

2024 Regular Session

HOUSE BILL NO. 230

BY REPRESENTATIVE HILFERTY

CRIMINAL/PROCEDURE: Provides relative to changes for post conviction relief procedures

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 582, relative to post conviction
3 relief; to provide with respect to time limitations for commencing a new trial once
4 a mistrial has been declared or a defendant obtains a new trial; to specify that a new
5 trial may be obtained through a motion for new trial, appeal, post conviction relief,
6 or any other mechanism provided in state or federal law; to provide that the time
7 delays apply to all of those circumstances; to provide that if the state seeks review
8 of the granting of the new trial, time limitations do not commence to run until the
9 judgment granting the new trial has become final by the state exhausting all avenues
10 of appeal and review; to provide for an effective date; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Code of Criminal Procedure Article 582 is hereby amended and reenacted
14 to read as follows:

15 Art. 582. Time limitations; effect of new trial

16 A. When a defendant obtains a new trial through a motion for new trial,
17 appeal, post conviction relief, or any other mechanism provided in state or federal
18 law, or when there is a mistrial, the state ~~must~~ shall commence the second trial
19 within one year from the date the new trial is granted, or the mistrial is ordered, or
20 within the period established by Article 578, whichever is longer.

1 B. If the state seeks review of the granting of the new trial, the period of
2 limitations in this Article shall not commence to run until the judgment granting the
3 new trial has become final by the state exhausting all avenues of review in the
4 appropriate appellate courts, including the Louisiana Supreme Court.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

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 230 Engrossed

2024 Regular Session

Hilferty

Abstract: Provides with respect to time delays for granting a new trial.

Present law provides that when a defendant obtains a new trial or there is a mistrial, the state must commence the second trial within one year from the date the new trial is granted, or the mistrial is ordered, or as otherwise provided for in present law.

Proposed law retains those provisions of present law and further provides that the granting of the new trial can be through a motion for new trial, appeal, post conviction relief, or any other mechanism provided in state or federal law.

Proposed law further provides that if the state seeks review of the granting of the new trial, the period of limitations shall not commence to run until the judgment granting the new trial has become final by the state exhausting all avenues of review in the appropriate appellate courts, including the Louisiana Supreme Court.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art. 582)