

2024 Second Extraordinary Session

HOUSE BILL NO. 1

BY REPRESENTATIVES BACALA, HORTON, AND MIKE JOHNSON

CRIMINAL/JUSTICE: Creates the Truth and Transparency in the Louisiana Criminal Justice System Program (Item #5)

1 AN ACT

2 To enact Chapter 43 of Title 13 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 13:5991 through 5993, and Children's Code Article 412(N), relative to access
4 to criminal justice records; to establish the Truth and Transparency in the Louisiana
5 Criminal Justice System Program; to provide relative to the identification of minute
6 entries; to provide relative to access of minute entries; to require the transmission to
7 the online portal maintained by the Louisiana Clerks' Remote Access Authority; to
8 provide relative to duties and obligations; to provide relative to immunity from suit;
9 to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 43 of Title 13 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 13:5991 through 5993 is hereby enacted to read as follows:

13 CHAPTER 43. TRUTH AND TRANSPARENCY

14 IN THE LOUISIANA CRIMINAL JUSTICE SYSTEM PROGRAM

15 §5991. Legislative findings; intent

16 A. The legislature recognizes that the optimal functioning of the Louisiana
17 criminal justice system is vital to the safety, prosperity, and well-being of Louisiana
18 and its citizens. The legislature also recognizes that a fundamental requirement for

1 the proper functioning of the Louisiana criminal justice system is the ability to view,
2 review, and analyze the various documents, records, and databases evidencing the
3 actions, decisions, and events occurring within our criminal justice system. Louisiana
4 citizens, victims, and defendants should be able to readily find, access, and review
5 these documents, records, and databases for relevant, timely information on matters
6 pertinent to them and their communities. In addition, members of the legislature and
7 other relevant stakeholders must have the ability to access and review the current and
8 past actions, decisions, and events occurring within the criminal justice system in
9 order to make educated, informed decisions regarding the current operation of the
10 system and any necessary improvements or reforms.

11 B. It is therefore the intent of the legislature to provide for a program
12 designed to promote transparency within the Louisiana criminal justice system by
13 providing readily available and consistent access to minute entries evidencing the
14 actions, decisions, and events occurring within our criminal justice system.

15 §5992. Truth and Transparency in the Louisiana Criminal Justice System Program;
16 creation, authority, and duties

17 A. The Truth and Transparency in the Louisiana Criminal Justice System
18 Program is hereby established under this Chapter.

19 B. For purposes of this program, each district clerk of court shall have the
20 following duties and obligations:

21 (1) Each district clerk of court responsible for maintaining criminal records
22 shall provide the public electronic access to all minute entries as defined in
23 Subsection C of this Section, or summary thereof, involving any and all matters in
24 criminal court for any case filed on or after January 1, 2020, by transmission to the
25 online portal maintained by the Louisiana Clerks' Remote Access Authority pursuant
26 to R.S. 13:754. No other records or images, other than the minute entries or
27 summary thereof, are required to be transmitted in accordance with this Section. The
28 provisions of this Paragraph shall not apply to traffic violations.

1 (2)(a) Notwithstanding any other provision of law to the contrary, including
2 but not limited to Children's Code Article 412, each district clerk of court and the
3 clerk of the Juvenile Court for the Parish of Orleans as defined in R.S. 13:1587.1
4 who is responsible for juvenile court records shall transmit to the online portal
5 maintained by the Louisiana Clerks' Remote Access Authority pursuant to R.S.
6 13:754 all minute entries as defined in Subsection C of this Section, or summary
7 thereof, involving any and all cases involving juveniles accused of committing a
8 crime of violence as defined in R.S. 14:2(B) and cases involving offenses committed
9 by juveniles that are deemed open to the public pursuant to Children's Code Article
10 879(B)(1). Such cases and records shall remain open to the public thereafter unless
11 sealed by a court of competent jurisdiction or unless and until such record is
12 expunged. No other records or images, other than the minute entries or summary
13 thereof, are required to be transmitted in accordance with this Section.

14 (b) The provisions of this Paragraph shall be applicable only to cases filed
15 on or after January 1, 2024.

16 C. For purposes of this Section, the term "minute entries" shall include but
17 not be limited to the following, if provided to the clerk of court:

18 (1) Any information provided to the clerk of court regarding arrest or
19 summons information relative to the defendant.

20 (2) Any custody or bail decisions.

21 (3) The filing, amendment, or dismissal of criminal charges.

22 (4) Hearings on all motions or status conferences held in the matter.

23 (5) Trial or adjudication proceedings.

24 (6) Court or jury decisions on guilt or adjudication.

