

2024 Third Extraordinary Session

SENATE BILL NO. 7

BY SENATOR LUNEAU

LEGISLATORS. Provides for legislative continuances and extensions of time for legislators and legislative employees. (Item #20) (gov sig)

1 AN ACT

2 To amend and reenact R.S. 13:4163, relative to legislative continuance or extension for
3 legislators and legislative employees; to provide for motions involving legislative
4 continuance or extension; to provide a presumption that a motion is proper; to
5 provide for oppositions to a motion for continuance or extension; to provide for
6 proof of opposition to a motion by clear and convincing proof; to provide for denial
7 of a motion for continuance or extension; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 13:4163 is hereby amended and reenacted to read as follows:

10 §4163. Ex parte motion for legislative continuance or extension of time, legislators
11 or employees engaged in legislative or constitutional convention
12 activities

13 A.(1) A member of the legislature and a legislative employee ~~shall have~~
14 ~~peremptory grounds for~~ **may seek a** continuance or extension of a criminal case,
15 civil case, or administrative proceeding as provided below. The continuance or
16 extension shall be sought by written motion specifically alleging these grounds.

17 **There shall be a presumption that a motion for continuance sought pursuant to**

1 this Section is proper and shall be granted unless there is proof sufficient to
2 overcome the presumption.

3 (2) For purposes of this Section, "legislative employee" means the clerk of
4 the House of Representative **Representatives**, the secretary of the Senate, and an
5 employee of the House of Representatives, the Senate, or the Legislative Bureau,
6 when such person is employed full-time during the legislative session or during any
7 other time in which the continuance or extension is being sought.

8 B. ~~The preemptory grounds for~~ **A motion for** continuance or extension
9 **pursuant to this Section** is available to and for the benefit of a member or
10 legislative employee and may only be asserted or waived by a member or employee.

11 C.(1) ~~Such preemptory grounds are available~~ **A motion** for the continuance
12 of any type of proceeding and the extension of any type of deadline pertaining to a
13 criminal case, civil case, or administrative proceeding, if the presence, participation,
14 or involvement of a member or employee is required in any capacity, including any
15 pretrial or post-trial legal proceeding, ~~during~~ **may be sought by a member or**
16 **employee pursuant to this Section during any of the following:**

17 (a) Any time between thirty days prior to the original call to order and thirty
18 days following the adjournment sine die of any session of the legislature.

19 (b) Any time between thirty days prior to convening and thirty days following
20 adjournment sine die of any constitutional convention.

21 (c) Any time other than those provided in Subparagraph (a) or (b) of this
22 Paragraph when such person is engaged in activities, including travel, in connection
23 with or ordered by: (i) the legislature; (ii) any legislative committee or subcommittee
24 appointed by the president of the Senate or the speaker of the House of
25 Representatives; (iii) any committee or commission appointed by the governor or
26 other person authorized to make such appointments; or (iv) any constitutional
27 convention or commission.

28 (2) ~~Such preemptory~~ **These** grounds are available to any member or
29 employee enrolled as counsel of record when his participation is required. The

1 availability of other counsel to assume the duties or responsibilities of counsel
2 invoking the continuance or extension does not ~~negate the preemptory nature of his~~
3 **motion overcome the presumption that the motion is proper.**

4 D.(1) A motion for legislative continuance or extension filed by a legislative
5 employee shall be accompanied by an affidavit, verifying such employment or
6 service, executed by the presiding officer or the clerk or secretary of the respective
7 house.

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

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

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

21 (c) The provisions of this Paragraph shall not be applied so as to ~~impede the~~
22 **preemptory nature of rebut the presumption provided for in** this Section.

