

2026 Regular Session

HOUSE BILL NO. 142

BY REPRESENTATIVE MUSCARELLO

(On Recommendation of the Louisiana State Law Institute)

CIVIL/PROCEDURE: Provides for the continuous revision of the Code of Civil Procedure

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 561, 1426(A)(introductory

3 paragraph), (B), and (C), 1572, 1702(C), 1841, 1914(E), 2083(B), 2126, 2128,

4 2166(F), 2167(D), and 4922 and R.S. 13:319 and 5206, to enact Code of Civil

5 Procedure Article 2083(D), and to repeal Code of Civil Procedure Article

6 1425(F)(5), relative to civil procedure; to provide for continuous revisions to the

7 Code of Civil Procedure and related provisions of the Revised Statutes; to provide

8 with respect to abandonment; to provide for motions to quash; to provide for notice

9 of trial; to provide with respect to default judgments; to provide with respect to

10 interlocutory, final, and partial final judgments; to provide with respect to payment

11 of costs and designation of the record on appeal; to provide with respect to

12 transmission of notice; to provide for the assignment and allotment of writs and

13 appeals; to provide with respect to the jurisdiction of small claims; to provide for

14 Comments; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Code of Civil Procedure Articles 561, 1426(A)(introductory paragraph),

17 (B), and (C), 1572, 1702(C), 1841, 1914(E), 2083(B), 2126, 2128, 2166(F), 2167(D), and

18 4922 are hereby amended and reenacted and Code of Civil Procedure Article 2083(D) is

19 hereby enacted to read as follows:

1 Art. 561. Abandonment in trial and appellate court

2 A.(1) An action is abandoned when the parties fail to take any step in its  
3 prosecution or defense in the trial court for a period of three years; ~~unless it is a~~  
4 ~~succession proceeding:~~

5 ~~(a) Which has been opened;~~

6 ~~(b) In which an administrator or executor has been appointed; or~~

7 ~~(c) In which a testament has been probated.~~

8 (2) This ~~provision~~ Article shall be operative without formal order; ~~but, on ex~~  
9 ~~parte motion of any party or other interested person by affidavit that states that no~~  
10 ~~step has been timely taken in the prosecution or defense of the action, the trial court~~  
11 ~~shall enter a formal order of dismissal as of the date of its abandonment. The sheriff~~  
12 ~~shall serve the order in the manner provided in Article 1314 and shall execute a~~  
13 ~~return pursuant to Article 1292. A step in the prosecution or defense in the trial court~~  
14 ~~shall interrupt the abandonment period. After the three-year abandonment period has~~  
15 ~~expired, the defendant may renounce the defense of abandonment.~~

16 (3) ~~A motion to set aside a dismissal may be made only within thirty days~~  
17 ~~of the date of the sheriff's service of the order of dismissal. If the trial court denies~~  
18 ~~a timely motion to set aside the dismissal, the clerk of court shall give notice of the~~  
19 ~~order of denial pursuant to Article 1913(A) and shall file a certificate pursuant to~~  
20 ~~Article 1913(D). Any formal discovery authorized by this Code, whether or not filed~~  
21 ~~of record, including the taking of a deposition with or without formal notice,~~  
22 ~~constitutes a step in the prosecution or defense of an action against all parties on~~  
23 ~~whom the discovery was served or who were in attendance or represented at the~~  
24 ~~deposition.~~

25 (4) ~~An appeal of an order of dismissal may be taken only within sixty days~~  
26 ~~of the date of the sheriff's service of the order of dismissal. An appeal of an order of~~  
27 ~~denial may be taken only within sixty days of the date of the clerk's mailing of the~~  
28 ~~order of denial.~~

1            ~~B.(1) Any formal discovery as authorized by this Code and served on all~~  
2 ~~parties whether or not filed of record, including the taking of a deposition with or~~  
3 ~~without formal notice, shall be deemed to be a step in the prosecution or defense of~~  
4 ~~an action. Any party or other interested person may file an ex parte motion to dismiss~~  
5 ~~based on abandonment and shall attach to the motion to dismiss an affidavit of the~~  
6 ~~mover or the mover's attorney of record certifying all of the following:~~

7            (a) The three-year abandonment period has expired.

8            (b) No timely step in the prosecution or defense of the action has been taken  
9 in accordance with Subparagraph (A)(2) or (3) of this Article.

