

ACT No. 52

HOUSE BILL NO. 73 (DUPLICATE OF SENATE BILL NO. 66)

BY REPRESENTATIVE MARTINY AND SENATOR CHAISSON AND COAUTHORED
BY REPRESENTATIVES LAFLEUR, TOWNSEND, CAZAYOUX, CRAVINS,
GALLOT, HEATON, FAUCHEUX, AND GARY SMITH

1 AN ACT

2 To enact Title XXXIII of the Code of Criminal Procedure, to be comprised of Code of
3 Criminal Procedure Articles 941 through 956, relative to criminal procedure; to
4 provide for emergency sessions of criminal court; to provide for definitions; to
5 provide for applicability; to provide for criminal jurisdiction and venue in emergency
6 sessions of court; to provide for venue for habeas corpus proceedings in certain
7 circumstances; to provide for criteria for emergency sessions of court; to provide for
8 the power and authority of the court conducting emergency sessions; to provide for
9 legislative findings; to provide for powers, duties, and authority of the sheriff
10 operating in emergency sessions of court; to provide for the powers, duties, and
11 authority of the clerk of court of an affected court conducting emergency sessions;
12 to provide for the authority of the district attorney and the indigent defender board
13 of the affected court conducting emergency sessions of court; to provide with respect
14 to the summoning of a criminal jury pool; to provide for the suspension of certain
15 time periods, limitations, and delays in the affected court; to provide for exceptions;
16 to provide for appeals and the application of supervisory writs from a judgment or
17 ruling of an affected court conducting emergency sessions of court; to provide for
18 preemption of conflicting provisions of law; to provide for the court costs, fees, and
19 fines assessed or taxed and collected by the affected court conducting emergency
20 sessions of court; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Title XXXIII of the Code of Criminal Procedure, comprised of Code of
 3 Criminal Procedure Articles 941 through 956, is hereby enacted to read as follows:

4 TITLE XXXIII. EMERGENCY OR DISASTER PROVISIONS

5 Art. 941. Legislative findings

6 The legislature hereby finds and declares the following:

7 (1) The state of Louisiana could suffer future catastrophic damage through
 8 the occurrence of emergencies and disasters of unprecedented size and
 9 destructiveness resulting from terrorist events, enemy attack, sabotage, or other
 10 hostile action, or from fire, flood, earthquake, or other natural or manmade causes
 11 resulting in the displacement of residents or the destruction of or severe damage to
 12 courthouses and other facilities supporting the criminal justice system.

13 (2) The magnitude of such catastrophic events may cause a disruption of the
 14 criminal justice system in any parish directly impacted by the emergency or disaster.

15 (3) The response to such an emergency or disaster should ensure the
 16 continued effective operation and integrity of the state's criminal justice system while
 17 minimizing adverse effects on the interests of the defendant and the state.

18 (4) Considering these factors, the Legislature of Louisiana, exercising its
 19 authority vested in Article III and Article VI, Section 3 of the Constitution of
 20 Louisiana, and recognizing the necessity of creating a classification of parishes based
 21 upon the need to conduct emergency sessions of court, does hereby enact the
 22 provisions of this Title to provide for the effective operation and integrity of the
 23 criminal justice system during times of emergency or disaster.

24 Art. 942. Definitions

25 As used in this Title:

26 (1) "Affected court" means any appellate, district, parish, city, municipal,
 27 traffic, juvenile, justice of the peace, or family court having jurisdiction over
 28 criminal prosecutions and proceedings for which the Louisiana Supreme Court has
 29 made a determination that the court shall conduct emergency sessions outside its
 30 parish or territorial jurisdiction as provided for by the provisions of this Title.

1 (2) "Emergency sessions" means any criminal court proceeding conducted
 2 by an affected court as authorized by the provisions of this Title and by order of the
 3 Louisiana Supreme Court.

4 (3) "Host jurisdiction" means the location or locations in which the
 5 Louisiana Supreme Court has ordered the affected court to conduct emergency
 6 sessions.

7 Art. 943. Preemption of conflicting provisions

8 The provisions of this Title shall preempt and supersede but not repeal any
 9 conflicting provisions of this Code or any other provision of law.

