

RÉSUMÉ DIGEST

ACT 110 (HB 842)

2020 Regular Session

Hilferty

Prior law (R.S. 13:1377) required any defendant, other than an indigent, who plead guilty or was 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, failed to pay such costs, prior law required the defendant to be sentenced to a term of 30 days in the parish prison.

Prior law (R.S. 13:1377) provided 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 had been forfeited, the surety company or its local agent or insurance company for which the agent was writing bail bonds was required to be assessed costs in the sum of \$25.

Prior law (R.S. 13:1377) provided that the costs were required to be collected by the judicial administrator of the Criminal District Court for 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. Prior law provided that the Criminal Court Cost Fund was administered by the judges of the Criminal District Court for the Parish of Orleans and was 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.

New law repeals prior law (R.S. 13:1377).

Existing 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. Prior law provided that when any defendant, other than an indigent, failed to pay the costs, the defendant was required to be sentenced to a term of 30 days in the parish prison.

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

Prior law (R.S. 13:1381.4) provided that in all criminal cases over which the Criminal District Court for the Parish of Orleans had original, appellate, supervisory, or concurrent jurisdiction, including traffic violations other than parking, five dollars was required to be taxed as costs against every defendant who was convicted after trial, entered a plea of guilty or nolo contendere, or forfeited his bond. This cost was in addition to all other fines, costs, or forfeitures lawfully imposed and was required to be transmitted to the judicial administrator of the Criminal District Court for the Parish of Orleans.

In addition, prior law (R.S. 13:1381.4) authorized the court to impose a cost against any defendant who was finally convicted of a misdemeanor, excluding traffic violations, or a felony. The additional costs were prohibited from exceeding \$500 in the case of a misdemeanor or \$2,500 in the case of a felony. All such sums collected were required to be transmitted to the judicial administrator for further disposition.

New law repeals prior law.

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

New law repeals prior law.

Existing 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.

New law retains the existing 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 existing law provision which prohibits any judge's salary from being paid from the judicial expense fund.

Existing 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 existing law, including a requirement that 40% of all funds received be distributed to the Orleans Parish criminal district court's judicial expense fund.

New law retains existing law but provides that the 40% distribution shall be split equally between the Orleans Parish Clerk of Court and the Clerk of the Criminal District Court Expense Fund instead of the Orleans Parish criminal district court's judicial expense fund.

New 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.

New law further provides that the funds shall not be disbursed to the city of New Orleans from the special escrow account for any purpose previously set forth by the provisions of R.S. 13:1381.4 prior to the effective date of new law.

When a defendant is convicted after trial, enters a plea of guilty or nolo contendere, or forfeits bond, existing 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.

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

Existing 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 the funds into two special accounts, divided equally between the district attorney of Orleans Parish and the Criminal District Court for the Parish of Orleans. One account shall be administered by the judges of the Criminal District Court for the Parish of Orleans, and the other account shall be administered by the district attorney of Orleans Parish. The funds shall 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 the Parish of Orleans and the office of the district attorney of Orleans Parish.

New law amends existing law to provide that the funds shall be divided equally between the district attorney of Orleans Parish and, instead of the Criminal District Court for the Parish of Orleans, 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.

New 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 existing law provisions.

New law provides that the portion of funds dispersed to the Criminal District Court of the Parish of Orleans pursuant to existing 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.

New law also provides that the funds shall not be disbursed to the city of New Orleans from the special escrow account for any purpose previously set forth by the provisions of R.S. 13:1381.4 prior to the effective date of new law.

Existing 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, enters a plea of guilty, or forfeits his bond, a nonrefundable sum of \$20, which shall be in addition to all other fines, costs, or forfeitures lawfully imposed.

New law authorizes, rather than requires, the imposition of this existing law \$20 cost.

Existing 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, existing 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 existing 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.

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

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

New law provides that the provisions of new law shall cease to be effective on July 1, 2022.

Effective Aug. 1, 2020.

(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)