

2025 Regular Session

HOUSE BILL NO. 217

BY REPRESENTATIVE MENA

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

CIVIL/PROCEDURE: Provides for legislative continuances and extensions of time for legislators and legislative employees

1 AN ACT

2 To enact R.S. 13:4163.1 and to repeal R.S. 13:4163, relative to legislative continuances and

3 extensions for legislators and legislative employees; to provide with respect to

4 continuance and extension of deadlines; to authorize members of the legislature and

5 legislative employees to file legislative continuances in certain circumstances; to

6 provide for peremptory grounds; to provide with respect to time delays and

7 procedures; to provide for a rebuttable presumption; to provide for service of

8 process; to provide for notification and reporting requirements; to provide for

9 electronic transmission; to provide for exceptions; to provide for denial of a motion

10 for continuance or extension; to provide for the supreme court's authority to regulate

11 disciplinary proceedings against a member of the legislature or legislative employee;

12 to provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 13:4163.1 is hereby enacted to read as follows:

15 §4163.1. Motion for legislative continuance or extension of time; legislators or

16 employees engaged in legislative or constitutional convention activities

17 A.(1)(a) A member of the legislature or legislative employee shall be entitled

18 to peremptory grounds for a continuance of any court or administrative proceeding

19 or the extension of any legal delay or deadline, excluding civil prescriptive or

20 peremptive periods, criminal statutes of limitations, and criminal cases where the

1 death penalty is sought, if the presence, participation, or involvement of a member
2 of the legislature or legislative employee, who is a party or an attorney for a party,
3 is required in any criminal or civil case or administrative proceeding, including any
4 pretrial or post-trial proceeding, during any legislative session or constitutional
5 convention.

6 (b) For purposes of this Section, "legislative employee" means the clerk of
7 the House of Representatives, the secretary of the Senate, and an employee of the
8 House of Representatives, the Senate, or the Legislative Bureau, when such person
9 is employed full-time during the legislative session or during any other time in which
10 the continuance or extension is being sought.

11 (c) Peremptory grounds are available any time between twenty-one days
12 before the convening of any session of the legislature or constitutional convention
13 and thirty days after the adjournment sine die of any session of the legislature or
14 constitutional convention.

15 (2)(a) The motion for continuance shall be filed at no cost no later than five
16 days prior to the proceeding to be continued, or no later than five days prior to the
17 expiration of the deadline to be extended, and shall be accompanied by an affidavit,
18 executed by the presiding officer or the clerk or secretary of the respective house,
19 that the legislative employee will be or is in actual attendance of a session of the
20 legislature or constitutional convention and that it is the legislative employee's
21 intention to participate actively in the preparation or presentation of the case.

22 (b) A member of the legislature shall not be required to submit an affidavit
23 as required by Subparagraph (a) of this Paragraph.

24 (3)(a) The motion for continuance may be filed by electronic means such as
25 facsimile transmission or electronic mail, or by other electronic means in accordance
26 with Code of Civil Procedure Article 253 if the member of the legislature or
27 legislative employee seeking the continuance provides all enrolled counsel or parties
28 with a copy of the motion prior to or simultaneously with the transmission of the
29 motion to the clerk of court.

1 (b) Every motion for a legislative continuance or extension shall be served
2 by transmitting a copy by electronic means to counsel of record, or if there is no
3 counsel of record, to the adverse party, at the number or address expressly designated
4 in a pleading or other writing for receipt of electronic service. Service by electronic
5 means is complete upon transmission but is not effective and shall not be certified
6 if the serving party learns the transmission did not reach the party to be served.

7 B.(1) There shall be a presumption that a motion for continuance filed within
8 the period specified in Paragraph (A)(2) of this Section by the member of the
9 legislature or legislative employee is proper and shall be granted within seventy-two
10 hours of the filing of the motion. The motion shall be granted for a period of not less
11 than forty-five days from the date of adjournment sine die of any session of the
12 legislature or constitutional convention.

13 (2) The presumption may be overcome by clear and convincing evidence
14 under either of the following circumstances:

15 (a) The motion is being presented for an improper purpose, such as to harass,
16 cause unnecessary delay, or needlessly increase the cost of litigation. A showing that
17 the continuance shall cause a delay or increase the cost of litigation shall not be
18 sufficient grounds to overcome the presumption of granting the continuance.

19 (b) The objecting party has a substantial existing right or interest that will
20 be defeated or abridged and will suffer substantial and immediate irreparable harm
21 if the requested continuance is granted. Notwithstanding the provisions of this
22 Paragraph, the court shall also consider any potential substantial and immediate
23 irreparable harm to the party requesting the continuance which may result from
24 requiring the party requesting the continuance to obtain new counsel with
25 insufficient time to prepare.

26 C. The court may grant the motion ex parte or grant a hearing on a motion
27 in opposition to the continuance or extension. If the court grants a hearing, it shall
28 be conducted by telephone, or other electronic means, within forty-eight hours of the
29 filing of the motion in opposition or extension.

