

2021 Regular Session

SENATE BILL NO. 71

BY SENATOR BERNARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL PROCEDURE. Provides relative to civil jury trials and deposits for costs and expenses. (8/1/21) (2/3 - CA7s2.1(A))

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AN ACT

To amend and reenact R.S. 13:3049(B)(2)(a) and (d), and Code of Civil Procedure Articles 1733(A), 1734, and 1734.1, relative to civil jury trials; to provide for the costs and expenses related to jury trials; to provide for the payment of jurors; to provide for certain deposits and amounts; to provide for certain actions by the court and clerk; to provide certain terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:3049(B)(2)(a) and (d) are hereby amended and reenacted to read as follows:

§3049. Cash deposit; bond; duty to attend; compensation; procedure; filing fees

* * *

B.(1)(a) * * *

(2)(a) Except as provided by special law, the jurors in civil cases who attend may demand and receive fifty dollars for each day of attendance in court and an amount equal to the rate in effect for state officials for each mile necessarily traveled in going to and returning from the courthouse. Only one charge shall be made for

1 mileage each way. At the time of ~~posting bond~~ **requesting a jury trial**, the party
 2 praying for the jury shall pay to the clerk of court the sum of one hundred and fifty
 3 dollars as jury filing fees. In addition, prior to the commencement of the trial, the
 4 party praying for the jury shall ~~post a bond pursuant to Code of Civil Procedure~~
 5 ~~Article 1734 or~~ deposit the amount ordered by the court pursuant to Code of Civil
 6 Procedure Article ~~1734.1~~ **1733**. If the trial exceeds the estimated number of days, the
 7 party praying for the jury shall ~~post an additional bond or~~ make an additional deposit
 8 as ordered by the court. However, no party praying for a jury trial under the
 9 provisions of this Subsection shall be required to pay any costs or advance deposit
 10 imposed under the provisions of this Subsection if such has been waived or an order
 11 is rendered, pursuant to Chapter 5 of Title I of Book IX of the Code of Civil
 12 Procedure, permitting the applicant to litigate or continue to litigate without payment
 13 of such costs or furnishing security therefor.

14 * * *

15 (d) Any **unexpended portion of a** deposit made as herein provided shall be
 16 returned to the party **or attorney** making such deposit and any bond filed shall be
 17 cancelled in the event that the matter in which trial by jury has been requested has
 18 been tried, settled, determined, or otherwise disposed of for any reason, without
 19 having been tried by a jury.

20 * * *

21 Section 2. Code of Civil Procedure Articles 1733(A), 1734, and 1734.1 are hereby
 22 amended and reenacted to read as follows:

23 Art. 1733. Demand for jury trial; bond for costs

24 A.(1) Except as provided in Subparagraph (2) of this Paragraph, a party may
 25 obtain a trial by jury by filing a pleading demanding a trial by jury ~~and a bond in the~~
 26 ~~amount and~~ within the time set by the court pursuant to Article 1734, **and providing**
 27 **a cash deposit of five thousand dollars no later than sixty days after filing the**
 28 **request for a trial by jury. Failure to post the cash deposit as required by this**
 29 **Subparagraph shall constitute a waiver of the trial by jury. This cash deposit**

1 **shall be subject to Article 1734.1(E).**

2 (2)(a) ~~In a suit for damages arising from a delictual or quasi-delictual action~~
 3 ~~where an individual petitioner stipulates or otherwise judicially admits that his cause~~
 4 ~~of action exceeds ten thousand dollars and is less than fifty thousand dollars, a party~~
 5 ~~may obtain a trial by jury by filing a pleading demanding a trial by jury and~~
 6 ~~providing a cash deposit of five thousand dollars no later than sixty days after filing~~
 7 ~~the request for a trial by jury. Failure to post the cash deposit as required by this~~
 8 ~~Subparagraph shall constitute a waiver of the trial by jury. This cash deposit shall be~~
 9 ~~subject to Article 1734.1(E).~~

10 (b) When the case is set for trial, the court ~~may~~ **shall** additionally provide for
 11 a supplemental ~~bond~~ or cash deposit in accordance with Article 1734 or 1734.1.