10           (c) No renunciation has occurred in accordance with Subparagraph (A)(2)  
11 of this Article.

12           (2) The affidavit shall also include a list of all pleadings, documents, or  
13 judgments that have been filed in the record during the three years preceding the date  
14 on which the mover claims that the abandonment period expired. The mover shall  
15 also list and attach all written communication pertaining to the action between the  
16 mover and any adverse party or their attorneys of record in the one year preceding  
17 the date on which the mover claims that the abandonment period expired.

18           C. The court shall enter an ex parte judgment of dismissal without prejudice  
19 as of the date of the abandonment of the action if the record confirms and the  
20 mover's accompanying affidavit attests to all of the following:

21           (1) The three-year abandonment period has expired.

22           (2) No timely step in the prosecution or defense of an action has been taken  
23 in accordance with Subparagraph (A)(2) or (3) of this Article.

24           (3) The defendant has not renounced the defense of abandonment in  
25 accordance with Subparagraph (A)(2) of this Article.

26           (4) No pleadings, documents, or judgments have been filed in the record  
27 during the three years immediately preceding the expiration of the abandonment  
28 period.

1           (5) There has been no written communication pertaining to the action  
2           between the mover and any adverse party or their attorneys of record during the last  
3           year of the abandonment period.

4           D. If the mover's affidavit certifies that any pleadings, documents, or  
5           judgments have been filed in the record during the three years preceding the  
6           expiration of the abandonment period or that there has been written communication  
7           pertaining to the action between the mover and any adverse party or their attorneys  
8           of record during the one year preceding the expiration of the abandonment period,  
9           the court shall either sign the judgment of dismissal ex parte or set the motion to  
10          dismiss for a contradictory hearing.

11          E. The sheriff shall serve the ex parte judgment of dismissal in accordance  
12          with Article 1314 and shall execute a return pursuant to Article 1292.

13          F. If an ex parte judgment of dismissal is granted, a motion to set aside the  
14          dismissal may be filed within thirty days after the date of the sheriff's service of the  
15          judgment of dismissal. At the hearing to set aside the dismissal, the burden of proof  
16          rests with the mover of the original motion to dismiss based on abandonment. If the  
17          trial court denies a timely motion to set aside the dismissal, the clerk of court shall  
18          send notice of the order of denial pursuant to Article 1913(A) and shall file a  
19          certificate pursuant to Article 1913(D).

20          G.(1) An appeal of a judgment of dismissal rendered ex parte may be taken  
21          within sixty days after the date of the sheriff's service of the judgment of dismissal  
22          pursuant to Paragraph E of this Article.

23          (2) An appeal of a judgment of dismissal rendered after a contradictory  
24          hearing may be taken within sixty days after the clerk's transmission of that  
25          judgment.

26          (3) An appeal of a denial of the motion to set aside a dismissal filed pursuant  
27          to Paragraph F of this Article may be taken within sixty days after the clerk's  
28          transmission of the order of denial.



1 court in the district where the deposition is to be taken or by which the subpoena is  
2 issued may make any order ~~which~~ that justice requires to protect a party or person  
3 from annoyance, embarrassment, oppression, or undue burden or expense, including  
4 one or more of the following:

5 \* \* \*

6 B. If the motion for a protective order or a motion to quash is denied in  
7 whole or in part, the court may, on ~~such~~ terms and conditions as are just, order that  
8 any party or person provide or permit discovery. The provisions of Article 1469  
9 apply to the award of expenses incurred in relation to the motion.

10 C. No provision of this Article authorizes a court to issue a protective order  
11 or grant a motion to quash preventing or limiting discovery or ordering records  
12 sealed if the information or material sought to be protected relates to a public hazard  
13 or relates to information ~~which~~ that may be useful to members of the public in  
14 protecting themselves from injury that might result from ~~such~~ the public hazard,  
15 unless ~~such~~ the information or material sought to be protected is a trade secret or  
16 other confidential research, development, or commercial information.

17 \* \* \*

18 Art. 1572. ~~Written request for notice~~ Notice of trial

19 The clerk shall give written notice of the date of the trial ~~whenever a written~~  
20 ~~request therefor is filed in the record or is made by registered mail by a party or to~~  
21 all counsel of record, or if there is no counsel of record, to a self-represented party.

