

2022 Regular Session

SENATE BILL NO. 360

BY SENATOR FOIL

CRIMINAL PROCEDURE. Provides relative to bond forfeiture. (8/1/22)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 331(I), (J), and (K) and to enact  
3 Code of Criminal Procedure Art. 331(C)(3) and (L), relative to the discharge of bail  
4 obligations; to provide relative to the surrender of the defendant during a statewide  
5 public health emergency; to provide relative to bond forfeiture due to the defendant's  
6 failure to appear; to provide for procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Art. 331(I), (J), and (K) are hereby amended  
9 and reenacted and Code of Criminal Procedure Article 331(C)(3) and (L) are here by enacted  
10 to read as follows:

11 Art. 331. Discharge of bail obligation

12 \* \* \*

13 C. \* \* \*

14 **(3) During the statewide public health emergency declared by the**  
15 **governor due to COVID-19, the officer charged with the defendant's detention**  
16 **may refuse the surrender of the defendant due to the public health emergency.**  
17 **The officer shall provide the defendant and surety with a certificate of refusal**

1 and written notice for a new appearance date and this shall qualify as an  
2 appearance in accordance with Article 337. The officer shall retain a copy and  
3 forward a copy of the certificate and notice to the clerk of court and the  
4 prosecuting attorney.

5 \* \* \*

6 I. In all cases and by operation of law, during the period of time declared by  
7 the governor to be a statewide public health emergency due to COVID-19, the time  
8 period for the appearance or surrender of a defendant is interrupted. The surety's  
9 opportunity to resolve a failure to appear by surrendering, constructively  
10 surrendering, or otherwise satisfying the bail obligation is automatically extended for  
11 one hundred eighty days following the declared end of the state of emergency or  
12 from the date of proper notice of a failure to appear to the defendant, surety agent  
13 and surety, whichever is later, without need for the filing of any motion. shall be  
14 calculated as follows:

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

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

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

28 (4) For cases when the defendant failed to appear in court between  
29 March 1, 2021, and August 31, 2021, the one hundred eighty day period

1 required before filing a rule to show cause to obtain a judgment of bond  
2 forfeiture shall not begin to run until February 1, 2023.

3 (5) For cases when the defendant failed to appear in court between  
4 September 1, 2021, and February 28, 2022, the one hundred eighty day period  
5 required before filing a rule to show cause to obtain a judgment of bond  
6 forfeiture shall not begin to run until April 1, 2023.

7 (6) For cases when the defendant failed to appear in court between  
8 March 1, 2022, and July 31, 2022, the one hundred eighty day period required  
9 before filing a rule to show cause to obtain a judgment of bond forfeiture shall  
10 not begin to run until June 1, 2023.

11 (7) For cases when the defendant failed to appear in court on or after  
12 August 1, 2022, the one hundred eighty day period required before filing a rule  
13 to show cause to obtain a judgment of bond forfeiture shall begin to run after  
14 the notice of warrant for arrest is sent pursuant to Article 335.

15 J. Additionally, a surety may file a motion in the criminal court of records  
16 seeking additional time to surrender a defendant citing specific circumstances related  
17 to COVID-19 and pertaining to the defendant in the criminal matter. A motion  
18 seeking relief pursuant to this Paragraph shall be filed prior to or at a hearing  
19 on a rule to show cause to obtain a judgement of bond forfeiture. The court in  
20 its discretion may do either of the following:

21 (1) Grant an additional extension of time not to exceed one hundred  
22 eighty days. If the court grants an extension of time, the rule to show cause  
23 hearing shall be continued until after the expiration of the extension of time.

24 (2) Deny the relief.

25 ~~J.K.~~ In cases which were continued by the court during the time period  
26 declared by the governor to be a statewide public health emergency due to  
27 COVID-19, it is required that notice of any new date be provided to the defendant  
28 or his duly appointed agent and his personal surety or the commercial surety or the  
29 agent or bondsman who posted the bail undertaking for the commercial surety in

1           accordance with Article 330(D).

2                   ~~K.L.~~ The court shall order the bail obligation canceled when there is no

3           further liability thereon.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 360 Original

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 shall end and the surety shall be 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 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 shall 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, whichever is later, without the need to file a court motion.

Proposed law removes 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 shall be filed prior to or at the hearing on a rule to show cause to obtain a judgement of bond forfeiture. Provides if the court grants an additional time to surrender the defendant the rule to show cause shall be continued until after the expiration of the extension of time.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 331(I), (J), and (K); adds C.Cr.P. Art. 331(C)(3) and (L))