

2025 Regular Session

SENATE BILL NO. 75

BY SENATOR MILLER

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

CIVIL PROCEDURE. Provides for legislative continuances and extensions of time for legislators and legislative employees. (gov sig)

AN ACT

Solely to reenact Sections 1, 2, and 3 of Act No. 19 of the 2024 Third Extraordinary Session of the Legislature as that Act was enacted by the legislature, which Act amended and reenacted R.S. 13:4163, relative to legislative continuances and extensions for legislators and legislative employees; to provide with respect to continuance and extension of deadlines; to authorize members of the legislature and legislative employees to file legislative continuances in certain circumstances; to provide for peremptory grounds; to provide with respect to time delays and procedures; to provide for a rebuttable presumption; to provide for service of process; to provide for notification and reporting requirements; to provide for electronic transmission; to provide for exceptions; to provide for denial of a motion for continuance or extension; to provide for the supreme court's authority to regulate disciplinary proceedings against a member of the legislature or legislative employee; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Sections 1, 2, and 3 of Act 19 of the 2024 Third Extraordinary Session of the Legislature as that Act was enacted by the legislature are hereby reenacted to read as

1 follows:

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

3 §4163. Motion for legislative continuance or extension of time; legislators or
4 employees engaged in legislative or constitutional convention
5 activities

6 A.(1)(a) A member of the legislature or legislative employee shall be entitled
7 to peremptory grounds for a continuance of any court or administrative proceeding
8 or the extension of any legal delay or deadline, excluding civil prescriptive or
9 peremptive periods, criminal statutes of limitations, and criminal cases where the
10 death penalty is sought, if the presence, participation, or involvement of a member
11 of the legislature or legislative employee, who is a party or an attorney for a party,
12 is required in any criminal or civil case or administrative proceeding, including any
13 pretrial or post-trial proceeding, during any legislative session or constitutional
14 convention.

15 (b) For purposes of this Section, "legislative employee" means the clerk of
16 the House of Representatives, the secretary of the Senate, and an employee of the
17 House of Representatives, the Senate, or the Legislative Bureau, when such person
18 is employed full-time during the legislative session or during any other time in which
19 the continuance or extension is being sought.

20 (c) Peremptory grounds are available any time between twenty-one days
21 before the convening of any session of the legislature or constitutional convention
22 and thirty days after the adjournment sine die of any session of the legislature or
23 constitutional convention.

24 (2)(a) The motion for continuance shall be filed no later than five days prior
25 to the proceeding to be continued, or no later than five days prior to the expiration
26 of the deadline to be extended, at no cost and shall be accompanied by an affidavit,
27 executed by the presiding officer or the clerk or secretary of the respective house,
28 that the legislative employee will be or is in actual attendance of a session of the
29 legislature or constitutional convention and that it is the legislative employee's

1 intention to participate actively in the preparation or presentation of the case.

2 (b) A member of the legislature shall not be required to submit an affidavit
3 as required by Subparagraph (a) of this Paragraph.

4 (3)(a) The motion for continuance may be filed by electronic means such as
5 facsimile transmission or electronic mail, or by other electronic means in accordance
6 with Code of Civil Procedure Article 253 if the member of the legislature or
7 legislative employee seeking the continuance provides all enrolled counsel or parties
8 with a copy of the motion prior to or simultaneously with the transmission of the
9 motion to the clerk of court.

10 (b) Every motion for a legislative continuance or extension shall be served
11 by transmitting a copy by electronic means to counsel of record, or if there is no
12 counsel of record, to the adverse party, at the number or address expressly designated
13 in a pleading or other writing for receipt of electronic service. Service by electronic
14 means is complete upon transmission but is not effective and shall not be certified
15 if the serving party learns the transmission did not reach the party to be served.

16 B.(1) There shall be a presumption that a motion for continuance filed within
17 the period specified in Paragraph (A)(2) of this Section by the member of the
18 legislature or legislative employee is proper and shall be granted within seventy-two
19 hours of the filing of the motion. The motion shall be granted for a period of not less
20 than forty-five days from the date of adjournment sine die of any session of the
21 legislature or constitutional convention.

