide relative to requirements and procedures for reporting; to provide for reporting forms; to provide for a website with access to filed financial disclosure reports and those persons who failed to comply with requirements; to provide for definitions; to provide for the issuance of notice of delinquencies; to provide for requirements and procedures for noncompliance with reporting requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 1-D of Title 13 of the Louisiana Revised Statutes of 1950, comprised of R.S. 13:65 through 67, is hereby enacted to read as follows:

CHAPTER 1-D. JUDICIAL FINANCIAL DISCLOSURES

§65. Personal financial disclosure statements; judges

1 A.(1) All elected judges and justices of the peace shall annually file a
2 financial statement as provided for in this Section. The financial statement shall
3 be filed by May fifteenth of each year during the term of office held by the judge
4 and by May fifteenth of the year following the expiration of the term of office.

5 (2) The financial statement shall be filed with the office of the judicial
6 administrator for the Louisiana Supreme Court, and shall be accompanied by
7 the affidavit of the individual filing it certifying that the information contained
8 in the financial statement is true and correct to the best of his knowledge,
9 information, and belief. The financial statement shall be a matter of public
10 record and shall be subject to public inspection and copying.

11 B. The financial statement may be filed within thirty days after the
12 individual files his federal tax return for the year on which he is reporting,
13 taking into consideration any extensions filed by the individual, provided that
14 the individual notifies the office of the judicial administrator, in writing prior
15 to the deadline provided for by Subsection A of this Section, of his intention to
16 file for an extension.

17 C. The financial statement shall be filed on a form prescribed by the
18 office of the judicial administrator and approved by the supreme court, and
19 shall include the following information for the preceding calendar year:

20 (1) The full name and office address of the individual who is required
21 to file.

22 (2) The full name of the individual's spouse, if any, and the spouse's
23 occupation and principal business address.

24 (3) The name of the employer, job title, and a brief job description of
25 each full-time or part-time employment position held by the individual and
26 spouse.

27 (4)(a) The name, address, brief description of, the nature of association
28 with, and the amount of interest in each business in which the individual or
29 spouse is a director, officer, owner, partner, member, or trustee, and in which

1 the individual or spouse, either individually or collectively, owns an interest
2 which exceeds ten percent of that business.

3 (b) The name, address, brief description of, and nature of association
4 with a nonprofit organization in which the individual or spouse is a director or
5 officer.

6 (5)(a)(i) The name, address, type, and amount of each source of income
7 received by the individual or spouse, or by any business in which the individual
8 or spouse, either individually or collectively, owns an interest which exceeds ten
9 percent of that business, which is received from any of the following:

10 (aa) The state or any political subdivision as defined in Article VI of the
11 Constitution of Louisiana.

12 (bb) Services performed for or in connection with a gaming interest as
13 defined in R.S. 18:1505.2(L)(3)(a).

14 (ii) Notwithstanding the provisions of Subsection D of this Section,
15 amounts reported pursuant to Subparagraph (a) of this Paragraph shall be
16 reported by specific amount rather than by category of value.

17 (b) The name and address of any employer which provides income to the
18 individual or spouse pursuant to the full-time or part-time employment of the
19 individual or spouse, including a brief description of the nature of the services
20 rendered pursuant to such employment and the amount of such income,
21 excluding information required to be reported pursuant to Subparagraph (a)
22 of this Paragraph.

23 (c) The name and address of all businesses which provide income to the
24 individual or spouse, including a brief description of the nature of services
25 rendered for each business or of the reason such income was received, and the
26 aggregate amount of such income, excluding information required to be
27 reported pursuant to Subparagraph (a) or (b) of this Paragraph.

28 (d) A description of the type of any other income, exceeding one
29 thousand dollars received by the individual or spouse, including a brief

1 description of the nature of the services rendered for the income or the reason
2 such income was received, and the amount of income, excluding information
3 required to be reported pursuant to Subparagraph (a), (b), or (c) of this
4 Paragraph.

5 (6) A brief description, fair market value or use value as determined by
6 the assessor for purposes of ad valorem taxes, and the location by state and
7 parish or county of each parcel of immovable property in which the individual
8 or spouse, either individually or collectively, has an interest, provided that the
9 fair market value or use value as determined by the assessor for purposes of ad
10 valorem taxes for such parcel of immovable property exceeds two thousand
11 dollars.

