SLS 22RS-463

ORIGINAL

2022 Regular Session

SENATE BILL NO. 338

BY SENATOR JACKSON

CRIMINAL PROCEDURE. Provides relative to responsive verdicts. (8/1/22)

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Art. 814(C) and 815, relative to
3	responsive verdicts; to allow the court to exclude lesser-included offenses in
4	responsive verdicts upon motion of the defendant; to exclude the crime of
5	malfeasance in office from having a lesser-included responsive verdict; and to
6	provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Code of Criminal Procedure Article 814(C) and 815 are hereby amended
9	and reenacted to read as follows:
10	Art. 814. Responsive verdicts; in particular
11	* * *
12	C. (1) Upon motion of the state or the defendant, or on its own motion, the
13	court shall exclude a responsive verdict listed in Paragraph A if, after all the
14	evidence has been submitted, the evidence, viewed in a light most favorable to the
15	state, is not sufficient reasonably to permit a finding of guilty of the responsive
16	offense.
17	(2) Upon motion of the defendant, the court may exclude any or all lesser

Page 1 of 2 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

1	and included grades of an offense from the responsive verdicts charged in the
2	indictment.
3	* * *
4	Art. 815. Responsive verdicts; in general
5	A. Except as provided in Paragraph B of this Article, in In all cases not
6	provided for in Article 814, the following verdicts are responsive:
7	(1) Guilty;
8	(2) Guilty of a lesser and included grade of the offense even though the
9	offense charged is a felony, and the lesser offense a misdemeanor; or
10	(3) Not Guilty.
11	B. The following offense shall not have any responsive verdict other than
12	guilty:
13	(1) Malfeasance in Office (R.S. 14:134).

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

DIGEST

SB 338 Original

2022 Regular Session

Jackson

<u>Present law</u> provides that the court, upon motion of the state or the defendant, may exclude lesser-included offenses, after the evidence has been presented, in a light most favorable to the state, if there is insufficient evidence to reasonably permit a finding of guilt of the responsive offense.

<u>Proposed law</u> retains <u>present law</u> and adds that upon motion of the defendant, the court may exclude lesser-included offenses as responsive verdicts presented to the trier of fact on the charge in the indictment.

<u>Present law</u> provides for certain offenses to have responsive verdicts. <u>Present law</u> further provides that if the offense at issue is not listed in <u>present law</u>, the responsive verdicts include "guilty", "guilty of a lesser and included grade of the offense even though the offense charged is a felony and the lesser offense is a misdemeanor", or "not guilty".

<u>Proposed law</u> excludes the crime of malfeasance in office from having lesser-included responsive verdicts.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 814(C) and 815)