

2020 Regular Session

HOUSE BILL NO. 842

BY REPRESENTATIVE HILFERTY

COURTS: Provides relative to the assessment, collection, and distribution of certain court costs and fees in the parish of Orleans

1 AN ACT

2 To amend and reenact R.S. 13:1381.2(A), 1381.4, and 1381.5(B)(2)(a), R.S. 15:168(B)(1)

3 and 571.11(D), R.S. 16:16.3(A), and R.S. 22:822(B)(3) and to repeal R.S. 13:1377,

4 relative to the assessment, collection, and distribution of certain court costs and fees

5 in the parish of Orleans; to provide relative to court costs and clerk of court fees in

6 Orleans Parish; to provide relative to the sheriff's detention and prison security fee

7 in Orleans Parish; to provide relative to the judicial expense fund for the Criminal

8 District Court for Orleans Parish; to provide relative to the administration of the

9 criminal justice fund in Orleans Parish; to provide relative to the assessment of costs

10 for the indigent defender fund in Orleans Parish; to provide relative to the disposition

11 of fines and forfeitures in Orleans Parish; to provide relative to criminal bail bond

12 annual license fees in Orleans Parish; and to provide for related matters.

13 Notice of intention to introduce this Act has been published

14 as provided by Article III, Section 13 of the Constitution of

15 Louisiana.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 13:1381.2(A), 1381.4, and 1381.5(B)(2)(a) are hereby amended and

18 reenacted to read as follows:

1 §1381.2. Sheriff's detention and prison security fee fund

2 A. Any defendant, other than an indigent, who pleads guilty or is convicted
3 of an offense by the Criminal District Court for the Parish of Orleans shall be
4 assessed a fee of not less than twenty-five dollars, such costs to be in addition to any
5 fine, clerk's fees, costs due to the criminal court cost fund or sentence imposed by the
6 court. ~~When any defendant, other than an indigent, fails to pay the costs referred to~~
7 ~~hereinabove, he shall be sentenced to a term of thirty days in the parish prison in~~
8 ~~default of the payment of same.~~

9 * * *

10 §1381.4. Judicial expense fund for Criminal District Court

11 A.~~(1) In all criminal cases over which the Criminal District Court for Orleans~~
12 ~~Parish has original, appellate, supervisory, or concurrent jurisdiction, including~~
13 ~~traffic violations other than parking, there shall be taxed as costs against every~~
14 ~~defendant who is convicted after trial or plea of guilty or nolo contendere or who~~
15 ~~forfeits his bond the sum of five dollars, which shall be in addition to all other fines,~~
16 ~~costs, or forfeitures lawfully imposed and which shall be transmitted to the judicial~~
17 ~~administrator of the Criminal District Court for Orleans Parish for further disposition~~
18 ~~in accordance herewith.~~

19 ~~(2) In addition to all other fines, costs, or forfeitures lawfully imposed by~~
20 ~~this Section or any other provision, the court may impose an additional cost against~~
21 ~~any defendant who has been finally convicted of a misdemeanor, excluding traffic~~
22 ~~violations, or a felony. The additional costs authorized in this Paragraph shall not~~
23 ~~exceed five hundred dollars in the case of a misdemeanor nor exceed two thousand~~
24 ~~five hundred dollars in the case of a felony. All such sums collected shall be~~
25 ~~transmitted to the judicial administrator for further disposition in accordance~~
26 ~~herewith.~~

27 B. ~~The judicial administrator of the Criminal District Court for Orleans~~
28 ~~Parish shall place all sums collected or received under this Section in a separate~~
29 ~~account to be designated as the judicial expense fund for the Criminal District Court~~

1 ~~for Orleans Parish. The judges of the court shall cause to be conducted annually an~~
2 ~~audit of the fund and the books and accounts relating thereto and shall file the same~~
3 ~~with the office of the legislative auditor where it shall be available for public~~
4 ~~inspection.~~

5 ~~€. The judicial expense fund is established and may be used for any purpose~~
6 ~~connected with, incidental to, or related to the proper administration or function of~~
7 ~~the court or the office of the judges thereof and is in addition to any and all other~~
8 ~~funds, salaries, expenses, or other monies that are provided, authorized, or~~
9 ~~established by law.~~

10 ~~D. B.~~ No salary shall be paid from the judicial expense fund to any judges
11 of the court.