25 (7) Any sentencing hearings, including the specific sentence or sentences
26 imposed on each count or adjudication.

27 (8) The date of the court proceeding.

28 (9) Identity of the judge presiding.

29 (10) Identity of the prosecutor present.

1 (11) Identity of the defendant.

2 D. Notwithstanding any provision of law to the contrary, the clerks of court
3 and their employees and agents, the Louisiana Clerks' Remote Access Authority,
4 including its board members, employees, and agents, and any other state or local
5 entity or political subdivision that is responsible for providing information to the
6 clerks of court shall be immune from liability arising from any acts or omissions
7 related to compliance with the provisions of this Section. The provisions of this
8 Section shall not be construed to limit, withdraw, or overturn any other applicable
9 defense or immunity available to public officials or public entities.

10 §5993. Truth and Transparency in the Louisiana Criminal Justice System Program;
11 effective date; implementation

12 A. Except as provided in Subsection B of this Section, all duties and
13 obligations set forth in this Chapter shall become effective and enforceable on March
14 1, 2024.

15 B. On or before August 1, 2024, the Louisiana Clerks' Remote Access
16 Authority, or its duly authorized representative, shall submit a written report to the
17 speaker of the House of Representatives, the president of the Senate, and the
18 governor, which sets forth all of the following:

19 (1) Specific information detailing the progress made by it and the clerks of
20 court towards compliance with the duties and obligations set forth in this Chapter.

21 (2) Specific information detailing any anticipated work to be completed to
22 meet the duties and obligations set forth in this Chapter.

23 (3) Specific information detailing any anticipated dates that all remaining
24 clerks of court are expected to be able to meet pursuant to the duties and obligations
25 set forth in this Chapter.

26 C. Such written report shall be required to be submitted by the Louisiana
27 Clerks' Remote Access Authority, or its duly authorized representative at least every
28 one hundred and twenty days thereafter until such time as all clerks of court achieve
29 compliance with the duties and obligations of this Chapter.

1 Section 2. Children's Code Article 412(N) is hereby enacted to read as follows:

2 Art. 412. Confidentiality of records; disclosure exceptions; sanctions

3 * * *

4 N. This Article shall not apply to records relative to any matters identified
5 in Subparagraph (B)(1) of Children's Code Article 879, in which those records and
6 reports shall be made available to the public. Records and reports pertaining to the
7 medical records of the juvenile, the mental health of the juvenile, social records of
8 the juvenile, school records of the juvenile, and any records related to the victim of
9 the crime shall not be made available to the public.

10 Section 3. The provisions of this Act shall become effective on March 1, 2024.

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 1 Engrossed 2024 Second Extraordinary Session Bacala

Abstract: Creates the Truth and Transparency in the La. Criminal Justice System Program and provides for certain duties and obligations of clerks of court.

Proposed law provides for a statement of legislative intent.

Proposed law creates the Truth and Transparency in the La. Criminal Justice System Program.

Proposed law requires each district clerk of court responsible for maintaining criminal records to provide the public electronic access to all minute entries, or summaries thereof, involving any and all matters in criminal court for any case filed on or after Jan. 1, 2020, by transmission to the online portal maintained by the La. Clerks' Remote Access Authority pursuant to present law (R.S. 13:754).

Proposed law provides that no other records or images, other than the minute entries or summary thereof, are required to be transmitted in accordance with proposed law.

Proposed law does not apply to traffic violations.

Proposed law provides that each district clerk of court and the clerk of the Juvenile Court for the Parish of Orleans who is responsible for juvenile court records shall transmit to the online portal maintained by the La. Clerks' Remote Access Authority all minute entries, or summary thereof, involving any and all cases as follows:

- (1) Juveniles accused of committing a crime of violence as defined in present law (R.S. 14:2(B)).
- (2) Offenses committed by juveniles that are deemed open to the public pursuant to present law (Ch.C. Art. 879(B)(1)).

Proposed law provides that no other records or images, other than the minute entries or summary thereof, are required to be transmitted in accordance with proposed law.

Proposed law shall be applicable only to cases filed on or after Jan. 1, 2024.

Proposed law provides that the term "minute entries" includes but is not limited to the following, if provided to the clerk of court:

- (1) Any information available regarding arrest or summons information relative to the defendant.
- (2) Any custody or bail decisions.
- (3) The filing, amendment, or dismissal of criminal charges.
- (4) Hearings on all motions or status conferences held in the matter.
- (5) Trial or adjudication proceedings.
- (6) Court or jury decisions on guilt or adjudication.
- (7) Any sentencing hearings, including the specific sentence or sentences imposed on each count or adjudication.
- (8) The date of the court proceeding.
- (9) Identity of the judge presiding.
- (10) Identity of the prosecutor present.
- (11) Identity of the defendant.

