

2021 Regular Session

HOUSE BILL NO. 406

BY REPRESENTATIVES BISHOP AND MAGEE

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 833, relative to the presence of  
3 the defendant; to provide relative to the presence of the defendant in misdemeanor  
4 prosecutions; to require the court to permit such defendants to be arraigned, enter  
5 pleas, or be tried in the absence of the defendant; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 833 is hereby amended and reenacted  
8 to read as follows:

9 Art. 833. Presence of defendant; misdemeanor prosecution

10 A. The court may permit a an unrepresented or pro se defendant charged  
11 with a misdemeanor to be arraigned, enter his plea of guilty, or be tried, in his  
12 absence.

13 B. A plea of not guilty of a misdemeanor ~~may always~~ shall be allowed to be  
14 entered through counsel and in the absence of the defendant of record and in the  
15 absence of the defendant by the filing of a sworn affidavit in advance of the  
16 scheduled arraignment date.

17 C. The sworn affidavit referenced in Paragraph B of this Article shall include  
18 the caption of the case and summons number, citation number or docket number as  
19 applicable, and state as follows:

20 **AFFIDAVIT ACCEPTING SERVICE AND**  
21 **WAIVER OF PRESENCE**

22  
23 BEFORE ME, the undersigned authority, did personally come and appear,  
24 (CLIENT'S NAME), who after being duly sworn did depose and say:

25 1.  
26 Affiant acknowledges that he is the defendant in the above captioned criminal  
27 matter; that he is aware of all charges pending against him in this matter and that he

1 has retained the services of \_\_\_\_\_ (ATTORNEY(S) or LAW FIRM) to  
2 represent him in these proceedings;

3 2.  
4 Affiant is aware that he is scheduled to be in court on the \_\_\_\_\_ day of  
5 \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock and that he has the right to be present on that day but  
6 expressly wishes to waive this right and to have his legal counsel appear on his  
7 behalf;

8 3.  
9 Affiant is aware that in his absence, additional court dates could be scheduled  
10 in these proceedings and he hereby appoints his above named legal counsel as his  
11 agent(s) to accept service of notice to appear for those dates on his behalf, that he  
12 accepts service of those dates through his counsel and that he expressly waives his  
13 appearance for those dates and authorizes his counsel to appear on his behalf;

14 4.  
15 Affiant understands that the court, in its sole discretion, may revoke its  
16 acceptance of this waiver and require that affiant personally appear in open court on  
17 subsequent court dates; that his counsel will also be notified; that a notice of  
18 appearance will be mailed to affiant at his address of record and that affiant's failure  
19 to appear at the subsequent court date could result in the issuance of an arrest  
20 warrant, a revocation of appearance bond and/or is punishable as contempt of court;

21 5.  
22 Finally, Affiant acknowledges that his current address is:  
23 \_\_\_\_\_ (Street, Apt/Lot No, City, State and Zip Code); and authorizes  
24 the court to use this address for all notices, unless changed in writing by affiant.

25 \_\_\_\_\_  
26 Affiant

27 SWORN TO AND SUBSCRIBED BEFORE ME, notary, this \_\_\_\_\_ day of  
28 \_\_\_\_\_, 20\_\_ .

29 \_\_\_\_\_  
30 NOTARY PUBLIC

31 P

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_