23 (2) Within seventy-two hours of the filing of a motion for a legislative
24 continuance or extension, the court or agency shall grant the continuance or
25 extension ex parte as follows **unless another party has filed a motion to oppose**
26 **a continuance sought on the grounds provided for in this Section. A legislative**
27 **continuance or extension shall be granted unless there is clear and convincing**
28 **proof of either of the following:**

29 **(a) The motion is being presented for an improper purpose, such as to**

1 harass, cause unnecessary delay, or needlessly increase the cost of litigation.

2 (b) The objecting party has a substantial existing right or interest that
 3 will be defeated or abridged and will suffer substantial and immediate
 4 irreparable harm if the requested continuance is granted.

5 F. The court may grant the motion ex parte or grant a hearing on a
 6 motion to oppose the continuance. If a hearing is granted, it shall be conducted
 7 by telephone, or other electronic means within forty-eight hours of the filing of
 8 the motion to oppose.

9 G.(1)(a) If the grounds for the motion are pursuant to Subparagraph (C)(1)(a)
 10 or (b) of this Section; **and** the continuance or extension **is granted, it** shall be
 11 granted for a period of not less than ~~sixty~~ **thirty** days from the date of adjournment
 12 sine die of the session of the legislature or of the constitutional convention.

13 ~~(b)(2)~~ If the grounds for the motion are pursuant to Subparagraph (C)(1)(c)
 14 of this Section, the continuance or extension shall be granted for the day or days the
 15 member or employee is engaged in such activities.

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

19 (2) The provisions of this Section shall not apply to cases and proceedings
 20 wherein a member or employee is called as a witness, in which instances the
 21 provisions of R.S. 13:3667.1 and 3667.3 shall apply.

22 ~~G. Any action taken against a person, including any sanction imposed on an~~
 23 ~~attorney, who has filed a motion for legislative continuance or extension and which~~
 24 ~~results from the failure of such person or attorney to appear or comply with an order~~
 25 ~~of the court or agency or any deadline shall be considered an absolute nullity and~~
 26 ~~shall be set aside by the court or agency upon the filing of a motion by the aggrieved~~
 27 ~~person or attorney.~~

28 ~~H.(1) Any person or attorney who has filed a motion for legislative~~
 29 ~~continuance or extension which has been denied or which has not been granted~~

1 ~~within seventy-two hours of filing may apply directly to the Supreme Court of~~
2 ~~Louisiana for supervisory writs to review the action or inaction of the court or~~
3 ~~agency where the motion was filed.~~

4 (2) ~~If a motion filed pursuant to Subsection G of this Section is denied, such~~
5 ~~denial shall be an appealable order.~~

6 I.(1) For sufficient cause shown, the court shall consider a motion for
7 legislative continuance or extension at any time prior to the hearing or proceeding.

8 (2) The motion for a legislative continuance **or extension** may be filed by
9 electronic means such as facsimile transmission or electronic mail, or any other
10 means authorized by law, provided that the mover shall provide all opposing counsel
11 or parties with a copy of the motion, simultaneously with the transmission of the
12 motion to the court.

13 **(3) If seeking a continuance or extension of a court proceeding or**
14 **deadline occurring outside the time frame of a legislative session or**
15 **constitutional convention, a member of the legislature or legislative employee**
16 **that is a party or an attorney for a party to an action may obtain a legislative**
17 **continuance upon a showing of good cause. A showing, accompanied by an**
18 **affidavit executed in accordance with Paragraph (D)(1) of this Section, that the**
19 **member or employee is required to attend an interim committee hearing or**
20 **other official legislative function and that the presence of the member or**
21 **employee in court is necessary and essential to a fair and proper trial or other**
22 **proceeding in the suit may be considered good cause.**

23 **(4)(a) A court denying a properly filed motion for a legislative**
24 **continuance or extension shall assign specific reasons for the denial. Any person**
25 **or attorney who has filed a motion for legislative continuance or extension that**
26 **has been denied may apply directly to the supreme court for supervisory writs**
27 **to review the action or inaction of the court where the motion is filed.**

28 **(b) If the supreme court affirms the lower court's denial of a motion for**
29 **a legislative continuance or extension based on Paragraph (E)(2) of this Section,**

1 the supreme court may exercise its jurisdiction of disciplinary proceedings
2 against the member of the legislature or legislative employee whose motion was
3 denied or refer the matter to the office of disciplinary counsel.