12 C. The judges of the court shall cause to be conducted annually an audit of
13 the fund and the books and accounts relating thereto and shall file the same with the
14 office of the legislative auditor where it shall be available for public inspection.

15 §1381.5. The Orleans Parish administration of criminal justice fund

16 * * *

17 B.

18 * * *

19 (2) Each quarterly distribution shall be calculated and allocated as follows:

20 (a) Forty percent of all funds received to the city of New Orleans Parish
21 ~~criminal district court's judicial expense fund.~~

22 * * *

23 Section 2. R.S. 15:168(B)(1) and 571.11(D) are hereby amended and reenacted to
24 read as follows:

25 §168. Judicial district indigent defender fund

26 * * *

27 B.(1)(a) Every court of original criminal jurisdiction, except in the town of
28 Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having
29 a population of less than five thousand, shall remit the following special costs to the

1 district indigent defender fund for the following violations, under state statute as well
2 as under parish or municipal ordinance, except a parking violation. ~~The~~ Except as
3 provided in Subparagraph (b) of this Paragraph, the sum of forty-five dollars shall
4 be assessed in cases in which a defendant is convicted after a trial, a plea of guilty
5 or nolo contendere, or after forfeiting bond and shall be in addition to all other fines,
6 costs, or forfeitures imposed.

7 (b) In the parish of Orleans, in addition to all other fines, costs, or forfeitures
8 imposed, the sum of forty-five dollars may be assessed in cases in which a defendant
9 is convicted after a trial, a plea of guilty or nolo contendere, or after forfeiting bond.

10 * * *

11 §571.11. Dispositions of fines and forfeitures

12 * * *

13 D. All fines and forfeitures, including forfeitures of criminal bail bonds,
14 imposed in criminal cases and prosecutions by the courts of Orleans Parish and any
15 payments ordered as a condition of probation under Code of Criminal Procedure
16 Article 895.1(B)(2) shall, upon collection, be paid to the criminal sheriff of Orleans
17 Parish who shall deposit same in a special account, and shall thereafter be divided
18 equally between the district attorney of Orleans Parish and the ~~criminal district court~~
19 city of New Orleans Parish in two special accounts, one account to be administered
20 by the ~~judges of the criminal district court~~ city of New Orleans Parish, and the other
21 account to be administered by the district attorney of Orleans Parish to be used in
22 defraying the expenses of the criminal ~~courts~~ justice system of the parish,
23 extraditions, and such other expenses pertaining to the operation of the criminal ~~court~~
24 justice system of Orleans Parish and the office of the district attorney of Orleans
25 Parish. Disbursements from the account to the ~~criminal district court~~ city of New
26 Orleans and district attorney shall be made on an equal basis. Said accounts shall be
27 annually audited by the director of finance of the city of New Orleans.

28 * * *

1 Section 3. R.S. 16:16.3(A) is hereby amended and reenacted to read as follows:

2 §16.3. Additional court costs to defray expenses; Orleans Parish

3 A. In all criminal cases over which the district attorney's office in Orleans
4 Parish has jurisdiction, there ~~shall~~ may be taxed as costs against every defendant who
5 is convicted after trial or after he pleads guilty or who forfeits his bond a
6 nonrefundable sum of twenty dollars, which shall be in addition to all other fines,
7 costs, or forfeitures lawfully imposed.