Proposed law provides that the clerks of court and their employees and agents, the La. Clerks' Remote Access Authority, including its board members, employees, and agents, and any other state or local entity or political subdivision that is responsible for providing information to the clerks of court shall be immune from liability arising from any acts or omissions related to compliance with the provisions of proposed law. Further provides that proposed law shall not be construed to limit, withdraw, or overturn any other applicable defense or immunity available to public officials or public entities.

Proposed law provides that all duties and obligations of proposed law shall become effective and enforceable on March 1, 2024.

Proposed law provides that on or before Aug. 1, 2024, the La. Clerks' Remote Access Authority, or its duly authorized representative, shall submit a written report to the speaker of the House of Representatives, the president of the Senate, and the governor, which sets forth all of the following:

- (1) Specific information detailing the progress made by it and the clerks of court towards compliance with the duties and obligations set forth in proposed law.
- (2) Specific information detailing any anticipated work to be completed to meet the duties and obligations set forth in proposed law.
- (3) Specific information detailing any anticipated dates that all remaining clerks of court are expected to be able to meet pursuant to the duties and obligations set forth in proposed law.

Proposed law provides that such written report shall be required to be submitted by the La. Clerks' Remote Access Authority, or its duly authorized representative at least every 120 days thereafter until such time as all clerks of court achieve compliance with the duties and obligations of proposed law.

Present law (Ch.C. Art. 412) relative to confidentiality of juvenile records, provides that records and reports concerning all matters or proceedings before the juvenile court, except traffic violations, are confidential and shall not be disclosed except as expressly authorized by present law.

Proposed law (Ch.C. Art. 412(N)) provides that records and reports in juvenile delinquency cases involving a crime of violence or a delinquent act which is a second or subsequent felony-grade adjudication shall be made available to the public. Further provides that records and reports pertaining to the medical records of the juvenile, the mental health of the juvenile, social records of the juvenile, school records of the juvenile, and any records related to the victim of the crime shall not be made available to the public.

Effective March 1, 2024.

(Adds R.S. 13:5991-5993 and Ch.C. Art. 412(N))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Provide that any and all matters in criminal courts for any case filed on or after Jan. 1, 2020, shall be transmitted to the online portal maintained by the La. Clerks' Remote Access Authority.
3. Include the clerk of the Juvenile Court for the Parish of Orleans as an entity responsible for the transmission of juvenile court records.
4. Provide that all minute entries of certain juvenile records shall be transmitted to the online portal maintained by the La. Clerks' Remote Access Authority rather than the Dept. of the Justice.
5. Provide that the minute entries to be transmitted to the online portal maintained by the La. Clerks' Remote Access Authority shall consist of any cases filed on or after Jan. 1, 2024, that involve any of the following:
 - (a) Any juvenile accused of committing a crime of violence.
 - (b) Any offense committed by a juvenile where the proceeding is open to the public pursuant to present law.
6. Provide that certain juvenile cases and records shall remain open to the public unless sealed by a court of competent jurisdiction or until such record is expunged.
7. Exempt from liability the La. Clerks' Remote Access Authority, including its board members, employees, and agents along with any other state, local entity, or political subdivision that is responsible for providing information to the clerks of court.

8. Remove proposed law relative to Dept. of Justice's establishment of a publicly accessible website or online portal that provides public access to the minute entries and information of certain juvenile proceedings.
9. Change the effective date relative to the enforceability of the duties and obligations set forth in proposed law from 120 days after proposed law becomes effective to March 1, 2024.
10. Relative to the obligations of the La. Clerks' Remote Access Authority, or its duly authorized representative, provide that on or before Aug. 1, 2024, a written report is to be submitted to the speaker of the House of Representatives, the president of the Senate, and the governor with the following specific information:
 - (a) Details regarding the progress made by the Authority and the clerks of court towards compliance with the duties and obligations set forth in proposed law.
 - (b) Details regarding any anticipated work to be completed to meet the duties and obligations set forth in proposed law.
 - (c) Details regarding any anticipated dates that all remaining clerks of court are expected to be able to meet pursuant to the duties and obligations set forth in proposed law.
11. Require the La. Clerks' Remote Access Authority, or its duly authorized representative, to submit the written report at least every 120 days thereafter until all clerks of court achieve compliance with the duties and obligations of proposed law.
12. Change the effective date from May 1, 2024, to March 1, 2024.
13. Remove the identity of defense counsel, if counsel is present, from the minute entries that are required to be disclosed pursuant to proposed law.