22 This notice shall be sent in accordance with Article 1313(A)(4) or mailed by the  
23 clerk, by certified mail, properly stamped and addressed, at least ten days before the  
24 date fixed for the trial. The provisions of this ~~article~~ Article may be waived in  
25 writing or on the record by ~~all counsel of record at a pre-trial conference~~ a party or  
26 the party's attorney.

27 Comments - 2026

28 The amendment to this Article removes the requirement that a party must  
29 submit a written request to receive notice of trial. The clerk of court must now  
30 provide notice of trial to all counsel of record, or if there is no counsel of record, to  
31 a self-represented party. The notice must be sent either by electronic means in

1 accordance with the requirements of Article 1313(A)(4) or by certified mail. The  
2 amendment also provides that any waiver of notice of trial must be in writing or on  
3 the record.

4 \* \* \*

5 Art. 1702. Default judgment

6 \* \* \*

7 C. In those proceedings in which the sum due is on an open account or a  
8 promissory note, other negotiable instrument, or other conventional obligation, or a  
9 deficiency judgment derived therefrom, including those proceedings in which one  
10 or more mortgages, pledges, or other security for the open account, promissory note,  
11 negotiable instrument, conventional obligation, or deficiency judgment derived  
12 therefrom is sought to be enforced, maintained, or recognized, or in which the  
13 amount sought is that authorized by R.S. 9:2782 for a check dishonored for  
14 nonsufficient funds, a hearing in open court shall not be required unless the ~~judge~~  
15 court, in ~~his~~ its discretion, directs that ~~such a~~ the hearing be held. The plaintiff shall  
16 submit to the clerk of court the proof required by law and the ~~original and not less~~  
17 ~~than one copy of the~~ proposed default judgment. The ~~judge~~ court shall, within  
18 seventy-two hours ~~of~~ after receipt of ~~such~~ the submission from the clerk of court,  
19 sign the proposed default judgment or direct that a hearing be held. ~~The~~ Before the  
20 default judgment is signed, the clerk of court shall certify that no answer or other  
21 pleading has been filed by the defendant. The minute clerk shall make an entry  
22 showing the dates of receipt of proof, review of the record, and rendition of the  
23 default judgment. A certified copy of the signed default judgment shall be sent to the  
24 plaintiff by the clerk of court, and notice of the signing of the default judgment shall  
25 be given ~~as provided~~ in accordance with Article 1913.

26 \* \* \*

27 Art. 1841. Judgments; ~~interlocutory and final~~

28 A. A judgment is the determination of the rights of the parties in an action  
29 and may award any relief to which the parties are entitled. It may be interlocutory  
30 or final.





1 revised estimated costs for not more than an additional twenty days upon written  
2 motion showing good cause for the extension.

3 D. The appellant may question the excessiveness of the estimated costs by  
4 filing a written ~~application~~ motion for reduction in the trial court within the first  
5 twenty-day time limit, ~~and the~~ if the record has not been designated pursuant to  
6 Article 2128, or within twenty days after transmission of the revised notice of  
7 estimated costs if the record has been designated pursuant to Article 2128. The trial  
8 court may order reduction of the estimate upon proper showing. If ~~an application~~ the  
9 motion for reduction has been timely filed, the appellant shall have twenty days to  
10 pay the costs beginning from the date of the action by the trial court on ~~application~~  
11 the motion for reduction.

12 ~~D.E.~~ E. After the preparation of the record on appeal has been completed, the  
13 clerk of the trial court shall, as the situation may require, either refund to the  
14 appellant the difference between the estimated costs and the actual costs, if the  
15 estimated costs exceed the actual costs, or ~~send a~~ transmit notice ~~by certified mail~~ to  
16 the appellant of the amount of additional costs due, if the actual costs exceed the  
17 estimated costs. If the payment of additional costs is required, the appellant shall pay  
18 the amount of additional costs within twenty days ~~of the mailing~~ after transmission  
19 of the notice.

20 E.F. If the appellant fails to pay the estimated costs, or the difference  
21 between the estimated costs and the actual costs, within the time specified, the trial  
22 judge, on his own motion or upon motion by the clerk or by any party, and after a  
23 hearing, shall do one of the following:

24 (1) Enter a formal order of dismissal of the appeal on the grounds of  
25 abandonment, ~~or,~~

26 (2) Grant a ~~ten-day~~ ten-day period within which costs ~~must~~ shall be paid in  
27 full, in default of which the appeal is dismissed as abandoned.



