

2023 Regular Session

HOUSE BILL NO. 544

BY REPRESENTATIVE JORDAN

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

CIVIL/PROCEDURE: Provides relative to legislative continuances

1 AN ACT

2 To amend and reenact R.S. 13:4163(B), (C)(1)(c), (D)(2), (E)(1)(a) and (b), (F)(1), (G), and
3 (H)(2) and to enact R.S. 13:4163(C)(3), (E)(2)(c), and (H)(3), relative to civil
4 procedure; to provide for continuances or extensions of certain deadlines; to provide
5 relative to legislators or employees; to provide for judicial notice; to provide for
6 sanctions; to provide relative to grounds for continuance or extension; to provide for
7 deadlines; to provide relative to appeals and supervisory writs; to provide relative to
8 costs; to provide relative to judicial recusal; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 13:4163(B), (C)(1)(c), (D)(2), (E)(1)(a) and (b), (F)(1), (G), and
11 (H)(2) are hereby amended and reenacted and R.S. 13:4163(C)(3), (E)(2)(c), and (H)(3) are
12 hereby enacted to read as follows:

13 §4163. Ex parte motion for legislative continuance or extension of time; legislators
14 or employees engaged in legislative or constitutional convention activities

15 * * *

16 B. The peremptory grounds for continuance or extension is available to and
17 for the benefit of a member or legislative employee and may only be asserted or
18 waived by a member or employee. Any waiver of privilege by a member or
19 legislative employee shall be express and in writing.

1 C.(1) Such peremptory grounds are available for the continuance of any type
2 of proceeding and the extension of any type of deadline pertaining to a criminal case,
3 civil case, or administrative proceeding, if the presence, participation, or
4 involvement of a member or employee is required in any capacity, including any
5 pretrial or post-trial legal proceeding, during:

6 * * *

7 (c) Any time other than those provided in Subparagraph (a) or (b) of this
8 Paragraph when such person is engaged in activities, including travel, in connection
9 with or ordered by: (i) the legislature; (ii) any legislative committee or subcommittee
10 appointed by the president of the Senate or the speaker of the House of
11 Representatives; (iii) any committee or commission appointed by the governor or
12 other person authorized to make such appointments; ~~or~~ (iv) any constitutional
13 convention or commission; or (v) the role of the legislator or duty to the constituents
14 for which the legislator is eligible to receive a per diem.

15 * * *

16 (3) Notwithstanding any law to the contrary, the court shall take judicial
17 notice any time the legislature or any legislative committee, task force, special or
18 select committee, commission, or subcommittee convenes, and the member or
19 employee is required to attend.

20 D.

21 * * *

22 (2)(a) A motion for legislative continuance or extension shall be filed at no
23 cost to a member, employee, or a client of a member or employee.

24 (b) If a party or attorney opposes a motion for continuance or extension,
25 upon motion of any party or upon its own motion, the court shall award attorney fees
26 of not less than one thousand dollars and court costs payable to the member or
27 employee by the party or attorney who opposed a motion for legislative continuance
28 or extension. The attorney who opposes a motion for continuance or extension

1 pursuant to this Section shall also be subject to sanctions pursuant to Code of Civil
2 Procedure Article 863 by the judge presiding at the time of the motions.

3 E.(1)(a) If the grounds for a legislative continuance or extension are founded
4 upon the convening of a regular or veto legislative session or a constitutional
5 convention, the motion for legislative continuance or extension shall be timely if
6 filed no later than five calendar days prior to the hearing or proceeding to be
7 continued.

8 (b)(i) If the grounds for a legislative continuance or extension are founded
9 upon any provision of Subparagraph (C)(1)(c) of this Section or upon the issuance
10 of a call for an extraordinary session of the legislature, the motion for legislative
11 continuance or extension shall be timely if filed no later than five calendar days prior
12 to the hearing or proceeding to be continued or no later than two days following the
13 issuance of the notice of the meeting or of the call for the extraordinary legislative
14 session, which ever occurs last.

15 (ii) If the grounds for continuance or extension are founded upon any
16 provision of Subparagraph (C)(1)(c) of this Section and the member or employee is
17 unable to comply with the notice requirements of this Paragraph, the member or
18 employee shall give notice at the earliest time practicable prior to the hearing or
19 proceeding to be continued.

20 * * *

21 (2)

22 * * *

23 (c) If the legal deadline has run, a motion to continue or extend a legal
24 deadline shall be timely if filed within five days prior to a hearing or proceeding on
25 a motion for sanctions or penalties brought by opposing counsel for the failure of the
26 member or employee to comply with the legal deadline.

1 F.(1) The provisions of this Section shall not apply to ~~cases in the Supreme~~
2 ~~Court of Louisiana~~; criminal cases where the death penalty is sought, and
3 administrative rulemaking authorized by R.S. 49:961.

4 * * *

5 G.(1) Any action taken against a person, including any sanction imposed on
6 an attorney, who has filed a motion for legislative continuance or extension and
7 which results from the failure of such person or attorney to appear or comply with
8 an order of the court or agency or any deadline shall be considered an absolute
9 nullity and shall be set aside by the court or agency upon the filing of a motion by
10 the aggrieved person or attorney.