12 * * *

13 Art. 1734. Fixing the ~~bond~~ **deposit**; calling the jury venire

14 A. Except as otherwise provided by R.S. 13:3105 et seq., when the case has
 15 been set for trial, the court shall fix the amount of the ~~bond~~ **deposit** to cover all costs
 16 **estimated by the clerk** related to the trial by jury and shall fix the time for filing the
 17 ~~bond~~ **deposit**, which shall be no later than sixty days prior to trial. Notice of the
 18 fixing of the ~~bond~~ **deposit** shall be served on all parties. If the ~~bond~~ **deposit** is not
 19 filed timely, any other party shall have an additional ten days to file the ~~bond~~
 20 **deposit**.

21 B. When the ~~bond~~ **deposit** has been filed, the clerk of court shall order the
 22 jury commission to draw a sufficient number of jurors to try and determine the cause,
 23 such drawing to be made in accordance with R.S. 13:3044.

24 Art. 1734.1. Cash deposit; procedure

25 A. When the case has been set for trial, the court ~~may~~ **shall** order, ~~in lieu of~~
 26 ~~the bond required in Article 1734,~~ a deposit for costs, which shall be a specific cash
 27 amount **estimated by the clerk**, and the court shall fix the time for making the
 28 deposit, which shall be no later than ~~thirty~~ **sixty** days prior to trial. The deposit shall
 29 include sufficient funds for payment of all costs associated with a jury trial,

1 including juror fees and expenses and charges of the jury commission, clerk of court,
 2 and sheriff. The required deposit shall not exceed ~~two ten~~ ten thousand dollars for the
 3 first day and ~~four hundred~~ one thousand dollars per day for each additional day the
 4 court estimates the trial will last. Notice of the fixing of the deposit shall be served
 5 on all parties. If the deposit is not timely made, any other party shall have an
 6 additional ten days to make the required deposit. Failure to post the ~~cash~~ deposit
 7 shall constitute a waiver of a trial by jury. However, no ~~cash~~ deposit shall be required
 8 of an applicant for a jury trial under the provisions of this Article if waived or an
 9 order is rendered, pursuant to Chapter 5 of Title I of Book IX of the Code of Civil
 10 Procedure, permitting the applicant to litigate or continue to litigate without payment
 11 of costs in advance or furnishing security therefor.

12 B. The clerk of court ~~may~~ shall disburse funds from the ~~cash~~ deposit for
 13 payment of all or a part of the jury costs as such costs accrue. The clerk shall keep
 14 a record of funds disbursed ~~by him~~ from the ~~cash~~ deposit.

15 C. The court ~~may~~ shall require an additional ~~amount~~ deposit to be filed
 16 during the trial if the original amount of the ~~cash~~ deposit is insufficient to pay jury
 17 costs.

18 D. The funds disbursed from the ~~cash~~ deposit for payment of jury costs shall
 19 be assessed as costs of court.

20 E. After payment of all jury costs, any unexpended amounts remaining ~~in the~~
 21 ~~cash on~~ deposit shall be refunded by the clerk of court to the party or counsel filing
 22 the ~~cash~~ deposit.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Michael Bell.

SB 71 Original

DIGEST
 2021 Regular Session

Bernard

Present law (R.S. 13:3049) requires at the time of posting bond, the party praying for the jury must pay to the clerk of court the sum of \$150 as jury filing fees and prior to the commencement of the trial, the party praying for the jury must post a bond pursuant to C.C.P. Art. 1734 or deposit the amount ordered by the court pursuant to C.C.P. Art. 1734.1.

Proposed law requires that the party praying for the jury must pay to the clerk of court the sum of \$150 as jury filing fees at the time of requesting a jury trial and prior to the

commencement of the trial, the party praying for the jury must deposit the amount ordered by the court pursuant to C.C.P. Art. 1733.

Present law provides that if the trial exceeds the estimated number of days, the party praying for the jury must post an additional bond or make an additional deposit as ordered by the court.

Proposed law provides that if the trial exceeds the estimated number of days, the party praying for the jury must make an additional deposit as ordered by the court.

