

2022 Regular Session

SENATE BILL NO. 338

BY SENATOR JACKSON

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

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 814(C) and 815, relative to responsive verdicts; to allow the court to exclude lesser-included offenses in responsive verdicts upon motion of the defendant; to exclude the crime of malfeasance in office from having a lesser-included responsive verdict; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 814(C) and 815 are hereby amended and reenacted to read as follows:

Art. 814. Responsive verdicts; in particular

\* \* \*

C.(1) Upon motion of the state or the defendant, or on its own motion, the court shall exclude a responsive verdict listed in Paragraph A if, after all the evidence has been submitted, the evidence, viewed in a light most favorable to the state, is not sufficient reasonably to permit a finding of guilty of the responsive offense.

(2) Upon motion of the defendant, the court may exclude any or all lesser

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).**

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

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DIGEST

SB 338 Engrossed

2022 Regular Session

Jackson

Present law 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.

Proposed law retains present law 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.

Present law provides for certain offenses to have responsive verdicts. Present law further provides that if the offense at issue is not listed in present law, 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".

Proposed law 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)