4 J. The provisions of this Section shall not apply to proceedings wherein
5 a temporary restraining order, protective order, preliminary injunction,
6 permanent injunction, court-approved consent agreement resulting from an
7 action brought, or order issued pursuant to any of the following:

8 (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S.
9 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et
10 seq., Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant
11 to Code of Criminal Procedure Article 30(B).

12 (2) Code of Criminal Procedure, including Article 871.1, regarding the
13 disposition and sentence of a criminal matter.

14 (3) R.S. 46:1846 to prohibit communications between offenders and
15 victims following a charge or after sentencing for any crime of violence.

16 (4) R.S. 15:574.4.2(A)(5) as condition of a parole release that requires
17 that the parolee stay away from any specific person.

18 K. The provisions of this Section shall not apply to child custody
19 proceedings or proceedings pursuant to the Domestic Violence Prevention
20 Firearm Transfer Act, Code of Criminal Procedure Article 1001 et seq.

21 L. The provisions of this Section shall not apply to proceedings for writs
22 of habeas corpus for the determination and enforcement of rights to the custody
23 of a minor or for the release of a person in custody in which the family court has
24 original jurisdiction.

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

The original instrument was prepared by Angela Lockett-De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 7 Reengrossed

2024 Third Extraordinary Session

Luneau

Present law provides that legislators and legislative employees have a peremptory ground to file a written motion for continuance or extension of a criminal case, civil case, or administrative proceeding if the legislator or employee's presence, participation, or involvement is required in any capacity, including any pretrial or post-trial legal proceeding, during:

- (1) Any time 30 days prior to call to order of a legislative session or 30 days following its adjournment sine die; or
- (2) Any time between 30 days prior to convening and 30 days following adjournment sine die of any constitutional convention.

Proposed law retains present law but provides for a presumption that a motion for continuance is proper and is to be granted unless there is proof sufficient to overcome the presumption.

Present law provides that the continuance or extension may only be asserted or waived by the legislator or legislative employee enrolled as counsel of record when his participation is required. Provides that the availability of other counsel to assume the duties or responsibilities of counsel invoking the continuance or extension does not negate the peremptory nature of his motion.

Proposed law retains present law but provides that the availability of other counsel does not overcome the presumption that the motion is proper.

Present law provides that a continuance or extension is also available when the legislator or legislative employee is engaged in activities, including travel, in connection with or ordered by:

- (1) The legislature;
- (2) Any legislative committee or subcommittee appointed by the president of the Senate or the speaker of the House of Representatives;
- (3) Any committee or commission appointed by the governor or other person authorized to make such appointments; or
- (4) Any constitutional convention or commission.

Present law requires that the filing of a motion for continuance or extension be accompanied by an affidavit executed by the presiding officer, clerk, or secretary of the respective house verifying employment or service.

Present law requires if the grounds for continuance or extension are founded on the convening of a regular session or constitutional convention, the motion is to be filed no later than five calendar days prior to the hearing or proceeding to be continued. Provides that if the grounds for the motion are founded on a legislative activity, including travel, or upon issuance of an extraordinary legislative session the continuance or extension is to be filed no later than five calendar days prior to the hearing or proceeding to be continued but no later than two days following issuance of the notice of the meeting or call of the

extraordinary session.

Present law requires a court or agency to grant the motion for continuance or extension ex parte within 72 hours of the filing of the motion and if granted, the continuance or extension shall be for not less than 60 days from the date of adjournment sine die or the constitutional convention.

Proposed law requires a court or agency to grant the motion for continuance or extension ex parte within 72 hours of the filing of the motion and if granted, the continuance or extension shall be for not less than 30 days from the date of adjournment sine die or the constitutional convention.