8 * * *

9 Section 4. R.S. 22:822(B)(3) is hereby amended and reenacted to read as follows:

10 §822. Criminal bail bond annual license fee

11 * * *

12 B.

13 * * *

14 (3) In Orleans Parish, ~~two dollars of the three dollars~~ collected for each one
15 hundred dollars worth of liability underwritten by the commercial surety on all
16 premium fees collected by the sheriff shall be maintained, supervised, and distributed
17 as provided in R.S. 13:1381.5 ~~and the one additional dollar of the three dollars~~
18 ~~collected for each one hundred dollars worth of liability underwritten by the~~
19 ~~commercial surety shall be allocated to the Criminal District Court for the Parish of~~
20 ~~Orleans.~~

21 * * *

22 Section 5. R.S. 13:1377 is hereby repealed in its entirety.

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)]

HB 842 Original

2020 Regular Session

Hilferty

Abstract: Provides relative to court costs and fees assessed in the parish of Orleans.

Present law (R.S. 13:1377) requires any defendant, other than an indigent, who pleads guilty or is convicted of an offense by the Criminal District Court for the Parish of Orleans to be assessed costs of court not to exceed the sum of \$100, such costs to be in addition to any

fine, clerk's fees or sentence imposed by the court. When any defendant, other than an indigent, fails to pay such costs, present law requires the defendant to be sentenced to a term of 30 days in the parish prison.

Present law (R.S. 13:1377) provides that when any bail bond posted in the Criminal District Court for the Parish of Orleans guaranteeing the appearance of any defendant in any case in the Criminal District Court for the Parish of Orleans has been forfeited, the surety company or its local agent or insurance company for which the agent is writing bail bonds, shall be assessed costs in the sum of \$25.

Present law (R.S. 13:1377) provides that these present law costs shall be collected by the judicial administrator of the criminal district court of the parish of Orleans and deposited in a bank or banks in the city of New Orleans to be credited to a special fund to be designated as the Criminal Court Cost Fund. Present law provides that the Criminal Court Cost Fund is administered by the judges of the Criminal District Court for the Parish of Orleans and is to be expended to assist in the operation and maintenance of the Criminal District Court for the Parish of Orleans, Criminal Courts Building and to assist in the operation of the offices of the various officials and agencies which maintain offices in the building.

Proposed law repeals present law (R.S. 13:1377).

Present law (R.S. 13:1381.2) requires any defendant, other than an indigent, who pleads guilty or is convicted of an offense by the Criminal District Court for the Parish of Orleans to be assessed a fee of not less than \$25, such costs to be in addition to any fine, clerk's fees, costs due to the criminal court cost fund, or sentence imposed by the court. Present law provides that when any defendant, other than an indigent, fails to pay the costs, the defendant shall be sentenced to a term of 30 days in the parish prison.

Proposed law repeals the provision which requires the defendant to be sentenced to a term of 30 days in parish prison for the failure to pay the \$25 cost.

Present law (R.S. 13:1381.4) provides that in all criminal cases over which the Criminal District Court for Orleans Parish has original, appellate, supervisory, or concurrent jurisdiction, including traffic violations other than parking, there shall be taxed as costs against every defendant who is convicted after trial or plea of guilty or nolo contendere or who forfeits his bond the sum of \$5, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed and which shall be transmitted to the judicial administrator of the Criminal District Court for Orleans Parish.

In addition, present law (R.S. 13:1381.4) authorizes the court, in addition to all other fines, costs, or forfeitures, to impose an additional cost against any defendant who has been finally convicted of a misdemeanor, excluding traffic violations, or a felony. The additional costs shall not exceed \$500 in the case of a misdemeanor nor exceed \$2,500 in the case of a felony. All such sums collected shall be transmitted to the judicial administrator for further disposition.

Present law (R.S. 13:1381.4) requires the judicial administrator of the Criminal District Court for Orleans Parish to place all sums collected or received under present law (R.S. 13:1381.4) in a separate account to be designated as the judicial expense fund for the Criminal District Court for Orleans Parish.

Present law (R.S. 13:1381.4) establishes the judicial expense fund to be used for any purpose connected with, incidental to, or related to the proper administration or function of the court or the office of the judges and is in addition to any and all other funds, salaries, expenses, or other monies that are provided, authorized, or established by law.

