

2025 Regular Session

HOUSE BILL NO. 277

BY REPRESENTATIVE JORDAN

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

CRIMINAL/PROCEDURE: Provides relative to certain pretrial procedures

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 230.1(B), 292, 293, 294(D), 701(B), (C), and (D)(1) and (3), and 732 and to enact Code of Criminal Procedure Article 734(D), relative to pretrial procedures; to provide relative to appointment of counsel for certain persons; to provide relative to transcripts of preliminary examination proceedings; to provide relative to an order for preliminary examination before and after indictment; to provide relative to subpoenas; to provide relative to service of subpoenas; to provide relative to the time period within which a bill of information or indictment is filed; to provide relative to the time period for setting an arraignment; to provide relative to the defendant's bail obligation under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 230.1(B), 292, 293, 294(D), 701(B), (C), and (D)(1) and (3), and 732 are hereby amended and reenacted and Code of Criminal Procedure Article 734(D) is hereby enacted to read as follows:

Art. 230.1. Maximum time for appearance before judge for the purpose of appointment of counsel; court discretion to fix bail at the appearance; extension of time limit for cause; effect of failure of appearance

\* \* \*

1           B. At this appearance, if the court determines that a defendant is indigent  
 2 pursuant to R.S. 15:175, the defendant has the right to have the court appoint counsel  
 3 to defend him; from his initial appearance until the conclusion of the case unless the  
 4 defendant decides, at any time, to hire private counsel. ~~the~~ The court shall assign  
 5 counsel to the defendant. The court may also, in its discretion, determine or review  
 6 a prior determination of the amount of bail.

7   \*       \*       \*

8           Art. 292. Order for preliminary examination before and after indictment

9           A. The court, on request of the state or the defendant, shall immediately  
 10 order a preliminary examination in felony cases unless the defendant has been  
 11 indicted by a grand jury.

12           B. After the defendant has been indicted by a grand jury, the court may  
 13 rescind its order for a preliminary examination unless the defendant has preserved  
 14 his request for a preliminary examination in writing prior to indictment.

15           C. An order for a preliminary examination in felony cases may be granted  
 16 by the court at any time, either on its own motion or on request of the state or of the  
 17 defendant before or after the defendant has been indicted by a grand jury.

18           Art. 293. Time for examination; procurement of counsel

19           When a preliminary examination is ordered, the court shall conduct the  
 20 examination promptly but shall allow the defendant a reasonable time to procure  
 21 counsel. If the court determines that the arrested person is indigent pursuant to R.S.  
 22 15:175, the court shall appoint qualified counsel to represent him at the preliminary  
 23 examination.

24           Art. 294. Examination of witnesses; transcript of testimony

25   \*       \*       \*

26           D. Upon motion of the state or the defendant, a transcript of the preliminary  
 27 examination proceedings may be made and shall be promptly provided to the state

1 or defense counsel. The cost of the transcript preparation under this Paragraph shall  
2 be paid by the party making the motion, unless the party is an indigent defendant.

3 \* \* \*

4 Art. 701. Right to a speedy trial

5 \* \* \*

6 B. The time period for filing a bill of information or indictment after arrest  
7 shall be as follows:

8 (1)(a) When the defendant is continued in custody subsequent to an arrest,  
9 an indictment or information shall be filed within ~~thirty~~ five days of the arrest if the  
10 defendant is being held for a misdemeanor and within ~~sixty~~ fifteen days of the arrest  
11 if the defendant is being held for a felony.

12 (b) When the defendant is continued in custody subsequent to an arrest for  
13 a felony for which punishment may be death or life imprisonment, an indictment  
14 shall be filed within ~~one hundred twenty~~ thirty days of the arrest if the defendant is  
15 being held for a felony for which the punishment may be death or life imprisonment.

16 (c) If the state fails to institute prosecution as provided in this Subparagraph,  
17 the court shall order the release of the defendant.

18 (2)(a) ~~When~~ Except as provided in Subsubparagraph (b) of this  
19 Subparagraph, when the defendant is not continued in custody subsequent to arrest,  
20 an indictment or information shall be filed within ~~ninety~~ thirty days of the arrest if  
21 ~~the defendant is booked with a misdemeanor and one hundred fifty days of the arrest~~  
22 ~~if the defendant is booked with a felony.~~

23 (b) When the defendant is not continued in custody subsequent to arrest for  
24 a felony for which punishment may be death or life imprisonment, an indictment  
25 shall be filed within sixty days of the arrest.

26 ~~(b)(c) Failure to institute prosecution as provided in Subparagraph (1) of this~~  
27 ~~Paragraph shall result in release of the defendant if, after contradictory hearing with~~  
28 ~~the district attorney, just cause for the failure is not shown. If just cause is shown,~~  
29 ~~the court shall reconsider bail for the defendant.~~ Failure to institute prosecution as

1 provided in this Subparagraph shall result in the release of the bail obligation of the  
2 defendant if, after contradictory hearing with the district attorney, just cause for the  
3 delay is not shown.

4 C.(1) ~~Upon~~ When the defendant is in custody upon the filing of a bill of  
5 information or indictment, the district attorney shall set the matter for arraignment  
6 within ~~thirty~~ seven days, exclusive of holidays, unless just cause for a longer delay  
7 is shown. If no just cause for the delay is shown, the defendant shall be released.

8 (2) When the defendant is not in custody upon the filing of a bill of  
9 information or indictment, the district attorney shall set the matter for arraignment  
10 within thirty days, exclusive of holidays, unless just cause for a longer delay is  
11 shown. If no just cause for the delay is shown, the defendant shall be relieved of his  
12 bail obligation.