Present law provides that any deposit made in accordance with present law be returned to the party making such deposit and any bond filed shall be cancelled in the event that the matter in which trial by jury has been requested has been tried, settled, determined, or otherwise disposed of for any reason, without having been tried by a jury.

Proposed law retains present law and provides that any unexpended portion of a deposit shall be returned to the party or attorney making such deposit.

Present law (Art. 1733) authorizes a party to obtain a trial by jury by filing a pleading demanding a trial by jury and a bond in the amount and within the time set by the court pursuant to Article 1734.

Present law further provides that in a suit for damages arising from a delictual or quasi-delictual action where an individual petitioner stipulates or otherwise judicially admits that his cause of action exceeds \$10,000 and is less than \$50,000, a party may obtain a trial by jury by filing a pleading demanding a trial by jury and providing a cash deposit of \$5,000 no later than 60 days after filing the request for a trial by jury. Failure to post the cash deposit as required constitutes a waiver of the trial by jury, and the cash deposit shall be subject to Article 1734.1(E).

Proposed law deletes language relative to delictual or quasi-delictual actions and authorizes a party to obtain a trial by jury by filing a pleading demanding a trial by jury and within the time set by the court pursuant to Article 1734 and providing a cash deposit of \$5,000 no later than 60 days after filing the request for a trial by jury. Failure to post the cash deposit as required constitutes a waiver of the trial by jury, and the cash deposit shall be subject to Article 1734.1(E).

Present law (Art. 1734) provides generally that when the case has been set for trial, the court shall fix the amount of the bond to cover all costs related to the trial by jury and shall fix the time for filing the bond, which shall be no later than 60 days prior to trial. Notice of the fixing of the bond shall be served on all parties. If the bond is not filed timely, any other party shall have an additional 10 days to file the bond. When the bond has been filed, the clerk of court shall order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with law.

Proposed law provides generally that when the case has been set for trial, the court shall fix the amount of the deposit to cover all costs estimated by the clerk related to the trial by jury and shall fix the time for filing the deposit, which shall be no later than 60 days prior to trial. Notice of the fixing of the deposit shall be served on all parties. If the deposit is not filed timely, any other party shall have an additional 10 days to file the deposit. When the deposit has been filed, the clerk of court shall order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with law.

Present law (Art. 1734.1) provides that when the case has been set for trial, the court may order, in lieu of the bond required in Article 1734, a deposit for costs, which shall be a specific cash amount, and the court shall fix the time for making the deposit, which shall be no later than 30 days prior to trial. The required deposit shall not exceed \$2,000 for the first day and \$400 per day for each additional day the court estimates the trial will last.

Proposed law provides that when the case has been set for trial, the court shall order a deposit for costs, which shall be a specific amount estimated by the clerk, and the court shall fix the time for making the deposit, which shall be no later than 60 days prior to trial. The required deposit shall not exceed \$10,000 for the first day and \$1,000 per day for each additional day the court estimates the trial will last.

Present law provides that the clerk of court may disburse funds from the cash deposit for payment of all or a part of the jury costs as such costs accrue. The clerk shall keep a record of funds disbursed by him from the cash deposit. The court may require an additional amount to be filed during the trial if the original amount of the cash deposit is insufficient to pay jury costs. The funds disbursed from the cash deposit for payment of jury costs shall be assessed as costs of court. After payment of all jury costs, any unexpended amounts remaining in the cash deposit shall be refunded by the clerk of court to the party filing the cash deposit.

Proposed law provides that clerk of court shall disburse funds from the deposit for payment of all or part of the jury costs as such costs accrue. The clerk shall keep a record of funds disbursed from the deposit. The court shall require an additional deposit to be filed during the trial if the original amount of the deposit is insufficient to pay jury costs. The funds disbursed from the deposit for payment of jury costs shall be assessed as costs of court. After payment of all jury costs, any unexpended amounts remaining on deposit shall be refunded by the clerk of court to the party or counsel filing the deposit.

Effective August 1, 2021.

(Amends R.S. 13:3049(B)(2)(a) and (d), and C.C.P. Arts. 1733(A), 1734, and 1734.1)