

2024 Regular Session

HOUSE BILL NO. 497

BY REPRESENTATIVE FONTENOT

BAIL: Provides relative to constructive surrender

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 311(4)(c), relative to constructive
3 surrender; to provide for the payment of certain costs; and to provide for related
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 311(4)(c) is hereby amended and
7 reenacted to read as follows:

8 Art. 311. Definitions

9 For the purpose of this Title, the following definitions shall apply:

10 * * *

11 (4) A constructive surrender is the detention of the defendant in another
12 parish of the state of Louisiana or a foreign jurisdiction under the following
13 circumstances:

14 * * *

15 (c) The surety ~~has paid~~ agrees to pay reasonable or actual costs of returning
16 the defendant to the jurisdiction where the warrant for arrest was issued ~~by one of the~~
17 ~~following methods:~~ .If the surety fails to pay a set amount of the reasonable or actual
18 costs, the recovery shall be through a summary proceeding against both the principal
19 and the surety, as provided in Code of Civil Procedure Article 2592(4).

20 (i) ~~Upon presentation of proof of the defendant's current incarceration in a~~
21 ~~foreign jurisdiction to the officer originally charged with the defendant's detention,~~
22 ~~the officer shall provide the surety with the reasonable or actual costs of returning~~

1 ~~the defendant to the jurisdiction where the warrant for arrest was issued when the~~
2 ~~costs are immediately known or can be estimated.~~

3 ~~(ii) The surety tenders to the officer originally charged with the defendant's~~
4 ~~detention the reasonable or actual costs of returning the defendant to the jurisdiction~~
5 ~~where the warrant for arrest was issued.~~

6 ~~(iii) The surety provides proof of payment to the court and to the prosecuting~~
7 ~~attorney.~~

8 ~~(iv)(aa) In cases where the reasonable or actual costs of returning the~~
9 ~~defendant to the jurisdiction where the warrant for arrest was issued are not~~
10 ~~immediately known, the officer originally charged with the defendant's detention~~
11 ~~shall accept the surety's tender of reasonable costs as provided in R.S. 13:5535 for~~
12 ~~in-state transfers or for estimated costs for out-of-state transfers.~~

13 ~~(bb) The surety shall provide proof of payment to the court and the~~
14 ~~prosecuting attorney.~~

15 ~~(cc) If the actual costs of returning the defendant to the jurisdiction where~~
16 ~~the warrant for arrest was issued are more than the estimated costs tendered by the~~
17 ~~surety, the officer originally charged with the defendant's detention may file a rule~~
18 ~~to show cause with the court to recover the difference.~~

19 * * *

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 497 Engrossed 2024 Regular Session Fontenot

Abstract: Provides relative to the conditions of constructive surrender.

Present law provides the instances when a constructive surrender occurs.

Present law provides that a constructive surrender occurs when a surety has paid reasonable or actual costs pursuant to present law for the return of the defendant to the jurisdiction where the arrest warrant was issued.

Proposed law changes present law by providing that a surety's agreement to pay is a constructive surrender as opposed to the actual payment of reasonable or actual costs of returning the defendant.

Proposed law provides that if the surety fails to pay a set amount of the reasonable or actual costs, the recovery shall be through a summary proceeding against both the principal and the surety, as provided in present law (C.C.P. Art. 2592(4)).

(Amends C.Cr.P. Art. 311(4)(c))

Summary of Amendments Adopted by House

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

1. Provide for a summary proceeding against both the principal and the surety in accordance with present law to recover reasonable or actual costs if the surety fails to pay a set amount of the reasonable or actual costs.