1 Art. 2166. Court of appeal judgment rehearing; finality; stay

2 \* \* \*

3 F. For the purposes of this Article, "transmission of the notice" means the  
4 sending of the notice via the United States Postal Service; or electronic mail, ~~or~~  
5 ~~facsimile.~~

6 \* \* \*

7 Art. 2167. Supreme court judgment rehearing; finality; stay

8 \* \* \*

9 D. For the purposes of this Article, "transmission of the notice" means the  
10 sending of the notice via the United States Postal Service; or electronic mail, ~~or~~  
11 ~~facsimile.~~

12 \* \* \*

13 Art. 4922. Notice of judgment; justice of the peace courts; district courts with  
14 concurrent jurisdiction

15 Notice of the signing of any final judgment shall be given ~~as required by~~ in  
16 accordance with Article 1913, ~~except that if the party is personally served with the~~  
17 ~~judgment in open court, no further notice shall be required.~~

18 Comments - 2026

19 This amendment does not change the law. Article 1913 was previously  
20 amended to provide that delivery of the signed judgment in open court shall  
21 constitute notice of judgment and shall be documented in the record of the  
22 proceeding.

23 Section 2. R.S. 13:319 and 5206 are hereby amended and reenacted to read as  
24 follows:

25 §319. Assignment and allotment of cases

26 Each civil and criminal appeal and each application for writs shall be  
27 randomly assigned by the clerk, subject to the direct supervision of the court. Except  
28 for good cause shown, all writs and appeals from contemporaneously rendered orders  
29 or judgments from a lower court in the same action or consolidated cases shall be  
30 assigned to the same randomly selected panel.

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Comments - 2026

This amendment permits the clerk of the court of appeal to assign writs and appeals in accordance with procedures that were commonly used prior to the 2018 amendment of this Section, thus preventing duplicative adjudication of identical issues derived from the same action. See also Code of Civil Procedure Article 2164.1.

\* \* \*

§5206. Reconventional demand beyond jurisdiction; filing in court of competent jurisdiction; transfer of proceedings from small claims division

A. If a defendant in a small claims action ~~shall have~~ has a claim against the plaintiff in ~~such the~~ the action for an amount over the jurisdiction of the small claims division as set forth in R.S. 13:5202(A), but of a nature ~~which that~~ that may be asserted by a reconventional demand as authorized by Code of Civil Procedure Article 1061 ~~of the Louisiana Code of Civil Procedure~~, the defendant may assert ~~his the~~ the claim in the manner provided by this Section; in order to secure consolidation for trial of the small claims action with ~~his the defendant's~~ the defendant's own claim.

B. At any time prior to trial in the small claims action, the defendant ~~therein~~ may commence an action against the plaintiff in a court of competent jurisdiction to assert a claim of the nature set forth by ~~R.S. 13:5206(A)~~; Subsection A of this Section and file an affidavit that the reconventional demand is in excess of ~~three~~ five thousand dollars with the judge of the small claims division in which the plaintiff has commenced the small claims action.

C. The defendant shall attach to the affidavit a true copy of ~~his petition or the~~ defendant's reconventional demand ~~so~~ filed and shall pay the clerk of the small claims division a transmittal fee of ten dollars, in addition to the prescribed court costs for filing the reconventional demand, furnishing a copy of the affidavit and pleading to the plaintiff.

D. The judge of the small claims division shall order that the small claims division action be transferred to the ordinary docket of the court set forth in ~~said the~~ the affidavit; and ~~he~~ shall transmit to ~~such that~~ that court, (if it is other than the court of the



proposed law, and requires the court to either sign a judgment of dismissal ex parte or set the motion to dismiss for a contradictory hearing if the mover's affidavit indicates there were steps in the furthering of a prosecution or defense of an action prior to the abandonment period expiring pursuant to proposed law.

Proposed law also establishes that the burden of proof at a hearing on a motion to set aside a dismissal rests upon the mover of the initial motion to dismiss based on abandonment.

Present law (C.C.P. Art. 1425(F)(5)) provides that a ruling allowing or excluding an expert or an expert's report due to the expert's lack of qualifications or use of unreliable methodologies is subject to appellate review.

Proposed law repeals present law.

Present law (C.C.P. Art. 1426) provides for protective orders.

