
DIGEST

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HB 23 Original

2024 Second Extraordinary Session

Melerine

Abstract: Establishes the procedures to challenge the constitutionality of statutes or law.

Proposed law (C.C.P. Art. 855.1) requires all pleadings alleging a statute or law unconstitutional to be in writing and brought as an ordinary proceeding. Proposed law also allows the attorney general 30 days to respond to the pleading or represent or supervise the interests of the state.

Proposed law (C.C.P. Art. 1845) provides that judgments rendering a statute or law unconstitutional are null and shall be voided and unenforceable if the provisions of proposed law are not met.

Present law (R.S. 49:257(C)) provides that the attorney general under his discretion shall represent or supervise the representation of the interests of the state in any action or proceeding in which the constitutionality of a state statute or of a resolution of the legislature is challenged or assailed.

Proposed law retains present law but requires all other proceedings to be in accordance with C.C.P. Art. 852 and proposed law.

Present law (C.C.P. Art. 1880) provides that when declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding.

Proposed law retains present law but requires proceedings alleging unconstitutionality of statutes or laws be in accordance with proposed law.

Present law (C.Cr.P. Art. 62) provides supervisory authority for the attorney general in certain circumstances involving the district attorneys and other state interests.

Proposed law retains present law but requires actions alleging that statutes or laws are unconstitutional to be brought in accordance with proposed law.

Proposed law allows the attorney general 30 days to respond to the pleading or represent or supervise the interests of the state.

Proposed law also allows the attorney general to directly appeal adverse rulings to the supreme court of Louisiana for a supervisory review whether or not the attorney general participated in the underlying proceeding.

(Amends R.S. 49:257(C) and C.C.P. Art. 1880; Adds C.C.P. Art. 855.1 and 1845 and C.Cr.P. Art. 62(D))