

SENATE BILL NO. 40

BY SENATOR KOSTELKA (On Recommendation of the Louisiana State Law Institute)

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

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 780, relative to trial by jury; to  
3 provide for waiver of the right to trial by jury in certain criminal cases; to provide  
4 procedures and time limits relative to waiver of trial by jury; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 780 is hereby amended and reenacted  
8 to read as follows:

9 Art. 780. Right to waive trial by jury

10 A. A defendant charged with an offense other than one punishable by death  
11 may knowingly and intelligently waive a trial by jury and elect to be tried by the  
12 judge. ~~At the time of arraignment, the defendant in such cases shall be informed by~~  
13 ~~the court of his right to waive trial by jury.~~

14 B. The defendant shall exercise his right to waive trial by jury in accordance  
15 with ~~the time limits set forth in Article 521. However, with permission of the court,~~  
16 ~~he may exercise his right to waive trial by jury at any time prior to the~~  
17 ~~commencement of trial~~ **Article I, Section 17 of the Constitution of Louisiana. The**  
18 **waiver shall be by written motion filed in the district court not later than forty-**  
19 **five days prior to the date the case is set for trial. The motion shall be signed by**  
20 **the defendant and shall also be signed by defendant's counsel unless the**  
21 **defendant has waived his right to counsel.**

22 C. ~~The defendant may withdraw a waiver of trial by jury unless the court~~  
23 ~~finds that withdrawal of the waiver would result in interference with the~~

1           ~~administration of justice, unnecessary delay, unnecessary inconvenience to~~  
 2           ~~witnesses, or prejudice to the state.~~ **With the consent of the district attorney the**  
 3           **defendant may waive trial by jury within forty-five days prior to the**  
 4           **commencement of trial.**

5                       **D. A waiver of trial by jury is irrevocable and cannot be withdrawn by**  
 6                       **the defendant.**

7           Section 2. This Act shall become effective upon signature by the governor or, if not  
 8           signed by the governor, upon expiration of the time for bills to become law without signature  
 9           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11          effective on the day following such approval.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_