

ACT No. 127

2026 Regular Session

HOUSE BILL NO. 142

BY REPRESENTATIVE MUSCARELLO

(On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact Code of Civil Procedure Articles 561, 1426(A)(introductory paragraph), (B), and (C), 1572, 1702(C), 1841, 1914(E), 2083(B), 2126, 2128, 2166(F), 2167(D), and 4922 and R.S. 13:319 and 5206, to enact Code of Civil Procedure Article 2083(D), and to repeal Code of Civil Procedure Article 1425(F)(5), relative to civil procedure; to provide for continuous revisions to the Code of Civil Procedure and related provisions of the Revised Statutes; to provide with respect to abandonment; to provide for motions to quash; to provide for notice of trial; to provide with respect to default judgments; to provide with respect to interlocutory, final, and partial final judgments; to provide with respect to payment of costs and designation of the record on appeal; to provide with respect to transmission of notice; to provide for the assignment and allotment of writs and appeals; to provide with respect to the jurisdiction of small claims; to provide for Comments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 561, 1426(A)(introductory paragraph), (B), and (C), 1572, 1702(C), 1841, 1914(E), 2083(B), 2126, 2128, 2166(F), 2167(D), and 4922 are hereby amended and reenacted and Code of Civil Procedure Article 2083(D) is hereby enacted to read as follows:

Art. 561. Abandonment in trial and appellate court

A.(1) An action is abandoned when the parties fail to take any step in its prosecution or defense in the trial court for a period of three years; ~~unless it is a succession proceeding;~~

- 1 ~~(a) Which has been opened;~~
- 2 ~~(b) In which an administrator or executor has been appointed; or~~
- 3 ~~(c) In which a testament has been probated.~~

4 (2) This ~~provision~~ Article shall be operative without formal order, ~~but, on ex~~
 5 ~~parte motion of any party or other interested person by affidavit that states that no~~
 6 ~~step has been timely taken in the prosecution or defense of the action, the trial court~~
 7 ~~shall enter a formal order of dismissal as of the date of its abandonment. The sheriff~~
 8 ~~shall serve the order in the manner provided in Article 1314 and shall execute a~~
 9 ~~return pursuant to Article 1292. A step in the prosecution or defense in the trial court~~
 10 ~~shall interrupt the abandonment period. After the three-year abandonment period has~~
 11 ~~expired, the defendant may renounce the defense of abandonment.~~

12 (3) ~~A motion to set aside a dismissal may be made only within thirty days~~
 13 ~~of the date of the sheriff's service of the order of dismissal. If the trial court denies~~
 14 ~~a timely motion to set aside the dismissal, the clerk of court shall give notice of the~~
 15 ~~order of denial pursuant to Article 1913(A) and shall file a certificate pursuant to~~
 16 ~~Article 1913(D). Any formal discovery authorized by this Code, whether or not filed~~
 17 ~~of record, including the taking of a deposition with or without formal notice,~~
 18 ~~constitutes a step in the prosecution or defense of an action against all parties on~~
 19 ~~whom the discovery was served or who were in attendance or represented at the~~
 20 ~~deposition.~~

21 (4) ~~An appeal of an order of dismissal may be taken only within sixty days~~
 22 ~~of the date of the sheriff's service of the order of dismissal. An appeal of an order of~~
 23 ~~denial may be taken only within sixty days of the date of the clerk's mailing of the~~
 24 ~~order of denial.~~

25 B.(1) ~~Any formal discovery as authorized by this Code and served on all~~
 26 ~~parties whether or not filed of record, including the taking of a deposition with or~~
 27 ~~without formal notice, shall be deemed to be a step in the prosecution or defense of~~
 28 ~~an action. Any party or other interested person may file an ex parte motion to dismiss~~
 29 ~~based on abandonment and shall attach to the motion to dismiss an affidavit of the~~
 30 ~~mover or the mover's attorney of record certifying all of the following:~~

1 (a) The three-year abandonment period has expired.

2 (b) No timely step in the prosecution or defense of the action has been taken
 3 pursuant to Subparagraph (A)(2) or (3) of this Article.

4 (c) No renunciation has occurred pursuant to Subparagraph (A)(2) of this
 5 Article.

6 (2) The affidavit shall also include a list of all pleadings, documents, or
 7 judgments that have been filed in the record during the three years preceding the date
 8 on which the mover claims that the abandonment period expired. The mover shall
 9 also list and attach all written communication pertaining to the action between the
 10 mover and any adverse party or their attorneys of record in the one year preceding
 11 the date on which the mover claims that the abandonment period expired.

12 C. The court shall enter an ex parte judgment of dismissal without prejudice
 13 as of the date of the abandonment of the action if the record confirms and the
 14 mover's accompanying affidavit attests to all of the following:

15 (1) The three-year abandonment period has expired.

16 (2) No timely step in the prosecution or defense of an action has been taken
 17 pursuant to Subparagraph (A)(2) or (3) of this Article.

18 (3) The defendant has not renounced the defense of abandonment pursuant
 19 to Subparagraph (A)(2) of this Article.

