

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(A) and (B)(3), to enact R.S.

4 13:1381.5(B)(2)(e), and to repeal R.S. 13:1377, relative to the assessment, collection,

5 and distribution of certain court costs and fees in the parish of Orleans; to provide

6 relative to court costs and clerk of court fees in Orleans Parish; to provide relative

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

8 to the judicial expense fund for the Criminal District Court for Orleans Parish; to

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

10 to provide relative to the assessment of costs for the indigent defender fund in

11 Orleans Parish; to provide relative to the disposition of fines and forfeitures in

12 Orleans Parish; to provide relative to criminal bail bond annual license fees in

13 Orleans Parish; and to provide for related matters.

14 Notice of intention to introduce this Act has been published

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

16 Louisiana.

17 Be it enacted by the Legislature of Louisiana:

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

19 reenacted and R.S. 13:1381.5(B)(2)(e) is hereby enacted 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 Section 2. R.S. 15:168(B)(1) and 571.11(D) are hereby amended and reenacted to
2 read as follows:

3 §168. Judicial district indigent defender fund

4 * * *

5 B.(1)(a) Every court of original criminal jurisdiction, except in the town of
6 Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having
7 a population of less than five thousand, shall remit the following special costs to the
8 district indigent defender fund for the following violations, under state statute as well
9 as under parish or municipal ordinance, except a parking violation. ~~The~~ Except as
10 provided in Subparagraph (b) of this Paragraph, the sum of forty-five dollars shall
11 be assessed in cases in which a defendant is convicted after a trial, a plea of guilty
12 or nolo contendere, or after forfeiting bond and shall be in addition to all other fines,
13 costs, or forfeitures imposed.

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

17 * * *

18 §571.11. Dispositions of fines and forfeitures

19 * * *

20 D.(1) All fines and forfeitures, including forfeitures of criminal bail bonds,
21 imposed in criminal cases and prosecutions by the courts of Orleans Parish and any
22 payments ordered as a condition of probation under Code of Criminal Procedure
23 Article 895.1(B)(2) shall, upon collection, be paid to the criminal sheriff of Orleans
24 Parish who shall deposit same in a special account, and shall thereafter be divided
25 equally between the district attorney of Orleans Parish and the criminal district court
26 of Orleans Parish ~~in two special accounts, one account to be administered by the~~
27 ~~judges of the criminal district court of Orleans Parish, and the other.~~

28 (2) The portion provided to the district attorney of Orleans Parish pursuant
29 to this Subsection shall be deposited into a special account to be administered by the

1 district attorney of Orleans Parish to be used in defraying the expenses of the
2 ~~criminal courts of the parish, extraditions, and such other expenses pertaining to the~~
3 ~~operation of the criminal court of Orleans Parish and the office of the district~~
4 attorney of Orleans Parish.

5 (3) The portion provided to the criminal district court of Orleans Parish
6 pursuant to this Subsection shall be deposited into a special escrow account and
7 retained for one year and shall then be disbursed to the city of New Orleans to be
8 used in defraying the expenses of the criminal justice system of the parish,
9 extraditions, and other expenses pertaining to the operation of the criminal justice
10 system of Orleans Parish.

11 (4) Disbursements from the criminal sheriff's account to the criminal district
12 court and district attorney shall be made on an equal basis. ~~Said~~ and the accounts
13 shall be annually audited by the director of finance of the city of New Orleans.

14 * * *

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

16 §16.3. Additional court costs to defray expenses; Orleans Parish

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

22 * * *

23 Section 4. R.S. 22:822(A) and (B)(3) are hereby amended and reenacted to read as
24 follows:

25 §822. Criminal bail bond annual license fee

26 A. ~~There shall be a fee on~~ On premiums for all commercial surety
27 underwriters who write criminal bail bonds in the state of Louisiana, ~~as follows:~~

28 ~~(1) Except in the parish of Orleans, the~~ there shall be a fee ~~shall be~~ equal to
29 two dollars for each one hundred dollars worth of liability underwritten by the