13 D.(1) A motion by the defendant for a speedy trial, in order to be valid, must  
14 be accompanied by an affidavit by defendant's counsel certifying that the defendant  
15 and his counsel are prepared to proceed to trial within the delays set forth in this  
16 Article. A defendant's motion for speedy trial does not relieve the state of its duty  
17 to provide the defendant with any evidence constitutionally required to be disclosed  
18 pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and its progeny, nor does it  
19 relieve the state of its duty to provide previously requested discovery pursuant to  
20 Code of Criminal Procedure Article 716 et seq. Except as provided in Subparagraph  
21 (3) of this Paragraph, after the filing of a motion for a speedy trial by the defendant  
22 and his counsel, the time period for commencement of trial shall be as follows:

23 \* \* \*

24 (3) After a motion for a speedy trial has been filed by the defendant, if the  
25 defendant files any subsequent motion which requires a contradictory hearing, except  
26 for motions relating to the state's duty to provide the defendant with any evidence  
27 constitutionally required to be disclosed pursuant to Brady v. Maryland, 373 U.S. 83  
28 (1963) and its progeny, motions relating to previously invoked rights to discovery  
29 pursuant to Code of Criminal Procedure Article 716 et seq., motions in limine

1 regarding the presentation of evidence at trial, motions for jury instructions, and  
 2 other motions that do not necessitate a delay in the commencement of the trial  
 3 beyond the dates set forth in Paragraph D of this Article, the court may suspend, in  
 4 accordance with Article 580, or dismiss upon a finding of bad faith the pending  
 5 speedy trial motion. In addition, the period of time within which the trial is required  
 6 to commence, as set forth by Article 578, may be suspended, in accordance with  
 7 Article 580, from the time that the subsequent motion is filed by the defendant until  
 8 the court rules upon such motion.

9 \* \* \*

10 Art. 732. Subpoena duces tecum

11 A subpoena may order a person to produce at the trial or hearing, including  
 12 a preliminary examination, books, papers, documents, or any other tangible things  
 13 in his possession or under his control, if a reasonably accurate description thereof is  
 14 given; but the court shall vacate or modify the subpoena if it is unreasonable or  
 15 oppressive. A subpoena may be issued at the request of defense counsel or the state  
 16 at any point after a defendant has been initially arrested for a charge, even if the state  
 17 has not yet instituted prosecution by filing a bill of information or indictment and if  
 18 the defendant is subsequently released.

19 \* \* \*

20 Art. 734. Service of subpoena by sheriff; investigators

21 \* \* \*

22 D. Upon motion of an arrested person, the court shall appoint a person over  
 23 the age of majority, who is not a party and who is residing within the state whom the  
 24 court deems qualified to perform duties required, to make service of process in the  
 25 same manner as is required of sheriffs. Service of process made in this manner shall  
 26 be proved as any other fact in the case.

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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)]

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HB 277 Original

2025 Regular Session

Jordan

**Abstract:** Provides relative to certain pretrial procedures.

Present law (C.Cr.P. Art. 230.1) provides for the maximum time for appearance before a judge for the purpose of appointment of counsel.

Proposed law retains present law.

Present law provides that at this appearance, if a defendant has the right to have the court appoint counsel to defend him, the court shall assign counsel to the defendant.

Proposed law amends present law to provide that if the court determines that a defendant is indigent pursuant to present law (R.S. 15:175), the defendant has the right to have the court appoint counsel to defend him from his initial appearance until the conclusion of the case unless the defendant decides, at any time, to hire private counsel.

Present law (C.Cr.P. Art. 292) provides that after the defendant has been indicted by a grand jury, the court may rescind its order for a preliminary examination.

Proposed law retains present law but provides that a defendant can preserve his request for a preliminary examination in writing prior to indictment.

Present law (C.Cr.P. Art. 293) provides that when a preliminary examination is ordered, the court is required to conduct the examination promptly but shall allow the defendant a reasonable time to procure counsel.

Proposed law provides that if the court determines that the arrested person is indigent pursuant to present law, the court is required to appoint qualified counsel to represent him at the preliminary examination.

Present law (C.Cr.P. Art. 294) provides that upon motion of the state or the defendant, a transcript of the preliminary examination proceedings may be made. The cost of the transcript preparation shall be paid by the party making the motion, unless the party is an indigent defendant.

Proposed law retains present law and requires that a copy of the preliminary examination proceedings be promptly provided to the state or defense counsel upon written motion.

Present law (C.Cr.P. Art. 732) provides that a subpoena may order a person to produce at the trial or hearing books, papers, documents, or any other tangible things in his possession or under his control, if a reasonably accurate description is given.

Proposed law provides that the subpoena may also order a person to produce books, papers, documents, or any other tangible things in his possession or under his control at a preliminary examination. Further provides that a subpoena may be issued at the request of defense counsel or the state at any point after a defendant has been initially arrested for a charge, even if the state has not yet instituted prosecution by filing a bill of information or indictment and if the defendant is subsequently released.

Present law (C.Cr.P. Art. 734) provides that the sheriff of any parish in which the witness may be found or of the parish in which the proceeding is pending shall serve the subpoena and make return thereof without delay.

Proposed law provides that upon motion of an arrested person, the court shall appoint a person over the age of majority, who is not a party and who is residing within the state whom the court deems qualified to perform the duties required, to make service of process in the same manner as is required of sheriffs. Service of process made in this manner shall be proved as any other fact in the case.

(Amends C.Cr.P. Arts. 230.1(B), 292, 293, 294(D), 701(B), (C), and (D)(1) and (3), and 732;  
Adds C.Cr.P. Art. 734(D))