Proposed law provides for granting the continuance or extension within 72 hours of filing of the motion unless another party has filed a motion to oppose the continuance or extension. Provides for granting the motion unless there is clear and convincing proof of one of the following:

- (1) The motion is being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.
- (2) The objecting party has a substantial existing right or interest that will be defeated or abridged and will suffer substantial and immediate irreparable harm if the requested continuance is granted.

Proposed law authorizes the court to grant the motion ex parte or grant a hearing on a motion to oppose the continuance. Provides that if a hearing is granted, the hearing shall be conducted by telephone, or other electronic means within 48 hours of the filing of the opposition.

Present law provides that if an action taken against a person, including any sanction imposed on an attorney, who has filed a motion for continuance or extension and which results from the failure of such person or attorney to appear or comply with an order of the court or agency or any deadline shall be considered an absolute nullity and shall be set aside by the court or agency upon the filing of a motion by the aggrieved person or attorney. Provides that if the motion is denied, then the denial is an appealable order.

Proposed law deletes this provision.

Present law provides that if any person or attorney who has filed a motion for continuance or extension which has been denied or which has not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs to review the action or inaction of the court or agency where the motion was filed.

Proposed law deletes this provision.

Present law provides that for sufficient cause, the court shall consider a motion of continuance or extension at any time prior to the hearing or proceeding. Present law provides that a motion for continuance may be filed by electronic means such as facsimile transmission or electronic mail, or any other means authorized by law, provided that the mover provides all opposing counsel or parties with a copy of the motion, simultaneously with the transmission of the motion to the court.

Proposed law retains these present law provisions.

Proposed law authorizes a legislator or legislative employee to obtain a continuance or extension upon a showing of good cause when seeking a continuance of a court proceeding or deadline outside the time frame of a legislative session or constitutional convention. Requires that the showing, be accompanied by an affidavit, that the member or employee is

required to attend an interim committee hearing or other official legislative function and that the presence of the member or employee in court is necessary and essential to a fair and proper trial or other proceeding in the suit may be considered good cause.

Proposed law requires the court to assign specific reasons for denial of a properly filed motion for legislative continuance or extension. Provides for direct appeal to the supreme court for supervisory writs to review the action or inaction of the court.

Proposed law if the supreme court affirms the lower court's denial of a motion for continuance or extension based on a determination that the motion was (1) being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; or (2) that the objecting party has a substantial existing right or interest that will be defeated or abridged and will suffer substantial and immediate irreparable harm if the requested continuance is granted then the supreme court may exercise its jurisdiction of disciplinary proceedings against the member of the legislature or legislative employee whose motion was denied or refer the matter to the office of disciplinary counsel.

Proposed law does not apply to wherein a temporary restraining order, protective order, preliminary injunction, permanent injunction, court-approved consent agreement resulting from an action brought, or order issued pursuant to any of the following items:

- (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S. 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant to Code of Criminal Procedure Article 30(B).
- (2) Code of Criminal Procedure, including Article 871.1, regarding the disposition and sentence of a criminal matter.
- (3) R.S. 46:1846 to prohibit communications between offenders and victims following a charge or after sentencing for any crime of violence.
- (4) R.S. 15:574.4.2(A)(5) as condition of a parole release that requires that the parolee stay away from any specific person.

Proposed law also does not apply to child custody proceedings or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act, Code of Criminal Procedure Article 1001 et seq. nor to proceedings for writs of habeas corpus for the determination and enforcement of rights to the custody of a minor or for the release of a person in custody in which the family court has original jurisdiction.

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

(Amends R.S. 13:4163)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Reduces the number of days the legislative continuance or extension must be granted from the date of adjournment of the legislative session or constitutional convention from 60 to 30 days.
2. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Adds items to which a continuance or extension does not apply.