12 (7) The name and a brief description of each investment security having
13 a value exceeding five thousand dollars held by the individual or spouse,
14 excluding variable annuities, variable life insurance, variable universal life
15 insurance, whole life insurance, any other life insurance product, mutual funds,
16 education investment accounts, retirement investment accounts, including state
17 retirement plans, deferred retirement option plan (DROP) accounts, 401K
18 retirement accounts, individual retirement accounts (IRAs) and deferred
19 compensation accounts, government bonds, and cash or cash equivalent
20 investments. The provisions of this Paragraph shall not be deemed to require
21 disclosure of information concerning any property held and administered for
22 any person other than the individual or spouse under a trust, tutorship,
23 curatorship, or other custodial instrument.

24 (8) A brief description, amount, and date of any purchase or sale by the
25 individual or spouse, in excess of five thousand dollars, of any immovable
26 property and of any personally owned tax credit certificates, stocks, bonds, or
27 commodities futures, including any option to acquire or dispose of any
28 immovable property or of any personally owned tax credit certificates, stocks,
29 bonds, or commodities futures. The provisions of this Paragraph shall not be

1 deemed to require disclosure of information concerning variable annuities,
2 variable life insurance, variable universal life insurance, whole life insurance,
3 any other life insurance product, mutual funds, education investment accounts,
4 retirement investment accounts, including state retirement plans, deferred
5 retirement option plan (DROP) accounts, 401K retirement accounts, individual
6 retirement accounts (IRAs) and deferred compensation accounts, government
7 bonds, cash, or cash equivalent investments.

8 (9) The name and address of each creditor, and name of each guarantor,
9 if any, to whom the individual or spouse owes any liability which exceeds ten
10 thousand dollars on the last day of the reporting period excluding:

11 (a) Any loan secured by movable property, if such loan does not exceed
12 the purchase price of the movable property which it secures.

13 (b) Any liability, secured or unsecured, which is guaranteed by the
14 individual or spouse for a business in which the individual or spouse owns any
15 interest, provided that the liability is in the name of the business and, if the
16 liability is a loan, that the individual or spouse does not use proceeds from the
17 loan for personal use unrelated to the business.

18 (c) Any loan by a licensed financial institution which loans money in the
19 ordinary course of business.

20 (d) Any liability resulting from a consumer credit transaction as defined
21 in R.S. 9:3516(13).

22 (e) Any loan from an immediate family member, unless such family
23 member is a registered lobbyist, or his principal or employer is a registered
24 lobbyist, or he employs or is a principal of a registered lobbyist, or unless such
25 family member has a contract with the state.

26 (10) A certification that such individual has filed his federal and state
27 income tax returns, or has filed for an extension of time for filing such tax
28 returns.

29 D. When an amount is required to be disclosed pursuant to this Section,

1 it shall be sufficient to report the amount by the following categories:

2 (1) Category I, less than \$5,000.

3 (2) Category II, \$5,000-\$24,999.

4 (3) Category III, \$25,000-\$100,000.

5 (4) Category IV, more than \$100,000.

6 E. To enhance the public's ability to gather information easily regarding
7 the conduct of the judiciary, the office of the judicial administrator shall
8 maintain a website which allows the public to quickly and easily review
9 disclosure reports filed with the office of the judicial administrator.

10 F.(1) For purposes of this Section, an individual or spouse shall not
11 transfer any asset, interest, or liability required to be disclosed pursuant to this
12 Section to any person or business for the purpose of avoiding disclosure, unless
13 such transfer is irrevocable. A transfer shall not be irrevocable if there exists
14 any contract, letter, counter letter, note, or any other legally enforceable
15 agreement or authority which if exercised or enforced would require or
16 authorize any asset, interest, or liability transferred by an individual or spouse
17 to a person or business to revert back to such individual or spouse.

18 (2)(a) The sale of property subject to owner financing shall not be a
19 transfer prohibited by Paragraph (1) of this Subsection provided that the
20 income from the sale is disclosed in accordance with the provisions of this
21 Section.

22 (b) A recorded bond for deed contract shall not be a transfer prohibited
23 by Paragraph (1) of this Subsection.

24 G. For purposes of this Chapter, the following words shall have the
25 following meanings:

26 (1) "Business" means any corporation, limited liability company,
27 partnership, sole proprietorship, firm, enterprise, franchise, association,
28 business, organization, self-employed individual, holding company, trust, or any
29 other legal entity or person.

