

CONFERENCE COMMITTEE REPORT

HB 439

2017 Regular Session

Zeringue

June 8, 2017

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 439 by Representative Zeringue, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Senate Committee on Judiciary A (#2146) be rejected.
2. That the set of Legislative Bureau Amendments (#2350) be rejected.
3. That the set of Senate Floor Amendments by Senator Luneau (#2514) be rejected.
4. That Senate Floor Amendment No. 4 by Senator Martiny (#3045) be rejected.
5. That Senate Floor Amendments Nos. 1, 2, and 3 by Senator Martiny (#3045) be adopted.
5. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, after line 19, insert the following:

"Art. 74.3.1. Marriage of persons; waiver of certain information

A. A person applying for a marriage license who is unable to provide a birth certificate, letter required by R.S. 9:227, a valid and unexpired passport, or visa accompanied by Form I-94 as issued by the United States may provide a Certificate of Naturalization by the U.S. Citizenship and Immigration Authority. A person applying for a marriage license who is unable to provide a social security number may provide a driver's license, a government issued identification card, a passport, a visa issued by the United States Department of State, or a Certificate of Naturalization issued by the United States Citizenship and Immigration Services. A person applying for a marriage license who is unable to comply with the requirements of this Article may seek judicial authorization for waiver of the requirements of this Article. The court may grant the waiver and order the issuance of the marriage license if, after hearing and good cause shown, the court finds that such relief is appropriate and that the person has complied with other legal requirements for the marriage license. The hearing may be conducted in camera, and before a duty judge. The written order granting the waiver shall be attached to the marriage license application. If the court denies the waiver, the court shall provide reasons for the denial of the waiver.

B. The judicial authorization may be granted by the district court, parish court, family court, or juvenile court, in the parish in which the marriage license application is made, or by the First or Second City Court of the City of New Orleans if such application is made within their territorial jurisdiction, or by a justice of the peace court or city court if the issuing official is located within the justice of the peace or city court's territorial jurisdiction.

C. The provisions of this Article are in addition to any other right or remedy provided by law, are notwithstanding any other provision of law to the contrary, and shall supersede and control to the extent of conflict with any other provision of law.

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Respectfully submitted,

Representative Jerome Zeringue

Senator Rick Ward, III

Representative Ray Garofalo

Senator Daniel "Danny" Martiny

Representative Tanner Magee

Senator Jay Luneau

 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)]

CONFERENCE COMMITTEE REPORT DIGEST
HB 439
2017 Regular Session
Zeringue
Keyword and oneliner of the instrument as it left the House

CIVIL/PROCEDURE: Provides for continuous revisions to the Code of Civil Procedure and related provisions of the Revised Statutes

Report adopts Senate amendments to:

1. Add technical amendments.

Report rejects Senate amendments which would have:

1. Added committee amendments inserting provisions relative to medical examinations of minors and added subsequent amendments removing those provisions.
2. Added technical Legislative Bureau Amendments.
3. Added provisions relative to procedures for obtaining a marriage license when an applicant is unable to produce a birth certificate or social security number.

Report amends bill to:

4. Add provisions relative to procedures for obtaining a marriage license when an applicant is unable to produce a specified list of documents.

Digest of the bill as proposed by the Conference Committee

Present law (C.C.P. Arts. 284, 928(A), 1002, 1701-1704, 1843, 1913(B) and (C), 2002(A)(2), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205, and R.S. 23:1316 and 1316.1) uses terms including "default", "default judgment", "judgment by default", and "judgment of default" for both the preliminary default and final default judgment procedures.

Proposed law clarifies present law by consistently using the terms "preliminary default" and "final default judgment" throughout.

Proposed law (C.C.P. Art. 74.3.1) provides that a person applying for a marriage license who is unable to provide certain required documents establishing the applicant's identity may seek judicial authorization for waiver of the requirements, and further authorizes the court to grant the waiver and order the issuance of the marriage license if, after hearing and good cause shown, the court finds that such relief is appropriate and that the person has complied with other legal requirements for the marriage license.

Proposed law authorizes the hearing to be conducted in camera, and before a duty judge, and provides that the written order granting the waiver shall be attached to the marriage license application.

Proposed law provides that judicial authorization may be granted by the district court, parish court, family court, or juvenile court, in the parish in which the marriage license application is made, or by the First or Second City Court of the City of New Orleans if such application

is made within their territorial jurisdiction, or by a justice of the peace court or city court if the issuing official is located within the justice of the peace or city court's territorial jurisdiction.

Proposed law provides that the provisions of proposed law are in addition to any other right or remedy provided by law, are notwithstanding any other provision of law to the contrary, and shall supersede and control to the extent of conflict with any other provision of law.

Present law (C.C.P. Arts. 253.3(A)(4) and 3955(B)) uses the term "curator ad hoc".

Proposed law clarifies present law by replacing the term "curator ad hoc" with "an attorney appointed by the court" and "an attorney appointed to represent the absentee defendant" in accordance with C.C.P. Art. 5091.

Present law (C.C.P. Art. 532) permits the court to stay all proceedings in suits brought in a Louisiana court while suit is also pending in another jurisdiction.

Proposed law clarifies that the procedure provided under present law is accomplished by a motion to stay rather than an exception of lis pendens.

Present law (C.C.P. Art. 925(A)(3)) sets forth the objections that may be raised as declinatory exceptions.

Proposed law clarifies that the exception of lis pendens under present law is provided only by C.C.P. Art. 531.

Present law (C.C.P. Art. 1702(E)) requires that when the plaintiff's demand is for divorce under C.C. Art. 103(1) or (5), the plaintiff must submit an affidavit, proposed final judgment, and certification that service was properly made and the procedural requirements of the preliminary default process were properly followed.

Proposed law adds to present law the requirement that when the plaintiff's demand is for divorce under C.C. Art. 103(5), the plaintiff shall also submit to the court a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree.

Present law (C.C.P. Arts. 3861, 3864, 3901, and 3902) provides for the applicability of mandamus and quo warranto proceedings to corporations.

Proposed law adds to present law that these proceedings shall also be applicable to limited liability companies.

Present law (C.C.P. Art. 253) provides for the pleadings, documents, and exhibits to be filed with the clerk of court.

Proposed law adds to present law that the clerk of court shall not refuse to accept any pleading or other document solely on the ground that it was signed by electronic signature.

Proposed law also provides for a delayed effective date of Jan. 1, 2018.

Present law (C.C.P. Art. 1067) provides with respect to the barring of all incidental demands by prescription or peremption but appears in the section of the C.C.P. on Reconvention specifically.

Proposed law redesignates present law as C.C.P. Art. 1041 so it appears in the section of the C.C.P. on General Dispositions of Incidental Actions.

(Amends C.C.P. Arts. 253.3(A)(4), 284, 532(heading), 925(A)(3), 928(A), 1002, 1701- 1704, 1843, 1913(B) and (C), 2002(A)(2), 3861, 3864, 3901, 3902, 3955(B), 4904, 4921, 4921.1(C), and 5095, R.S. 13:3205, and R.S. 23:1316 and 1316.1(A); Adds C.C.P. Art. 74.3.1 and 253(E); Redesignates C.C.P. Art. 1067)