10 Art. 944. Emergency sessions of court; criteria

11 A. When the supreme court makes the determination that an appellate,
 12 district, parish, city, municipal, juvenile, traffic, justice of the peace, or family court
 13 having jurisdiction over criminal prosecutions and proceedings shall conduct
 14 proceedings outside its parish or territorial jurisdiction, the supreme court may order
 15 emergency sessions of court at a location or locations which are both feasible and
 16 practicable outside the parish or territorial jurisdiction of that court. This
 17 determination shall be based upon emergency or disaster circumstances, including
 18 but not limited to the lack of a readily available alternative location to conduct court
 19 within the parish, terrorist events, enemy attack, sabotage, or other hostile action, or
 20 from fire, flood, earthquake, or other natural or manmade causes resulting in the
 21 displacement of thousands of residents and the destruction of or severe damage to
 22 courthouses and other facilities supporting the criminal justice system. In making
 23 this determination, the supreme court shall make a reasonable effort to consult with
 24 the chief judge, the district attorney, the chief indigent defender, and the clerk of the
 25 affected court.

26 B. The supreme court order requiring emergency sessions of court shall
 27 name the affected court, the location or locations in which the emergency sessions
 28 of that court shall be conducted, and the date on which emergency sessions shall
 29 commence.

30 Art. 945. Venue; affected court; emergency sessions; habeas corpus

1 A. Venue for criminal prosecutions in an affected court shall be changed by
 2 operation of law to the parish where the affected court is ordered to conduct criminal
 3 sessions for the duration of the emergency sessions. Criminal proceedings may take
 4 place in a parish other than the parish where the crime was committed if the supreme
 5 court has ordered emergency sessions of that court in another parish pursuant to
 6 Article 944 or as otherwise provided by law.

7 B. Venue for a writ of habeas corpus for an individual whose physical
 8 custody has been transferred as a result of the circumstances which are the basis for
 9 the emergency session shall be in the parish of East Baton Rouge. If the court in
 10 East Baton Rouge Parish is also an affected court, venue shall be in the host
 11 jurisdiction which has been established by supreme court order for the affected court
 12 in East Baton Rouge Parish.

13 Art. 946. Jurisdiction of affected court conducting emergency sessions

14 A. The affected court conducting emergency sessions outside of its parish
 15 or territorial jurisdiction pursuant to Article 944 shall retain jurisdiction over all
 16 criminal proceedings and prosecutions that would otherwise be conducted by the
 17 affected court.

18 B. All court proceedings, grand jury proceedings, hearings, preliminary
 19 matters, pretrial hearings, and trials may be conducted in the emergency sessions of
 20 the affected court.

21 C. The affected court conducting emergency sessions may retain jurisdiction
 22 to complete all matters in progress in the host jurisdiction even though the order
 23 rendered pursuant to Article 944 has been withdrawn, canceled, or rescinded.

24 Art. 947. Affected court conducting emergency sessions; authority and powers

25 An affected court ordered to conduct emergency sessions outside of its parish
 26 or territorial jurisdiction pursuant to Article 944 shall retain all authority and powers
 27 previously exercised by that court in its parish or territorial jurisdiction.

28 Art. 948. Emergency sessions; length; rescission; continuation; extensions

29 A. Emergency sessions of court shall continue until the supreme court
 30 withdraws, cancels, or rescinds the order authorizing the emergency sessions. The

1 supreme court shall give notice at least ten days prior to the conclusion of the
2 emergency session to the chief judge, the district attorney, the chief indigent
3 defender, and the clerk of the affected court.

4 B. The supreme court may withdraw, cancel, or rescind an order authorizing
5 emergency sessions of court at any time that it determines that the conditions which
6 warranted the issuance of the order no longer exist.

7 Art. 949. Court costs and fees

8 All court costs, fees, and fines assessed or taxed and collected previously by
9 the affected court prior to the supreme court order authorizing the conducting of
10 emergency sessions shall be assessed, taxed, collected, distributed, and retained in
11 the same amounts by and to the same entities and in the same manner by the affected
12 court conducting the emergency session in the host jurisdiction.

13 Art. 950. Authority of district attorney in emergency sessions of court

14 A. The district attorney or prosecuting attorney, where applicable, of the
15 affected court conducting emergency sessions of court outside of its parish or
16 territorial jurisdiction pursuant to Article 944 shall have entire charge and control of
17 every criminal prosecution and authority in the host jurisdiction that he would
18 otherwise have exercised in the affected court.

19 B. The provisions of this Article are included in the other duties of the
20 district attorney provided by law as authorized by Article V, Section 26(B) of the
21 Constitution of Louisiana.