1 D. A court denying a properly filed motion for a legislative continuance shall
2 issue contemporaneous written reasons for the denial that shall include an analysis
3 of Subparagraph (B)(2)(a) or (b) of this Section as applied to the specific facts of the
4 case.

5 E.(1) A member of the legislature or legislative employee who has filed a
6 motion for legislative continuance that has been denied or which has not been
7 granted within seventy-two hours may apply directly to the supreme court for
8 supervisory writs at no cost to review the action or inaction of the court where the
9 motion was filed or may file an appeal at no cost with the court of appeal with
10 jurisdiction as provided in Paragraph (2) of this Subsection.

11 (2) If a motion filed pursuant to this Section is denied or not acted upon
12 within the requisite deadline, then such denial shall be an appealable order filed at
13 no cost. The order of appeal shall be signed within twenty-four hours of being filed,
14 and the provisions of Code of Civil Procedure Article 2088 shall attach.

15 (3) Upon appeal, the reviewing court shall consider de novo any denial or
16 failure to act on a motion for legislative continuance or extension of proceeding.

17 (4) If the supreme court affirms the lower court's denial of a motion for a
18 legislative continuance or extension based on the objecting party's overcoming the
19 presumption pursuant to Paragraph (B)(2) of this Section, the supreme court may
20 exercise its jurisdiction of disciplinary proceedings against the member of the
21 legislature or legislative employee whose motion was denied or refer the matter to
22 the office of disciplinary counsel.

23 F. Notwithstanding the provisions of this Section, if any part of the
24 proceedings occurs on a day that a member of the legislature has been ordered by a
25 majority vote of the elected members of each house of the legislature to attend a
26 session day during which that house is in session, then the provisions of Article III,
27 Section 10 of the Constitution of Louisiana shall be given effect and no legal
28 proceedings may be conducted in the member's absence on such day. If any part of

1 the proceeding occurs in violation of this Subsection, it shall be deemed an absolute
2 nullity.

3 G.(1) For good cause shown, the court may consider a motion for legislative
4 continuance or extension at any time prior to the hearing or proceeding.

5 (2) If seeking a continuance of a court proceeding or extension of any type
6 of deadline occurring outside the time frame of a legislative session or constitutional
7 convention, a member of the legislature or legislative employee who is a party or an
8 attorney for a party to an action may obtain a legislative continuance upon a showing
9 of good cause. A showing, accompanied by an affidavit, that the member or
10 employee is required to attend an interim committee hearing or other official
11 legislative function and that the presence of the member or employee in court is
12 necessary and essential to a fair and proper trial or other proceeding in the suit may
13 be considered good cause.

14 H. If the attorney for a party seeking a continuance under this Section is a
15 member of the legislature, the attorney shall also serve a copy of the motion for a
16 legislative continuance or extension with the judicial administrator for the Louisiana
17 Supreme Court. The copy of the motion shall be sent to the Louisiana Supreme Court
18 contemporaneously when the attorney files the motion for legislative continuance or
19 extension with the court.

20 I. The provisions of this Section shall not apply to proceedings wherein a
21 temporary restraining order, protective order, preliminary injunction, permanent
22 injunction, court-approved consent agreement resulting from an action brought, or
23 order issued pursuant to any of the following:

24 (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S.
25 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq.,
26 Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant to Code
27 of Criminal Procedure Article 30(B).

28 (2) Code of Criminal Procedure, including Article 871.1, regarding the
29 disposition and sentence of a criminal matter.

member of the legislature or legislative employee, who is a party or an attorney for a party, is required in any criminal or civil case, including any pretrial or post-trial proceeding, during any legislative session or constitutional convention. Provides that the peremptory grounds are available any time between 30 days before the convening of any session of the legislature or constitutional convention and 30 days after the adjournment sine die of any session of the legislature or constitutional convention.

Proposed law provides that the motion for continuance shall be filed no later than five days prior to the proceeding to be continued or no later than five days prior to the expiration of the deadline to be extended, at no cost and shall be accompanied by an affidavit that the member of the legislature or legislative employee will be or is in actual attendance of a session of the legislature or constitutional convention and that it is the legislator or legislative employee's intention to participate actively in the preparation or presentation of the case. Provides that the motion for continuance may be filed electronically if the member of the legislature or legislative employee seeking the continuance provides all enrolled counsel or parties with a copy of the motion prior to or simultaneously with the transmission of the motion for continuance to the clerk of court. Provides that every motion for a legislative continuance or extension shall be served by transmitting a copy by electronic means to counsel of record, or if there is no counsel of record, to the adverse party, at the number or address expressly designated in a pleading or other writing for receipt of electronic service. Service by electronic means is complete upon transmission but is not effective and shall not be certified if the serving party learns the transmission did not reach the party to be served.

Proposed law provides that if the attorney for a party seeking a continuance is a member of the legislature, the attorney shall also serve a copy of the motion for a legislative continuance or extension with the judicial administrator for the La. Supreme Court. The copy of the motion shall be sent to the La. Supreme Court contemporaneously with the filing of the motion for legislative continuance or extension with the court.