1 **(2) "Commission" means the Judiciary Commission, as provided in**
2 **Article V, Section 25 of the Constitution of Louisiana.**

3 **(3)(a) "Income for a business" shall mean gross income less both of the**
4 **following:**

5 **(i) Costs of goods sold.**

6 **(ii) Operating expenses.**

7 **(b) "Income for an individual" shall mean taxable income and shall not**
8 **include any income received pursuant to a life insurance policy.**
9 **Notwithstanding the foregoing, the gross amount of an individual's judicial**
10 **salary shall be reported.**

11 **(4) "Individual or person" shall include any judge and justice of the**
12 **peace that is required to file the financial statement as required by this Chapter.**

13 **H. Nothing in this Section shall require the disclosure or reporting of**
14 **income derived from child support and alimony payments contained in a court**
15 **order or from the reporting or disclosure of income derived from disability**
16 **payments from any source.**

17 **§66. Penalties; personal financial disclosure statements; notice of delinquency**

18 **A.(1) If a person fails to timely file a financial statement as required by**
19 **R.S. 13:65 or omits any information required to be included in the statement,**
20 **or if the office of the judicial administrator has reason to believe information**
21 **included in the statement is inaccurate, the office of judicial administrator shall**
22 **notify the person of such failure, omission, or inaccuracy by sending a notice of**
23 **delinquency by certified mail, immediately upon discovery of the failure,**
24 **omission, or inaccuracy.**

25 **(2) The notice of delinquency shall inform the person that the financial**
26 **statement must be filed, or that the information must be disclosed or accurately**
27 **disclosed, or that a written answer contesting the allegation of such a failure,**
28 **omission, or inaccuracy must be filed no later than fourteen business days after**
29 **receipt of the notice of delinquency. The notice shall include the deadline for**

1 filing the statement, filing the answer, or disclosing or accurately disclosing the
2 information.

3 (3) The office of the judicial administrator shall inform the person in the
4 notice of delinquency that failure to file the statement, to disclose or accurately
5 disclose the information, or to file an answer contesting the allegation by the
6 deadline shall result in the imposition of penalties as provided in Subsection F
7 of this Section.

8 B.(1) If the person fails to file the statement, fails to provide the omitted
9 information, fails to correct the inaccurate information, or fails to file a written
10 answer prior to the deadline contained in the notice of delinquency, the office
11 of the judicial administrator shall refer the matter to the commission.

12 (2) If the individual files a written answer contesting the allegations
13 contained in the notice of delinquency, or if a complaint is received by the office
14 of the judicial administrator after a financial statement has been filed that is
15 directed to the accuracy or completeness of a particular statement, the matter
16 shall be referred to the commission.

17 (3) In the event a written complaint is received by the commission after
18 a financial statement has been filed that is directed to the accuracy or
19 completeness of a statement, and the complaint is not deemed by the
20 commission to be frivolous, the commission shall mail the complaint by certified
21 mail to the person who is the subject of the complaint. The person shall be asked
22 to answer the complaint within fourteen business days after receipt of the
23 complaint.

24 C. Upon a finding by the commission in connection with a written
25 answer that no violation has occurred, no penalties shall be assessed against the
26 person.

27 D. If the commission determines in connection with a written answer
28 that the person may have failed to file the statement or failed to disclose or
29 accurately disclose the required information, the matter shall be the subject of

1 a hearing to be convened in accordance with Subsection E of this Section.

2 E.(1) In the event a matter pertaining to financial disclosure is referred
3 to the commission, and the commission finds that the person may have failed to
4 file a financial statement, or failed to disclose or accurately disclose the required
5 information, the commission may order that a hearing be conducted before a
6 hearing officer designated by the court pursuant to the rules of the supreme
7 court. A hearing officer shall be selected for the hearing in accordance with the
8 rules of the supreme court. The office of special counsel shall file an itemized
9 cost statement with the commission in any case in which the commission
10 convenes a hearing.

11 (2) The procedures for convening and conducting the hearing shall be
12 in accordance with the rules of the supreme court.

13 (3) The hearing will be limited to the following issues:

14 (i) Whether or not the individual failed to file a financial statement.

15 (ii) Whether or not the individual failed to disclose or accurately disclose
16 the required information.

17 (iii) Whether the failure was willful and knowing. For purposes of this
18 Section, "willful and knowing" means conduct involving bad faith, dishonest
19 motive, or a purposeful choice not to file the financial disclosure statement in
20 order to obtain some personal or professional gain including but not limited to
21 a desire not to disclose one's personal assets to the public, or the desire not to
22 take the time, trouble, and effort to complete the form with the knowledge that
23 it is required to be filed by a certain date.

24 (4) Within fifteen days after the conclusion of the hearing, the hearing
25 officer shall submit a report to the commission that contains proposed findings
26 of fact and conclusions of law, if applicable. No recommendation shall be made
27 by the hearing officer as to the issues to be considered by the commission or the
28 court pursuant to Paragraph (3) of this Subsection.