22 Art. 951. Sheriff; law enforcement officer

23 A. The sheriff and any other law enforcement agency or officer or court
24 official having jurisdiction in the affected court shall have all necessary authority and
25 powers to operate within the host jurisdiction in which the affected court is
26 conducting emergency sessions pursuant to Article 944, including the collection of
27 finances, fees, costs, and bonds. This authority shall be limited to those matters being
28 conducted in the emergency session of court.

29 B. The provisions of this Article shall constitute an exception to territorial
30 jurisdiction of the sheriff in the same manner as Articles 204 and 213.

1 Art. 952. Clerk of affected court

2 A. During the period in which the supreme court has ordered emergency
 3 sessions of court pursuant to Article 944, the clerk of court of the affected court is
 4 authorized to establish an ancillary office in the host jurisdiction in which the
 5 emergency sessions of the court are held.

6 B. The clerk of court of the affected court shall continue to exercise all
 7 necessary powers, duties, and authority of his office in order to maintain the effective
 8 operation and integrity of the criminal justice system of the affected court in the host
 9 jurisdiction, including but not limited to the assessment of fees to which the clerk is
 10 entitled. This authority shall be limited to all matters and proceedings within the
 11 jurisdiction of the affected court.

12 C. If the affected court is located in Orleans Parish, the provisions of this
 13 Article shall apply to the recorder of mortgages and register of conveyances for the
 14 parish of Orleans.

15 D. The provisions of this Article are included in the other duties of the clerk
 16 provided by law as authorized by Article V, Section 28(A) of the Constitution of
 17 Louisiana.

18 Art. 953. Authority of indigent defender board in emergency sessions of court

19 The indigent defender board of the affected court conducting emergency
 20 sessions of court outside of its parish or territorial jurisdiction pursuant to Article 944
 21 shall retain its authority for the appointment of attorneys residing in either the parish
 22 or territorial jurisdiction of the affected court or in the host jurisdiction to represent
 23 indigent defendants in the host jurisdiction that the board would otherwise have
 24 exercised in the affected court.

1 Art. 954. Jury pool; emergency sessions

2 A. Upon motion by the district attorney and after a contradictory hearing, the
 3 court may summon jurors from the host jurisdiction. The district attorney must show
 4 that the interests of justice are served by the approval of such motion.

5 B. The summoning of jurors shall be conducted by the clerk of the host
 6 jurisdiction. The cost of summoning jurors and all costs regarding jurors shall be
 7 paid by the affected court.

8 Art. 955. Suspension of time limitations in affected courts; ninety days; rescision;
 9 extensions; exceptions

10 A. The time periods, limitations, and delays established by the provisions of
 11 the Code of Criminal Procedure, Children's Code Title 15, and Chapter 26 of Title
 12 40 of the Louisiana Revised Statutes of 1950 shall be suspended in the jurisdiction
 13 of the affected court for a period of ninety days following the issuance of an order
 14 authorizing emergency sessions of court as provided for in Article 944.

15 B. The ninety-day suspension provided for by this Article shall commence
 16 to run from the date the supreme court issued its order authorizing the emergency
 17 sessions of court or from the date specified therein, whichever is earlier.

18 C. The ninety-day suspension may be extended upon a determination by the
 19 supreme court that the continuation of the suspension is necessary.

20 D. The supreme court may rescind the suspension at any time and for any
 21 jurisdiction within the state upon a determination by the supreme court that the
 22 suspension is no longer necessary.

23 E. The provisions of this Article shall not apply to Code of Criminal
 24 Procedure Articles 230.1, 230.2, 351, 354, and 362.

25 Art. 956. Appeals; application for supervisory writs

26 An application for a supervisory writ or an appeal from a judgment or ruling
 27 of an affected court ordered to conduct emergency sessions shall be taken to the
 28 appropriate appellate court which exercised proper appellate or supervisory
 29 jurisdiction over the affected court prior to the issuance of the supreme court order.
 30 If the appropriate appellate court is also an affected court, an application for a

1 supervisory writ or an appeal from a judgment or ruling of an affected court shall be
 2 taken to the host jurisdiction which has been established by supreme court order for
 3 the affected appellate court.

4 Section 2. The provisions of this Act shall have prospective application only.

5 Section 3. If any provision of this Act or the application thereof is held invalid, such
 6 invalidity shall not affect other provisions or applications of this Act which can be given
 7 effect without the invalid provisions or applications, and to this end the provisions of this
 8 Act are hereby declared severable.

9 Section 4. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 effective on the day following such approval.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____