Proposed law provides that there shall be a presumption that a motion for continuance filed timely by the member of the legislature or legislative employee is proper and shall be granted within 72 hours of the filing of the motion. Requires the proceeding, legal delay or deadline to be reset to a date not less than 60 days from the date of adjournment sine die of any session of the legislature or constitutional convention.

Proposed law provides that the presumption may be overcome by clear and convincing evidence under either of the following circumstances:

- (1) The motion is being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. A showing that the continuance shall cause a delay or increase the cost of litigation shall not be sufficient grounds to overcome the presumption of granting the continuance.
- (2) The objecting party has a substantial existing right or interest that will be defeated or abridged and will suffer substantial and immediate irreparable harm if the requested continuance is granted. Notwithstanding the provisions of proposed law, the court also shall consider any potential substantial and immediate irreparable harm to the party requesting the continuance which may result from requiring the party requesting the continuance to obtain new counsel with insufficient time to prepare.

Proposed law provides that the court may grant the motion ex parte or grant a hearing on a motion in opposition to the continuance or extension. If the court grants a hearing, it shall be conducted by telephone, or other electronic means, within 48 hours of the filing of the motion in opposition or extension.

Proposed law requires a court denying a properly filed motion for a legislative continuance to issue contemporaneous written reasons for the denial that shall include an analysis of proposed law as applied to the specific facts of the case.

Present law provides that any person or attorney who has filed a motion for legislative continuance or extension that has been denied or which has not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs to review the action or inaction of the court or agency where the motion was filed.

Proposed law provides that a member of the legislature or legislative employee who has filed a motion for legislative continuance that has been denied or which has not been granted within 72 hours may apply directly to the supreme court for supervisory writs at no cost to review the action or inaction of the court where the motion was filed, or may file an appeal with the court of appeal with jurisdiction as provided in proposed law.

Proposed law provides that if a motion filed pursuant to proposed law is denied or not acted upon within the requisite deadline, then such denial shall be an appealable order. The order of appeal shall be signed within 24 hours of being filed, and the provisions of present law (C.C.P. Art. 2088) shall attach.

Proposed law provides that upon appeal, the reviewing court shall consider de novo any denial or failure to act on a motion for legislative continuance or extension of proceeding.

Proposed law provides that if the supreme court affirms the lower court's denial of a motion for a legislative continuance or extension based on proposed law, the supreme court may exercise its jurisdiction of disciplinary proceedings against the member of the legislature or legislative employee whose motion was denied or refer the matter to the office of disciplinary counsel.

Proposed law provides that notwithstanding the provisions of proposed law, if any part of the proceedings occurs on a day that a member of the legislature has been ordered by a majority vote of the elected members of each house of the legislature to attend a session day during which that house is in session, then the provisions of the Const. Art. III, Sect. 10 shall be given effect and no legal proceedings may be conducted in the member's absence on such day. If any part of the proceeding occurs in violation of proposed law, it shall be deemed an absolute nullity.

Proposed law provides that for good cause shown, the court may consider a motion for legislative continuance or extension at any time prior to the hearing or proceeding.

Proposed law provides that if seeking a continuance of a court proceeding or extension of any type of deadline occurring outside the time frame of a legislative session or constitutional convention, a member of the legislature or legislative employee that is a party or an attorney for a party to an action may obtain a legislative continuance upon a showing of good cause. A showing, accompanied by an affidavit, that the member or employee is required to attend an interim committee hearing or other official legislative function and that the presence of the member or employee in court is necessary and essential to a fair and proper trial or other proceeding in the suit may be considered good cause.

Proposed law provides that civil prescriptive or preemptive periods, criminal statutes of limitations, and criminal cases where the death penalty is sought are excluded from legislative continuances. Also, provides that proposed law does not apply to proceedings wherein a temporary restraining order, protective order, preliminary injunction, permanent injunction, court-approved consent agreement resulting from an action brought, or order issued pursuant to any of the following:

- (1) Certain present law provisions regarding domestic violence, dating violence, stalking, sexual assault and peace bonds relating for such acts.

- (2) Criminal procedure law regarding the disposition, sentence, or bail condition of a criminal matter.
- (3) Present law prohibits communications between offenders and victims following a charge or after sentencing for any crime of violence, felony sex offense, felony human trafficking-related offense, or a felony offense committed upon a family member, household member, or dating partner.
- (4) Present law provides that as condition of a parole release which requires that the parolee stay away from any specific person, when the order is issued for the purpose of preventing violent or threatening acts, harassment against, contact or communication with, or physical proximity to, another person to prevent witness intimidation, domestic abuse, stalking, dating violence, or sexual assault.
- (5) Child custody proceedings or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act.
- (6) Proceedings for writs of habeas corpus for the determination and enforcement of rights to the custody of a minor or for the release of a person in custody in which the family court has original jurisdiction.

Proposed law repeals R.S. 13:4163 in its entirety.

Proposed law provides that the provisions will be given prospective and retroactive application to all actions filed or pending on or after Oct. 25, 2024.

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

(Adds R.S. 13:4163.1; Repeals R.S. 13:4163)