29 (5) In the event the commission decides that no violation has occurred,

1 the commission shall issue a written determination to that effect. In that event,
2 no penalties shall be assessed against the person, and no recommendation shall
3 be made to the supreme court.

4 (6) If the commission determines that the person has failed to file a
5 statement, or failed to disclose or accurately disclose the required information,
6 the commission shall file the record and a recommendation with the supreme
7 court. The commission shall recommend the imposition of civil penalties and
8 costs in accordance with Paragraph (7) of this Subsection and shall also make
9 a recommendation as to whether the violation was willful and knowing.

10 (7) The court shall assign the case for argument summarily in
11 accordance with the rules of the supreme court. Judgment shall be rendered
12 promptly following argument. If the court determines that no violation has
13 occurred, no penalty shall be assessed. In the event the supreme court
14 determines that a violation has occurred, the court shall assess civil penalties of
15 all or a portion of the costs incurred by the office of special counsel and the
16 commission, in the court's discretion.

17 (8) If a person filed a written answer contesting the allegations prior to
18 the deadline contained in the notice of delinquency, or prior to the deadline for
19 filing an answer to a complaint, penalties shall be assessed from the date the
20 commission recommended the imposition of civil penalties.

21 (9) A finding by the court that a person has willfully and knowingly
22 failed to file a statement, willfully and knowingly failed to timely file a
23 statement, willfully and knowingly omitted information from a statement, or
24 willfully and knowingly provided inaccurate information in a statement shall
25 subject the individual to prosecution for a misdemeanor. The court shall
26 forward its findings to the district attorney for the parish where the person who
27 filed the report for appropriate action is domiciled.

28 F.(1) The office of the judicial administrator shall post on its website,
29 which shall be available for viewing on the internet, a list of all individuals who

1 have failed to file, or failed to timely file, or failed to provide omitted
2 information, or failed to provide accurate information as required by this
3 Section.

4 (2)(a) No person shall be included on the list referenced in Paragraph
5 (1) unless he or she fails to file, to provide omitted information, or to provide
6 accurate information by the deadline included in the notice of delinquency, nor
7 shall he be included on the list if he has filed an answer or an answer contesting
8 the allegations included in the notice of delinquency.

9 (b) A person shall be removed from the list within two business days
10 after filing the statement or accurately disclosing the required information.

11 G. If a person who is required to disclose information required by R.S.
12 13:65, discovers an error or inaccuracy in the information disclosed and files an
13 amendment to such disclosure correcting such error or inaccuracy prior to the
14 receipt of a notice of delinquency, no penalties shall be assessed against the
15 person, and the judicial administrator shall supplement the initial disclosure
16 with the amendment thereto in the official records of the office of the judicial
17 administrator.

18 H. The following shall be matters of public record and open to the
19 public:

20 (1) All financial statements filed pursuant to this Section.

21 (2) Any notice of delinquency and any referral by the office of the
22 judicial administrator to the commission, pursuant to this Section.

23 (3) Any pleadings that are filed following a referral to the commission.

24 (4) Any hearing conducted pursuant to this Section.

25 (5) Any findings of fact, conclusions of law, and report authored by a
26 hearing officer.

27 (6) Any recommendation or determination made by the commission
28 following a referral by the office of the judicial administrator.

29 §67. Judges

Proposed law prohibits the sale or transfer of property for purposes of avoiding disclosure requirements provided for in proposed law.

Proposed law provides for definitions.

Proposed law excludes from reporting requirements provided for in proposed law, reporting income derived from child support and alimony payments by court order or disability payments from any source.

Proposed law requires the judicial administrator to notify any judge or justice of the peace by a notice of delinquency for failure to timely file, omission of certain information, or inaccurate information as it relates to the financial statement and further provides for related procedures.

Proposed law requires the judicial administrator to refer all noncompliant matters and written complaints regarding the financial statement to the Judiciary Commission for determination of a violation and penalties and to make a recommendation to the supreme court regarding the imposition of civil penalties and costs and whether the violation was willful and knowing.

Proposed law provides for the procedures for the supreme court to determine if a violation has occurred and requires the assessment of civil penalties.

Proposed law requires the supreme court to forward any findings where a person knowingly and willfully fails to file a statement, fails to timely file a statement, omits information from a statement, or provides inaccurate information in a statement to the district attorney for the parish where the person is domiciled for prosecution of a misdemeanor.

Proposed law requires that certain proceedings of the supreme court be a matter of public record.

Authorizes judges and justices of the peace to be governed by proposed law rather than the Code of Judicial Conduct as it relates to financial disclosure statements.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 13:65-67)