

ACT No. 160

2020 Regular Session

HOUSE BILL NO. 775

BY REPRESENTATIVE MARINO

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 551(B), 553(A), 556(E), 556.1(F), 562(A), (B), and (D), and 835 and to repeal Code of Criminal Procedure Articles 533(C), 831(B), 832(B), and 833(C), relative to appearance by the defendant at certain proceedings; to provide relative to the defendant's appearance at arraignment, at the entry of his plea, at a revocation or contempt hearing, and at sentencing; to provide relative to the appearance of a defendant at certain proceedings by way of simultaneous transmission through audio-visual electronic equipment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 551(B), 553(A), 556(E), 556.1(F), 562(A), (B), and (D), and 835 are hereby amended and reenacted to read as follows:

Art. 551. Arraignment of defendant

* * *

B. The court may, by local rule, provide for the defendant's appearance at the arraignment, at and the entry of his plea ~~of guilty, or both~~, by way of simultaneous transmission through audio-visual electronic equipment ~~in accordance with the provisions of Article 562.~~

* * *

Art. 553. Method of pleading

A. Except when otherwise provided under Paragraph B of this Article or by local rule in accordance with Articles 551 and 562, the defendant in a felony case shall plead in person. In misdemeanor cases, the defendant may plead not guilty

1 through counsel, may plead guilty through counsel with consent of the court, may
 2 appear ~~at arraignment, at the entry of~~ and enter his plea of guilty, ~~or both,~~ by way of
 3 simultaneous audio-visual transmission in accordance with local rules of court and
 4 Articles 551 and 562, and may plead and be arraigned in accordance with procedures
 5 established according to R.S. 32:57(C). A corporation may plead through counsel
 6 in all cases. The plea shall be made in open court and shall be immediately entered
 7 in the minutes of the court. A failure to enter a plea in the minutes shall not affect
 8 the validity of any proceeding in the case.

9 * * *

10 Art. 556. Plea of guilty or nolo contendere in misdemeanor cases; duty of court

11 * * *

12 E. Nothing in this Article prohibits the court, by local rule, from providing
 13 for a defendant's appearance at the entry of his plea of guilty or nolo contendere by
 14 simultaneous audio-visual transmission ~~in accordance with the provisions of Articles~~
 15 ~~551 and 562.~~

16 Art. 556.1. Plea of guilty or nolo contendere in felony cases; duty of court

17 * * *

18 F. Nothing in this Article prohibits the court, by local rule, from providing
 19 for a defendant's appearance at the entry of his plea of guilty or nolo contendere by
 20 simultaneous audio-visual transmission in accordance with the provisions of ~~Articles~~
 21 ~~551 and~~ Article 562.

22 * * *

23 Art. 562. Use of simultaneous audio-visual transmission for certain proceedings

24 A.(+) In a case where the offense is a noncapital felony or ~~an enhanceable~~
 25 a misdemeanor, the defendant, who is confined in a jail, prison, or other detention
 26 facility in Louisiana, may, with the court's consent and the consent of the district
 27 attorney, appear ~~at the arraignment, at any preliminary matter or pretrial conference~~
 28 ~~that does not involve the taking of testimony,~~ at the entry of his plea of guilty, ~~and~~
 29 at any revocation hearing for a probation violation, including any hearing for a
 30 contempt of court, and at sentencing by simultaneous audio-visual transmission if

1 the court, by local rule, provides for the defendant's appearance in this manner and
 2 the defendant waives, ~~in accordance with the provisions of Paragraph D of this~~
 3 ~~Article~~, his right to be physically present at the proceeding.

4 (2) ~~In a case where the offense is not a felony and is not an enhanceable~~
 5 ~~misdemeanor, the court, with the consent of the district attorney, may require the~~
 6 ~~defendant, who is confined in a jail, prison, or other detention facility in Louisiana,~~
 7 ~~to appear at the arraignment, at any preliminary matter or pretrial conference that~~
 8 ~~does not involve the taking of testimony, at the entry of his plea of guilty, and at any~~
 9 ~~revocation hearing for a probation violation, including any hearing for a contempt~~
 10 ~~of court, by simultaneous audio-visual transmission if the court, by local rule,~~
 11 ~~provides for the defendant's appearance in this manner.~~

12 (3) ~~For purposes of this Paragraph, "enhanceable misdemeanor" means a~~
 13 ~~misdemeanor offense that provides increased or enhanced penalties for a subsequent~~
 14 ~~conviction of the offense or that provides increased or enhanced penalties when~~
 15 ~~certain elements are present during the commission of the offense.~~

16 B. ~~Notwithstanding the provisions of Paragraph A of this Article, in In a~~
 17 ~~capital case, the defendant may not enter his plea by simultaneous audio-visual~~
 18 ~~transmission.~~

19 * * *

20 D.(1) ~~A defendant who elects to appear at the proceeding by simultaneous~~
 21 ~~audio-visual transmission in accordance with the provisions of this Article and enter~~
 22 ~~a plea of guilty or nolo contendere shall submit to the court a form signed by the~~
 23 ~~defendant and, if represented by an attorney at the proceeding, by the defendant's~~
 24 ~~attorney, stating that the defendant waives his right to be physically present at the~~
 25 ~~proceeding and that he has been addressed by the court and informed of his rights~~
 26 ~~pursuant to Article 556 or 556.1. The form shall allow for the defendant to sign, or~~
 27 ~~initial where appropriate, each element of the waiver of rights set forth in Article 556~~
 28 ~~or 556.1.~~

29 (2) ~~The defendant and, if represented by an attorney at the proceeding, the~~
 30 ~~defendant's attorney may sign, or initial where appropriate, the waiver of presence~~

1 as set forth in Paragraph A of this Article and the waiver of rights form as set forth
2 in Subparagraph (1) of this Paragraph by use of an electronic signature as defined by
3 R.S. 9:2602. The court, by local rule, shall provide for the method of electronic
4 signature to be used to ensure authenticity of the electronic signature.

5 (3) The law enforcement agency who has custody of the defendant at the
6 time of the proceeding shall obtain the fingerprints of the defendant for purposes of
7 Article 871. The fingerprints may be taken electronically or in ink and converted to
8 electronic format.

9 * * *

10 Art. 835. Presence of defendant at pronouncement of sentence

11 A. In Except as provided in Paragraph B, in felony cases the defendant shall
12 always be present when sentence is pronounced. ~~In and, in~~ in misdemeanor cases, the
13 defendant shall be present when sentence is pronounced; unless excused by the court.
14 If a sentence is improperly pronounced in the defendant's absence, he shall be
15 resentenced when his presence is secured.

16 B. Nothing in this Article prohibits the court, by local rule, from providing
17 for a defendant's appearance at the pronouncement of sentence by simultaneous
18 audio-visual transmission in accordance with the provisions of Article 562.

19 Section 2. Code of Criminal Procedure Articles 553(C), 831(B), 832(B), and 833(C)
20 are hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____