11 (2) Any action taken against a person who has filed a motion for continuance
12 or extension which resulted from or relates back to a misapplication of this Section
13 shall be considered an absolute nullity and shall be set aside by a court or agency
14 upon the filing of a motion by the aggrieved person or attorney, at no cost to a
15 member, employee, or client of a member or employee.

16 H.

17 * * *

18 (2) If a motion filed pursuant to Subsection G of this Section is denied, such
19 denial ~~shall be an appealable order~~ may be appealed to or a supervisory writ may be
20 filed with the supreme court or courts of appeal. An appeal or application of
21 supervisory writ shall be filed at no cost to a member, employee, or client of a
22 member or employee.

23 (3) Notwithstanding, denial of a motion filed pursuant to Subsection G of
24 this Section shall result in a recusal if so requested by the member or legislative
25 employee.

26 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 544 Original

2023 Regular Session

Jordan

Abstract: Provides relative to legislative continuances and extensions of time in court proceedings.

Present law provides for ex parte motions for legislative continuances or extension of time for legislators and legislative employees.

Present law (R.S. 13:4163(B)) provides that preemptory grounds for continuance or extension may only be asserted or waived by a member or employee.

Proposed law retains present law and provides that any waiver of privilege shall be express and in writing.

Present law (R.S. 13:4163(C)) provides that such preemptory grounds as provided in present law shall be available in the following times:

- (1) Any time between 30 days prior to the original call of order and 30 days following adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to the convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when the person is engaged in activities connected to or ordered by the legislature, any legislative committee or subcommittee, any committee or convention appointed by the governor or other authorized person, or any constitutional convention or commission.

Proposed law expands present law and provides that the preemptory grounds are available when such person is engaged in activities in connection with the legislator's role as legislator or duty to the constituents for which the legislator is eligible to receive a per diem.

Proposed law provides that the court shall take judicial notice any time the legislature or any legislative committee, task force, special select committee, commission, or subcommittee convenes, and the member or employee is required to attend.

Present law (R.S. 13:4163(D)(2)) provides that a motion for legislative continuance or extension shall be filed at no cost to the member, employee, or a member or employee's client.

Proposed law retains present law and provides that if a party or attorney opposes a motion for continuance or extension, the court shall award attorney fees of at least \$1,000 and court costs to the member or employee. The attorney who opposes a motion for continuance or extension shall also be subject to sanctions pursuant to C.C.P. Art. 863 by the judge presiding at the time of the motions.

Present law (C.C.P. Art. 863) provides that the signature of an attorney or party on a pleading constitutes a certification by the attorney or party that they have read the pleading and to the best of their knowledge, information, and belief formed after reasonable inquiry, the attorney or party certifies all of the following:

- (1) The pleading is not being presented for any improper purpose.
- (2) Each claim, defense, or other legal assertion in the pleading is warranted.
- (3) Each allegation or other factual assertion has evidentiary support or is likely to have evidentiary support.
- (4) Each denial in the pleading is warranted by evidence or reasonably based on a lack of information or belief.

Present law provides that if the court determines that a certification has been made in violation of present law the court shall impose an appropriate sanction.

Present law (R.S. 13:4163(E)(1)) provides if the grounds for a legislative continuance or extension are founded upon the convening of a regular legislative session or constitutional convention, the motion shall be timely if filed no later than five calendar days prior to the hearing to be continued.

Proposed law retains present law and adds veto legislative sessions, and, if the grounds for continuance or extension or founded upon legislative activities and the member or employee is unable to comply with the notice requirements, the member or employee shall give notice at the earliest time practicable prior to the hearing or proceeding to be continued.

Present law (R.S. 13:4163)(E)(2)) provides that within 72 hours of the filing for a motion for a legislative continuance or extension, the court shall grant the continuance or extension ex parte.

Proposed law retain present law but provides that if a legal deadline has run, a motion to continue or extend a legal deadline shall be timely if filed within five days prior to a hearing or proceedings on a motion for sanctions or penalty brought by opposing counsel for the failure of the member or employee to comply with the legal deadline.

Present law (R.S. 13:4163(F)) provides that present law shall not apply to cases in the supreme court, criminal cases where the death penalty is sought, and administrative rulemaking.

Proposed law changes present law and permits the legislative continuance or extension to be used in cases in the supreme court.

Present law (R.S. 13:4163(G)) provides that actions taken against a person who has filed a motion for legislative continuance or extension and resulting from such person or attorney to appear or comply with the court shall be an absolute nullity and set aside by the court upon a filing of a motion by the aggrieved person or attorney.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law shall be considered an absolute nullity and shall be set aside by the court at no cost to the member, employee, or member or employee's client.

Present law (R.S. 13:4163(H)) provides that any person who has filed a motion for legislative continuance or extension which has been denied or not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs.

Proposed law retains present law and provides that actions taken against a person who has filed for continuance or extension which resulted from or relates back to a misapplication of proposed law may be appealed to or a supervisory writ may be filed with the supreme court or courts of appeal at no cost to a member, employee, or member or employee's client.

Proposed law provides that a denial of a motion filed pursuant to present law shall result in a recusal of the judge or presiding officer if so requested by the member or legislative employee.

(Amends R.S. 13:4163(B), (C)(1)(c), (D)(2), (E)(1)(a) and (b), (F)(1), (G), and (H)(2); Adds R.S. 13:4163(C)(3), (E)(2)(c), and (H)(3))