

2017 Regular Session

HOUSE BILL NO. 523

BY REPRESENTATIVE SCHRODER

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

BAIL: Provides relative to constructive surrender and extradition costs with regard to bail

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 311(2) and (4) and 334 and to  
3 enact Code of Criminal Procedure Article 313.2, relative to bail; to provide for  
4 definitions; to provide for constructive surrender; to provide for the assessment of  
5 extradition fees; to provide for proof of incarceration in a foreign jurisdiction; and  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 311(2) and (4) and 334 are hereby  
9 amended and reenacted and Code of Criminal Procedure Article 313.2 is hereby enacted to  
10 read as follows:

11 Art. 311. Definitions

12 For the purpose of this Title, the following definitions shall apply:

13 \* \* \*

14 (2) An appearance is either of the following:

15 (a) a A personal appearance before the court or the court's designee, where  
16 the charges are pending.

17 (b) An appearance by the defendant's attorney where the court allows waiver  
18 of presence and the defendant's presence is waived.

19 \* \* \*

1 (4) A constructive surrender is the detention of the defendant in another  
2 parish of the state of Louisiana or a foreign jurisdiction as provided for in Article  
3 313.2 and under the following circumstances:

4 (a) ~~A warrant for arrest has been issued for the defendant in the jurisdiction~~  
5 ~~in which the bail obligation is in place.~~

6 (b) The surety has provided proof of the defendant's current incarceration to  
7 the court in which the bail obligation is in place, the prosecuting attorney, and the  
8 officer originally charged with the defendant's detention.

9 (c)(b) The surety has paid to the officer the reasonable costs of returning the  
10 defendant to the jurisdiction where the warrant for arrest was issued.

11 \* \* \*

12 Art. 313.2. Constructive surrender; proof of incarceration; extradition; costs

13 A. Proof of a defendant's incarceration in a foreign jurisdiction may be a  
14 letter, memorandum, or form developed by the Department of Public Safety and  
15 Corrections, the jail, the warden, or the sheriff. The written proof shall contain the  
16 defendant's name, identification number, and date of incarceration or arrest and shall  
17 be dated.

18 B. Reasonable extradition fees may be charged for costs associated with the  
19 secure transport and delivery of the defendant. The amount of the fees charged for  
20 extradition shall be based upon a formula authorized by a majority of the sheriffs  
21 within the state of Louisiana and be determined as follows:

22 (1) For travel by the sheriff or his deputy in extraditing a defendant from a  
23 location within the state of Louisiana and outside of his jurisdiction, reimbursement  
24 shall be in accordance with policies established by the division of administration.

25 (2) If the defendant is located outside the state of Louisiana, reasonable  
26 extradition fees shall be calculated pursuant to an estimate provided by an approved  
27 commercial prisoner transport service.

1           C. When the surety or bail enforcement agent has paid extradition fees for  
2           the return of the defendant, the defendant shall be brought to the original jurisdiction  
3           of the defendant's arrest within ninety days after the date of the payment of the  
4           extradition fees unless the defendant remains in the custody of another jurisdiction  
5           for pending criminal charges or is serving a sentence of incarceration in that  
6           jurisdiction. The failure to return the defendant within ninety days shall cause the  
7           fees to be returned to the surety or the bail agent. If for any reason the prosecuting  
8           attorney dismisses criminal charges or fails to prosecute the defendant, the  
9           extradition costs shall be returned to the surety or the bail agent.

\* \* \*

Art. 334. Notice of warrant of arrest

12           After a warrant for arrest is issued, the clerk of court shall, within sixty days  
13           after the day on which the defendant failed to appear, send a notice of warrant for  
14           arrest to the prosecuting attorney. The notice shall also be sent by United States mail  
15           or electronic means to the defendant, the bail agent or bondsman, if any, and the  
16           personal surety. Notice shall be sent by electronic means or by certified mail return  
17           receipt requested to the commercial surety. All notices shall be sent to the addresses  
18           provided pursuant to Article 329 or an address registered with the Louisiana  
19           Department of Insurance. The notice to the commercial surety shall include the  
20           power of attorney number used to execute the bail undertaking. Failure to include  
21           the power of attorney number shall not affect the validity or enforcement of a  
22           resulting judgment. After sending the notice of warrant for arrest, the clerk of court  
23           shall execute a certificate that notice was sent and place the certificate in the record.  
24           Failure to send notice to the commercial surety within sixty days shall release the  
25           surety of all obligations under the bail undertaking.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 523 Original

2017 Regular Session

Schroder

**Abstract:** Provides for constructive surrender of a criminal defendant and calculation of reasonable extradition fees.

Present law provides that the appearance of a defendant means that the defendant appears personally in court.

Proposed law retains this provision of present law and adds that an appearance can also be made by the defendant's attorney where the court allows waiver of presence and the defendant's presence is waived.

Proposed law provides that proof of a defendant's incarceration in a foreign jurisdiction may be a letter, memorandum, or form developed by the Dept. of Public Safety and Corrections, the jail, the warden, or the sheriff. The written proof shall contain the defendant's name, identification number, and date of incarceration or arrest and shall be dated.

Proposed law provides that reasonable extradition fees may be charged for costs associated with the secure transport and delivery of the defendant. The amount of the fees charged for extradition shall be based upon a formula authorized by the sheriffs within the state and shall include reimbursement of expenses or an estimate provided by an approved commercial prisoner transport service.

Proposed law provides that when the surety or bail enforcement agent has paid extradition fees for the return of the defendant, the defendant shall be brought to the original jurisdiction of the defendant's arrest within 90 days after the date of the payment of the extradition fees unless the defendant remains in the custody of another jurisdiction. The failure to return the defendant within 90 days shall cause the fees to be returned to the surety or the bail agent.

(Amends C.Cr.P. Arts. 311(2) and (4) and 334; Adds C.Cr.P. Art. 313.2)