22 (2) The presumption may be overcome by clear and convincing evidence
23 under either of the following circumstances:

24 (a) The motion is being presented for an improper purpose, such as to harass,
25 cause unnecessary delay, or needlessly increase the cost of litigation. A showing that
26 the continuance shall cause a delay or increase the cost of litigation shall not be
27 sufficient grounds to overcome the presumption of granting the continuance.

28 (b) The objecting party has a substantial existing right or interest that will be
29 defeated or abridged and will suffer substantial and immediate irreparable harm if

1 the requested continuance is granted. Notwithstanding the provisions of this
2 Paragraph, the court shall also consider any potential substantial and immediate
3 irreparable harm to the party requesting the continuance which may result from
4 requiring the party requesting the continuance to obtain new counsel with
5 insufficient time to prepare.

6 C. The court may grant the motion ex parte or grant a hearing on a motion in
7 opposition to the continuance or extension. If the court grants a hearing, it shall be
8 conducted by telephone, or other electronic means, within forty-eight hours of the
9 filing of the motion in opposition or extension.

10 D. A court denying a properly filed motion for a legislative continuance shall
11 issue contemporaneous written reasons for the denial that shall include an analysis
12 of Subparagraph (B)(2)(a) or (B)(2)(b) of this Section as applied to the specific facts
13 of the case.

14 E.(1) A member of the legislature or legislative employee who has filed a
15 motion for legislative continuance that has been denied or which has not been
16 granted within seventy-two hours may apply directly to the supreme court for
17 supervisory writs at no cost to review the action or inaction of the court where the
18 motion was filed, or may file an appeal at no cost with the court of appeal with
19 jurisdiction as provided in Paragraph (2) of this Subsection.

20 (2) If a motion filed pursuant to this Section is denied or not acted upon
21 within the requisite deadline, then such denial shall be an appealable order filed at
22 no cost. The order of appeal shall be signed within twenty-four hours of being filed,
23 and the provisions of Code of Civil Procedure Article 2088 shall attach.

24 (3) Upon appeal, the reviewing court shall consider de novo any denial or
25 failure to act on a motion for legislative continuance or extension of proceeding.

26 (4) If the supreme court affirms the lower court's denial of a motion for a
27 legislative continuance or extension based on the objecting party's overcoming the
28 presumption pursuant to Paragraph (B)(2) of this Section, the supreme court may
29 exercise its jurisdiction of disciplinary proceedings against the member of the

1 legislature or legislative employee whose motion was denied or refer the matter to
2 the office of disciplinary counsel.

3 F. Notwithstanding the provisions of this Section, if any part of the
4 proceedings occurs on a day that a member of the legislature has been ordered by a
5 majority vote of the elected members of each house of the legislature to attend a
6 session day during which that house is in session, then the provisions of Article III,
7 Section 10 of the Constitution of Louisiana shall be given effect and no legal
8 proceedings may be conducted in the member's absence on such day. If any part of
9 the proceeding occurs in violation of this Subsection, it shall be deemed an absolute
10 nullity.

11 G.(1) For good cause shown, the court may consider a motion for legislative
12 continuance or extension at any time prior to the hearing or proceeding.

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

22 H. If the attorney for a party seeking a continuance under this Section is a
23 member of the legislature, the attorney shall also serve a copy of the motion for a
24 legislative continuance or extension with the judicial administrator for the Louisiana
25 Supreme Court. The copy of the motion shall be sent to the Louisiana Supreme Court
26 contemporaneously when the attorney files the motion for legislative continuance or
27 extension with the court.

28 I. The provisions of this Section shall not apply to proceedings wherein a
29 temporary restraining order, protective order, preliminary injunction, permanent

1 injunction, court-approved consent agreement resulting from an action brought, or
2 order issued pursuant to any of the following:

3 (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S.
4 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq.,
5 Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant to Code
6 of Criminal Procedure Article 30(B).

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

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

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

13 J. The provisions of this Section shall not apply to child custody proceedings
14 or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act,
15 Code of Criminal Procedure Article 1001 et seq.

16 K. The provisions of this Section shall not apply to proceedings for writs of
17 habeas corpus for the determination and enforcement of rights to the custody of a
18 minor or for the release of a person in custody in which the family court has original
19 jurisdiction.