Proposed law repeals the required present law (R.S. 13:1381.4) assessment of \$5 and the court's present law (R.S. 13:1381.4) authority to impose an additional cost of up to \$500 for misdemeanors and up to \$2,500 for felonies.

Proposed law repeals the court's authority to use the judicial expense fund in addition to any and all other funds, salaries, expenses, or other monies that are provided, authorized, or established by law.

Proposed law retains the present law requirement that the judges of the court shall cause to be conducted annually an audit of the fund and the books and accounts relating thereto and shall file the same with the office of the legislative auditor where it shall be available for public inspection. Further retains the present law provision which prohibits any judge's salary from being paid from the judicial expense fund.

Present law (R.S. 13:1381.5) requires all funds collected and deposited in the Orleans Parish administration of criminal justice fund to be distributed as specified by present law, including a requirement that 40% of all funds received be distributed to the Orleans Parish criminal district court's judicial expense fund.

Proposed law retains present law but provides that the 40% distribution shall be to the city of New Orleans instead of the Orleans Parish criminal district court's judicial expense fund.

When a defendant is convicted after trial, enters a plea of guilty or nolo contendere, or forfeits bond, present law (R.S. 15:168) requires every court of original criminal jurisdiction to assess a special cost of \$45 to be remitted to the district indigent defender fund.

Proposed law retains present law with respect to all courts of original criminal jurisdiction in parishes other than Orleans Parish, and amends present law to authorize instead of requiring the assessment in courts of original criminal jurisdiction in Orleans Parish.

Present law (R.S. 15:571.11) provides that all fines and forfeitures, including forfeitures of criminal bail bonds, imposed in criminal cases and prosecutions by the courts of Orleans Parish and any payments ordered as a condition of probation shall, upon collection, be paid to the criminal sheriff of Orleans Parish who shall deposit same in a special account, and shall thereafter be divided equally between the district attorney of Orleans Parish and the criminal district court of Orleans Parish in two special accounts, one account to be administered by the judges of the criminal district court of Orleans Parish, and the other account to be administered by the district attorney of Orleans Parish to be used in defraying the expenses of the criminal courts of the parish, extraditions, and such other expenses pertaining to the operation of the criminal court of Orleans Parish and the office of the district attorney of Orleans Parish.

Proposed law amends present law to provide that the funds shall be equally divided between the district attorney of Orleans Parish and, instead of the criminal district court of Orleans Parish, the city of New Orleans. Further provides that the funds shall be used to defray the expenses of the criminal justice system of the parish instead of the expenses of the criminal courts.

Present law (R.S. 16:16.3) provides that in all criminal cases over which the district attorney's office in Orleans Parish has jurisdiction, there shall be taxed as costs against every defendant who is convicted after trial or after he pleads guilty or who forfeits his bond a nonrefundable sum of \$20, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed.

Proposed law authorizes instead of requires the imposition of this present law \$20 cost.

Present law (R.S. 22:822) requires a fee on premiums for all commercial surety underwriters who write criminal bail bonds in the state of La. and provides that all premium fees collected

by the sheriff shall be remitted within 60 days after receipt. In Orleans Parish, present law requires two dollars of the three dollars collected for each \$100 worth of liability underwritten by the commercial surety on all premium fees collected by the sheriff to be maintained, supervised, and distributed as provided in present law (R.S. 13:1381.5) and the one additional dollar of the three dollars collected for each \$100 worth of liability underwritten by the commercial surety shall be allocated to the Criminal District Court for the Parish of Orleans.

Proposed law amends present law provide that all three of the dollars collected for each \$100 worth of liability underwritten by the commercial surety on all premium fees are to be maintained, supervised, and distributed as provided in present law (R.S. 13:1381.5)

(Amends R.S. 13:1381.2(A), 1381.4, and 1381.5(B)(2)(a), R.S. 15:168(B)(1) and 571.11(D), R.S. 16:16.3(A), and R.S. 22:822(B)(3); Repeals R.S. 13:1377)