

2022 Regular Session

SENATE BILL NO. 360

BY SENATOR FOIL

CRIMINAL PROCEDURE. Provides relative to bond forfeiture. (gov sig)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 331(I), (J), and (K) and to enact Code of Criminal Procedure Art. 331(L), relative to the discharge of bail obligations; to provide relative to the surrender of the defendant during a statewide public health emergency; to provide relative to bond forfeiture due to the defendant's failure to appear; to provide for procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 331(I), (J), and (K) are hereby amended and reenacted and Code of Criminal Procedure Art. 331(L) is here by enacted to read as follows:

Art. 331. Discharge of bail obligation

* * *

I. In all cases and by operation of law, during the period of time declared by the governor to be a statewide public health emergency due to COVID-19, the time period for the appearance or surrender of a defendant ~~is interrupted. The surety's opportunity to resolve a failure to appear by surrendering, constructively surrendering, or otherwise satisfying the bail obligation is automatically extended for~~

1 ~~one hundred eighty days following the declared end of the state of emergency or~~
2 ~~from the date of proper notice of a failure to appear to the defendant, surety agent~~
3 ~~and surety, whichever is later, without need for the filing of any motion. shall be~~
4 ~~calculated as follows:~~

5 (1) For cases when the defendant failed to appear in court and one
6 hundred eighty days from the date the notice of warrant for arrest was sent has
7 not elapsed prior to March 11, 2020, the one hundred eighty day period
8 required before filing a rule to show cause to obtain a judgment of bond
9 forfeiture shall not begin to run until March 17, 2022.

10 (2) For cases when the defendant failed to appear in court between
11 March 11, 2020, and August 31, 2020, the one hundred eighty day period
12 required before filing a rule to show cause to obtain a judgment of bond
13 forfeiture shall not begin to run until June 1, 2022.

14 (3) For cases when the defendant failed to appear in court between
15 September 1, 2020, and February 28, 2021, the one hundred eighty day period
16 required before filing a rule to show cause to obtain a judgment of bond
17 forfeiture shall not begin to run until August 1, 2022.

18 (4) For cases when the defendant failed to appear in court between
19 March 1, 2021, and August 31, 2021, the one hundred eighty day period
20 required before filing a rule to show cause to obtain a judgment of bond
21 forfeiture shall not begin to run until October 1, 2022.

22 (5) For cases when the defendant failed to appear in court between
23 September 1, 2021, and March 16, 2022, the one hundred eighty day period
24 required before filing a rule to show cause to obtain a judgment of bond
25 forfeiture shall not begin to run until December 1, 2022.

26 (6) For cases when the defendant failed to appear in court on or after
27 March 17, 2022, the one hundred eighty day period required before filing a rule
28 to show cause to obtain a judgment of bond forfeiture shall begin to run after
29 the notice of warrant for arrest is sent pursuant to Article 335.

1 **J.(1)** Additionally, a surety may file a motion in the criminal court of records
 2 seeking additional time to surrender a defendant citing specific circumstances related
 3 to COVID-19 and pertaining to the defendant in a ~~the~~ criminal matter. **A motion**
 4 **seeking relief pursuant to this Paragraph shall be filed prior to or at a hearing**
 5 **on a rule to show cause to obtain a judgment of bond forfeiture. The motion**
 6 **shall include all of the following as a bona fide effort of active investigation in**
 7 **the recovery of the defendant:**

8 **(a) A sworn affidavit affirming efforts to locate and recover the**
 9 **defendant.**

10 **(b) A signed agreement of the engagement contract between the bail**
 11 **bondsman surety and the fugitive recovery team.**

12 **(c) Evidence of the last contact between the bail bondsman and either the**
 13 **defendant's next of kin or the indemnitor of the defendant.**

14 **(2) If the motion meets the requirements of this Paragraph, the court**
 15 **may grant an additional extension of time not to exceed one hundred eighty**
 16 **days. If the court grants an extension of time, the rule to show cause hearing**
 17 **shall be continued after the expiration of the extension of time. If the motion**
 18 **does not meet the requirements of this Paragraph, the court may deny the**
 19 **motion.**

20 ~~J.K.~~ In cases which were continued by the court during the time period
 21 declared by the governor to be a statewide public health emergency due to
 22 COVID-19, it is required that notice of any new date be provided to the defendant
 23 or his duly appointed agent and his personal surety or the commercial surety or the
 24 agent or bondsman who posted the bail undertaking for the commercial surety in
 25 accordance with Article 330(D).

26 ~~K.L.~~ The court shall order the bail obligation canceled when there is no
 27 further liability thereon.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
 29 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.

The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Whitney Kauffeld.

DIGEST

SB 360 Engrossed

2022 Regular Session

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Present law provides relative to bail undertaking and provides that upon conviction in any case, the bail undertaking ends and the surety is relieved of all obligation under the bail undertaking. Provides that the court may require the defendant to post another bail undertaking or may release the defendant on bail without security. Provides that, with written approval of the surety, the existing bail undertaking may continue. Present law further provides for surrender of the defendant by the surety.

Proposed law retains present law and provides that during the statewide public health emergency due to COVID-19, the officer charged with the defendant's detention may refuse the surrender of the defendant due to the state of emergency. Provides that the officer must give the defendant and the surety a certificate of refusal and written notice for a new appearance date.

Present law provides that during the COVID-19 public health emergency, the time period for the appearance or surrender of a defendant is interrupted. Provides that the surety's opportunity to resolve a failure to appear is automatically extended for 180 days following the declared end of the state of emergency or from the date proper notice of failure to appear is given to the defendant, surety agent, and surety whichever is later, without the need to file a court motion.

Proposed law deletes provisions of present law that interrupted the time period for the appearance or surrender of a defendant and the automatic extension of time for the surety to resolve a failure to appear.

Depending on the date the defendant failed to appear in court, proposed law sets the date for when the 180-day time period begins to run before a rule to show cause to obtain a judgment of bond forfeiture may be filed.

Present law allows a surety to file a motion in the criminal court of records seeking additional time to surrender a defendant provided specific circumstances related to COVID-19 and pertaining to the defendant in the criminal matter are cited.

Proposed law retains present law and provides that a motion seeking present law relief must be filed prior to or at the hearing on a rule to show cause to obtain a judgment of bond forfeiture and include a sworn affidavit of efforts to locate the defendant, an engagement contract between the bondsman and the recovery team and the last communication between the defendant's next of kin or indemnitor.

Proposed law provides that if the motion meets the requirements, the court must grant the motion and allow an additional time to surrender the defendant. The rule to show cause must be continued until after the expiration of the extension of time. If the motion does not meet the requirements, the court will deny the motion.

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

(Amends C.Cr.P. Art. 331(I), (J), and (K); adds C.Cr.P. Art. 331(L))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Changes various dates relative to applicability of proposed law.
2. Provides for bail bondsman to file a motion for additional extension and must include a sworn affidavit of efforts to locate the defendant, an engagement contract between the bondsman and the recovery team, and the last communication between the defendant's next of kin or the indemnitor.
3. Change effective date from 8/1/22 to effective on governor's signature.