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

25 Section 3. The provisions of this Act shall be given prospective and retroactive
26 application to all actions filed or pending on or after October 25, 2024.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

DIGEST

SB 75 Engrossed

2025 Regular Session

Miller

SB 75 reenacts Act No. 19 of the 2024 Third Extraordinary Session of the Legislature exactly as it was passed by the legislature in 2024 to thwart any legal challenge to its constitutional soundness with respect to procedures for passage of laws.

Effective upon signature of governor or lapse of time for gubernatorial action. Shall be given prospective and retroactive application to all actions filed or pending on or after October 25, 2024.

The digest of Act No. 19 of the 2024 3rd E.S. as it finally passed is as follows:

Present law provides a member of the legislature and a legislative employee shall have peremptory grounds for continuance or extension of a criminal case, civil case, or administrative proceeding. Provides that the peremptory grounds for continuance or extension is available to and for the benefit of a member or legislative employee and may be asserted or waived only by the member or employee. Provides that such peremptory grounds are available if the presence, participation, or involvement of the member or employee is required in any capacity, including any pretrial or post-trial legal proceeding, during:

- (1) Any time between 30 days prior to the original call to order and 30 days following the adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when such person is engaged in activities, including travel, in connection with or ordered by the legislature, any legislative committee or subcommittee appointed by the president of the Senate or the speaker of the House of Representatives, any committee or commission appointed by the governor or other person authorized to make such appointments, or any constitutional convention or commission.

Proposed law provides that "legislative employee" means the clerk of the House of Representative, the secretary of the Senate, and an employee of the House of Representatives, the Senate, or the Legislative Bureau, when such person is employed full-time during the legislative session or during any other time in which the continuance or extension is being sought.

Proposed law provides that a member of the legislature or legislative employee shall be entitled to peremptory grounds for a continuance of any court or agency proceeding or the extension of any legal delay or deadline, if the presence, participation, or involvement of a member of the legislature or legislative employee, who is a party or an attorney for a party, is required in any criminal or civil case, including any pretrial or post-trial proceeding, during any legislative session or constitutional convention. Provides that the peremptory grounds are available any time between 30 days before the convening of any session of the legislature or constitutional convention and 30 days after the adjournment sine die of any session of the legislature or constitutional convention.

Present law provides that a motion for legislative continuance or extension filed by a

legislative employee shall be accompanied by an affidavit, verifying such employment or service, executed by the presiding officer or the clerk or secretary of the respective house. Provides that the motion for legislative continuance or extension shall be filed at no cost to a member, employee, or a client of a member or employee. Requires the filing no later than five calendar days prior to the hearing or proceeding to be continued. Provides special provisions for extraordinary sessions. Provides that the motion for a legislative 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 shall provide all opposing counsel or parties with a copy of the motion, simultaneously with the transmission of the motion to the court.

Proposed law provides that the motion for continuance shall be filed no later than five days prior to the proceeding to be continued or no later than five days prior to the expiration of the deadline to be extended, at no cost and shall be accompanied by an affidavit that the member of the legislature or legislative employee will be or is in actual attendance of a session of the legislature or constitutional convention and that it is the legislator or legislative employee's intention to participate actively in the preparation or presentation of the case. Provides that the motion for continuance may be filed electronically if the member of the legislature or legislative employee seeking the continuance provides all enrolled counsel or parties with a copy of the motion prior to or simultaneously with the transmission of the motion for continuance to the clerk of court. Provides that every motion for a legislative continuance or extension shall be served by transmitting a copy by electronic means to counsel of record, or if there is no counsel of record, to the adverse party, at the number or address expressly designated in a pleading or other writing for receipt of electronic service. Service by electronic means is complete upon transmission but is not effective and shall not be certified if the serving party learns the transmission did not reach the party to be served.

Proposed law provides that if the attorney for a party seeking a continuance is a member of the legislature, the attorney shall also serve a copy of the motion for a legislative continuance or extension with the judicial administrator for the Louisiana Supreme Court. The copy of the motion shall be sent to the Louisiana Supreme Court contemporaneously with the filing of the motion for legislative continuance or extension with the court.