Proposed law retains present law but adds that the court may grant a motion to quash in whole or in part with respect to a subpoena.

Present law (C.C.P. Art. 1572) provides for written request for notice of trial.

Proposed law changes present law by removing the requirement that to receive notice of trial, a party must submit a written request.

Proposed law further requires the clerk of court to send notice to attorneys and self-represented parties and permits the notice to be sent by electronic means.

Proposed law further requires that waiver of notice be in writing or on the record.

Present law (C.C.P. Art. 1702(C)) provides for default judgments.

Proposed law generally retains present law but requires that before the default judgment is signed, the clerk of court certifies there is no answer or other pleading filed by the defendant.

Present law (C.C.P. Art. 1841) provides for interlocutory and final judgments.

Proposed law retains present law but clarifies that a judgment that determines the merits in part may be a partial final judgment or an interlocutory judgment.

Present law (C.C.P. Art. 1914(E)) provides for interlocutory judgments.

Proposed law clarifies present law and provides that present law does not apply to the certification or denial of a certification of a class action or appealable orders or judgments granting or denying a preliminary injunction.

Present law (C.C.P. Art. 2083) provides for appealable judgments.

Proposed law retains present law but adds that a partial final judgment is appealable only when expressly provided by law.

Present law (C.C.P. Art. 2126) provides for the payment of costs in appellate proceedings.

Proposed law defines "transmit" and requires that if the parties have not designated the record on appeal pursuant to present law, the clerk shall transmit a revised notice of the estimated costs to the appellant and appellee. The appellant is then required to pay the amount of the estimated costs to the clerk within 20 days after transmission of the revised notice of estimated costs.

Proposed law also authorizes the trial court to grant one extension for good cause shown for paying the amount of the revised estimated costs for not more than an additional 20 days.

Present law (C.C.P. Art. 2128) provides for the time delays for transmitting a written notice to the trial court for an appealable record.

Proposed law increases the time for an appellant to designate, in a written notice filed with the trial court, the portion of record appellant to be included in the appeal from three days to 10 days.

Proposed law also increases the time for an appellee to designate, in a written notice filed with the trial court, portions of the record the appellee considers necessary from five days to 14 days.

Present law (C.C.P. Art. 2166) provides for the transmission of a notice in a court of appeal judgment rehearing.

Proposed law removes facsimile as a method of transmitting the notice as authorized by present law.

Present law (C.C.P. Art. 2167) provides for transmission of a notice in a La. Supreme Court judgment rehearing.

Proposed law removes facsimile as a method of transmitting the notice as authorized by present law.

Present law (C.C.P. Art. 4922) provides for notice of judgment.

Proposed law clarifies present law and provides that notice of the signing of any final judgment may be given pursuant to present law (C.C.P. Art. 1913), including delivery in open court.

Present law (R.S. 13:319) provides for the assignment and allotment of cases.

Proposed law retains present law but adds that absent good cause, writs and appeals arising from contemporaneously rendered orders or judgments in the same action or consolidated cases shall be heard by the same randomly assigned panel.

Present law (R.S. 13:5206) provides that the jurisdictional limit of a defendant's reconventional demand in a small claims action is \$3,000.

Proposed law changes present law to provide that the jurisdictional limit of a defendant's reconventional demand in a small claims action is \$5,000.

Proposed law provides for applicability.

(Amends C.C.P. Arts. 561, 1426(A)(intro. para.), (B), and (C), 1572, 1702(C), 1841, 1914(E), 2083(B), 2126, 2128, 2166(F), 2167(D), and 4922 and R.S. 13:319 and 5206; Adds C.C.P. Art. 2083(D); Repeals C.C.P. Art. 1425(F)(5))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.

2. Increase the time for an appellant to designate, in a written notice filed with the trial court, the portion of record to be included in the appeal from three days to 10 days.
3. Increase the time for an appellee to designate, in a written notice filed with the trial court, portions of the record the appellee considers necessary from five days to 14 days.
4. Require the appellant to pay the amount of the estimated costs to the clerk within 20 days after transmission of the revised notice of estimated costs if the parties have not designated the record on appeal and permits extension of payment for not more than 20 days for good cause.
5. Remove facsimile as a method in transmitting a notice for a rehearing in an appellate or La. Supreme Court judgment rehearing.
6. Provide for applicability.
7. Require certain provisions of proposed law to have prospective application.