1 commercial surety. Except as authorized under the provisions of R.S. 13:718(I)(2),
 2 this shall be the exclusive fee or tax on any criminal bail bond premium, including
 3 thereto premium taxes owed. In furtherance of the payment of this premium fee all
 4 commercial surety underwriters underwriting criminal bail bonds in the state of
 5 Louisiana shall, upon submitting the appearance bond and their power of attorney,
 6 simultaneously pay to the sheriff of the parish, except in the parish of Orleans, a fee
 7 of two dollars for each one hundred dollars worth of liability on the bail bond being
 8 presented for the release of a person on bail. Failure to pay the fee shall prevent the
 9 sheriff from accepting the appearance bond and power of attorney. The sheriff may
 10 receive the fee by check or cash and shall only accept it from the surety or the agent
 11 of the surety. In the event a surety or agent of the surety presents payment of the fee
 12 by an instrument which is returned for insufficient funds, the agent or the agent of
 13 the surety shall be prevented from presenting the appearance bonds with their power
 14 of attorney attached until the outstanding fees are paid to the sheriff.

15 ~~(2) In the parish of Orleans, the fee shall be equal to three dollars for each~~
 16 ~~one hundred dollars worth of liability underwritten by the commercial surety. This~~
 17 ~~shall be the exclusive fee or tax on any criminal bail bond premium, including~~
 18 ~~thereto premium taxes owed. In furtherance of the payment of this premium fee, all~~
 19 ~~commercial surety underwriters underwriting criminal bail bonds in the parish of~~
 20 ~~Orleans shall, upon submitting the appearance bond and their power of attorney,~~
 21 ~~simultaneously pay to the sheriff a fee of three dollars for each one hundred dollars~~
 22 ~~worth of liability on the bail bond being presented for the release of a person on bail.~~
 23 ~~Failure to pay the fee shall prevent the sheriff from accepting the appearance bond~~
 24 ~~and power of attorney. The sheriff may receive the fee by check or cash and shall~~
 25 ~~accept only it from the surety or the agent of the surety. In the event a surety or~~
 26 ~~agent of the surety presents payment of the fee by an instrument which is returned~~
 27 ~~for insufficient funds, the agent or the agent of the surety shall be prevented from~~
 28 ~~presenting the appearance bonds with their power of attorney attached until the~~
 29 ~~outstanding fees are paid to the sheriff.~~

1 B.

2 * * *

3 (3) In Orleans Parish, the two dollars ~~of the three dollars~~ collected for each
4 one hundred dollars worth of liability underwritten by the commercial surety on all
5 premium fees collected by the sheriff shall be maintained, supervised, and distributed
6 as provided in R.S. 13:1381.5 ~~and the one additional dollar of the three dollars~~
7 ~~collected for each one hundred dollars worth of liability underwritten by the~~
8 ~~commercial surety shall be allocated to the Criminal District Court for the Parish of~~
9 Orleans.

10 * * *

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

12 Section 6. The provisions of this Act shall cease to be effective two years after the
13 date of the signature of this Act by the governor.

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 Engrossed

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 split equally between the city of New Orleans and the Clerk of the Criminal District Court Expense Fund instead of the Orleans Parish criminal district court's judicial expense fund.

Proposed law also provides that the funds received by the court shall be deposited into a special escrow account and retained for one year before being distributed to the city of New Orleans to be used in defraying the expenses of the criminal justice system in Orleans Parish.

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 District 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.

Proposed law provides that the portion of the funds dispersed to the district attorney of Orleans Parish shall be deposited into a special account to be administered in accordance with present law provisions.

Proposed law provides that the portion of funds dispersed to the Criminal District Court of Orleans Parish pursuant to present law shall be deposited into a special escrow account and retained for one year before being disbursed to the city of New Orleans to be used in defraying the expenses of the criminal justice system of the parish, extraditions, and other expenses pertaining to the operation of the criminal justice system of Orleans Parish.

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 removes the present law provision regarding fees on premiums for commercial surety underwriters in Orleans Parish to conform to present law.

Proposed law amends present law to provide that all two 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(A) and (B)(3); Adds R.S. 13:1381.5(B)(2)(e); Repeals R.S. 13:1377)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes to citations.
2. Modify the distribution of funds to various entities pursuant to present law (R.S. 13:1381.5).
3. Provide specific uses for funds collected.
4. Require funds to be retained in an escrow account one year before being distributed to the city of New Orleans.
5. Remove present law provision regarding fees on premiums for commercial surety underwriters in Orleans Parish to conform to present law provisions.
6. Add stipulation that the Act will cease to be effective two years after the date of the signature of the governor.