Proposed law provides that there shall be a presumption that a motion for continuance filed timely by the member of the legislature or legislative employee is proper and shall be granted within 72 hours of the filing of the motion. Requires the proceeding, legal delay or deadline to be reset to a date not less than 60 days from the date of adjournment sine die of any session of the legislature or constitutional convention.

Proposed law provides that the presumption may be overcome by clear and convincing evidence under either of the following circumstances:

- (1) The motion is being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. A showing that the continuance shall cause a delay or increase the cost of litigation shall not be sufficient grounds to overcome the presumption of granting the continuance.
- (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. Notwithstanding the provisions of proposed law, the court also shall consider any potential substantial and immediate irreparable harm to the party requesting the continuance which may result from requiring the party requesting the continuance to obtain new counsel with insufficient time to prepare.

Proposed law provides that the court may grant the motion ex parte or grant a hearing on a motion in opposition to the continuance or extension. If the court grants a hearing, it shall be conducted by telephone, or other electronic means, within 48 hours of the filing of the

motion in opposition or extension.

Proposed law requires a court denying a properly filed motion for a legislative continuance shall issue contemporaneous written reasons for the denial that shall include an analysis of proposed law as applied to the specific facts of the case.

Present law provides that any person or attorney who has filed a motion for legislative continuance or extension that 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 provides that a member of the legislature or legislative employee who has filed a motion for legislative continuance that has been denied or which has not been granted within 72 hours may apply directly to the supreme court for supervisory writs at no cost to review the action or inaction of the court where the motion was filed, or may file an appeal with the court of appeal with jurisdiction as provided in proposed law.

Proposed law provides that if a motion filed pursuant to proposed law is denied or not acted upon within the requisite deadline, then such denial shall be an appealable order. The order of appeal shall be signed within 24 hours of being filed, and the provisions of present law (C.C.P. Art. 2088) shall attach.

Proposed law provides that upon appeal, the reviewing court shall consider de novo any denial or failure to act on a motion for legislative continuance or extension of proceeding.

Proposed law provides that if the supreme court affirms the lower court's denial of a motion for a legislative continuance or extension based on proposed law, 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 provides that notwithstanding the provisions of proposed law, if any part of the proceedings occurs on a day that a member of the legislature has been ordered by a majority vote of the elected members of each house of the legislature to attend a session day during which that house is in session, then the provisions of the Louisiana Constitution (Art. III, Sect. 10) shall be given effect and no legal proceedings may be conducted in the member's absence on such day. If any part of the proceeding occurs in violation of proposed law, it shall be deemed an absolute nullity.

Proposed law provides that for good cause shown, the court may consider a motion for legislative continuance or extension at any time prior to the hearing or proceeding.

Proposed law provides that if seeking a continuance of a court proceeding or extension of any type of deadline occurring outside the time frame of a legislative session or constitutional convention, a member of the legislature or legislative employee that is a party or an attorney for a party to an action may obtain a legislative continuance upon a showing of good cause. A showing, 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.

Present law provides that any action taken against a person, including any sanction imposed on an attorney, who has filed a motion for legislative 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.

Proposed law deletes present law.

Present law provides that legislative continuances shall not apply to cases in the Louisiana Supreme Court, criminal cases where the death penalty is sought, and administrative rulemaking. Also, provides that present law shall not apply to cases and proceedings wherein a member or employee is called as a witness, in which instances other provisions of present law shall apply.

Proposed law provides that civil prescriptive or preemptive periods, criminal statutes of limitations, and criminal cases where the death penalty is sought are excluded from legislative continuances. Also, provides that proposed law does not apply to proceedings 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:

- (1) Certain present law provisions regarding domestic violence, dating violence, stalking, sexual assault and peace bonds relating for such acts.
- (2) Criminal procedure law regarding the disposition or sentence.
- (3) Present law prohibits communications between offenders and victims following a charge or after sentencing for any crime of violence.
- (4) Present law provides that as condition of a parole release which requires that the parolee stay away from any specific person, when the order is issued for the purpose of preventing violent or threatening acts, harassment against, contact or communication with, or physical proximity to, another person to prevent witness intimidation, domestic abuse, stalking, dating violence, or sexual assault.
- (5) Child custody proceedings or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act.
- (6) 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.

The provisions of this Act shall be given prospective and retroactive application to all actions filed or pending on or after October 25, 2024.

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