

SENATE BILL NO. 87

BY SENATOR BARROW

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 Arts. 326(B) and 330(A) through (C),
3 (D)(introductory paragraph), and (E) and to enact Code of Criminal Procedure Art.
4 326(F), relative to bail; to provide relative to cash deposits; to provide relative to a
5 cash depositor as a surety; to provide relative to notice; to provide relative to the
6 appearance of the defendant in connection with a bail undertaking; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Arts. 326(B) and 330(A) through (C),
10 (D)(introductory paragraph), and (E) are hereby amended and reenacted and Code of
11 Criminal Procedure Art. 326(F) is hereby enacted to read as follows:

12 Art. 326. Cash deposits

13 * * *

14 B. Upon final disposition of all cases in which a deposit of money, checks,
15 bonds, or money orders has been made pursuant to this Article, and the deposits have
16 remained unclaimed for a period of one year from the date of the final disposition,
17 the officer authorized to accept the bail shall apply and use one-half of such funds
18 for the operation and maintenance of the office of the clerk of court, or the office of
19 the clerk of the criminal district court, or the office of the clerk of the criminal
20 district court in Orleans Parish, and one-half to the local governing authority after
21 advertising his intention to so utilize the funds by publication in the official parish
22 journal of a notice to the public containing an itemized list of all of such funds on
23 deposit, containing the names and last known addresses of defendants and the docket
24 numbers of the cases involved. The publication shall be made once within thirty days
25 after the final disposition of the case as aforesaid. The clerk shall also send a notice
26 by certified mail to each of such defendants at the last known address of the

1 defendant. The clerk shall also send a notice by certified mail to any cash
 2 depositor, if any, provided that the clerk has received the information necessary
 3 for service. Any interest earned on the funds deposited for bail shall be disbursed as
 4 provided in Paragraph E of this Article.

5 * * *

6 F. For purposes of this Article, "cash depositor" means any entity who,
 7 on behalf of the defendant, furnishes a bail undertaking pursuant to Paragraph
 8 A of this Article in lieu of a surety. Nothing in this Article shall be construed to
 9 establish a cash depositor as a surety in a bail undertaking.

10 * * *

11 Art. 330. Notice of defendant's required appearance

12 A. When a bail undertaking fixes an appearance date, the defendant appears
 13 as ordered, and notice of the next appearance date is given to the defendant, no
 14 additional notice of that appearance date is required to be given to the defendant, ~~or~~
 15 the personal surety, ~~or~~ the commercial surety, **the cash depositor**, or the agent or
 16 bondsman who posted the bail undertaking for the commercial surety.

17 B. When a bail undertaking does not fix the appearance date, written notice
 18 of the time, date, and place the defendant is first ordered by the court to appear shall
 19 be given to the defendant or his duly appointed agent and his personal surety, ~~or~~ the
 20 commercial surety, **the cash depositor**, or the agent or bondsman who posted the
 21 bail undertaking for the commercial surety.

22 C. If the defendant appears as ordered and the proceeding is continued to a
 23 specific date, the defendant and the personal surety, ~~or~~ the commercial surety, **the**
 24 **cash depositor**, or the agent or bondsman who posted the bail undertaking for the
 25 commercial surety and who has been given initial notice pursuant to Paragraph A or
 26 B of this Article, need not be given notice of the new appearance date. If the
 27 defendant fails to appear as ordered, or the proceeding is not continued to a specific
 28 date, the defendant or his duly appointed agent, the personal surety, **the cash**
 29 **depositor**, or the agent or bondsman who posted the bail undertaking for the
 30 commercial surety shall be given notice of the new appearance date.

1 D. Notice required pursuant to the provisions of this Article to the defendant
 2 and the personal surety, the cash depositor, ~~or~~ the commercial surety, or the agent
 3 or bondsman who posted the bail undertaking for the commercial surety shall be
 4 made to the address provided pursuant to Article 329. Notice may be:

* * *

6 E. Failure to give the notice required by this Article relieves the surety **and**
 7 cash depositor from liability on a judgment of bond forfeiture for the nonappearance
 8 of the defendant on that particular date.

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____