20 (4) No pleadings, documents, or judgments have been filed in the record
 21 during the three years immediately preceding the expiration of the abandonment
 22 period.

23 (5) There has been no written communication pertaining to the action
 24 between the mover and any adverse party or their attorneys of record during the last
 25 year of the abandonment period.

26 D. If the mover's affidavit certifies that any pleadings, documents, or
 27 judgments have been filed in the record during the three years preceding the
 28 expiration of the abandonment period or that there has been written communication
 29 pertaining to the action between the mover and any adverse party or their attorneys
 30 of record during the one year preceding the expiration of the abandonment period,

1 the court shall either sign the judgment of dismissal ex parte or set the motion to
2 dismiss for a contradictory hearing.

3 E. The sheriff shall serve the ex parte judgment of dismissal in accordance
4 with Article 1314 and shall execute a return pursuant to Article 1292.

5 F. If an ex parte judgment of dismissal is granted, a motion to set aside the
6 dismissal may be filed within thirty days after the date of the sheriff's service of the
7 judgment of dismissal. At the hearing to set aside the dismissal, the burden of proof
8 rests with the mover of the original motion to dismiss based on abandonment. If the
9 trial court denies a timely motion to set aside the dismissal, the clerk of court shall
10 send notice of the order of denial pursuant to Article 1913(A) and shall file a
11 certificate pursuant to Article 1913(D).

12 G.(1) An appeal of a judgment of dismissal rendered ex parte may be taken
13 within sixty days after the date of the sheriff's service of the judgment of dismissal
14 pursuant to Paragraph E of this Article.

15 (2) An appeal of a judgment of dismissal rendered after a contradictory
16 hearing may be taken within sixty days after the clerk's transmission of that
17 judgment.

18 (3) An appeal of a denial of the motion to set aside a dismissal filed pursuant
19 to Paragraph F of this Article may be taken within sixty days after the clerk's
20 transmission of the order of denial.

21 ~~C. H.~~ H. An appeal is abandoned when the parties fail to take any step in its
22 prosecution or disposition for the period provided in the rules of the appellate court.

23 I. The granting of a motion to set aside a judgment of dismissal based on
24 abandonment and the reversal of a judgment of dismissal on appeal shall each
25 constitute a step in the prosecution or defense of an action.

26 J. For the purposes of this Article, "transmission" means the sending of
27 notice via the United States Postal Service, a commercial courier, or electronic mail.

28 K. This Article does not apply to succession proceedings.

29 L. If an action brought under this Section to enforce a conventional
30 obligation is dismissed pursuant to this Section, such dismissal, notwithstanding any

1 other law to the contrary, shall operate to interrupt any applicable liberative
2 prescriptive period as though the dismissal of the action had not occurred.

3 Comments – 2026

4 (a) The amendments to Subparagraph (A)(2) of this Article retain the rule
5 that abandonment is operative without formal order. The amendments also adopt
6 current jurisprudential rules providing that a step in the prosecution or defense of an
7 action interrupts the three-year abandonment period and that, after the three-year
8 abandonment period has expired, the defendant may renounce the defense of
9 abandonment. See *Foundation Elevation & Repair, LLC v. Miller*, 408 So. 3d 893
10 (La. 2025).

11 (b) Subparagraph (B)(1) of this Article is new and requires that a more
12 detailed affidavit be included with the ex parte motion to dismiss based on
13 abandonment.

14 (c) Paragraph C of this Article now requires the court to sign an ex parte
15 judgment of dismissal without prejudice if the mover's affidavit attests to all of the
16 following: the abandonment period has expired; no timely step in the prosecution or
17 defense of the action has occurred; the defendant has not renounced the defense of
18 abandonment; no pleadings, documents, or judgments have been filed in the record
19 during the three years immediately preceding the expiration of the abandonment
20 period; and there has been no written communication pertaining to the action
21 between the mover and any adverse party or their attorneys of record during the year
22 preceding the expiration of the abandonment period.

23 (d) Paragraph D of this Article is new and requires the court to either sign
24 a judgment of dismissal ex parte or set the motion to dismiss for a contradictory
25 hearing if the mover's affidavit indicates that pleadings, documents, or judgments
26 have been filed in the record during the three-year abandonment period or that there
27 has been written communication pertaining to the action between the mover and any
28 adverse party or their attorneys of record during the year immediately preceding the
29 expiration of the abandonment period.

30 (e) Paragraph F of this Article establishes a new rule that the burden of proof
31 at a hearing on a motion to set aside a dismissal rests upon the mover of the initial
32 motion to dismiss based on abandonment.

33 * * *

34 Art. 1426. Protective orders; motions to quash

35 A. Upon motion by a party or by the person from whom discovery is sought
36 or to whom a subpoena is issued, and for good cause shown, the court in which the
37 action is pending or alternatively, on matters relating to a deposition or subpoena, the
38 court in the district where the deposition is to be taken or by which the subpoena is
39 issued may make any order ~~which~~ that justice requires to protect a party or person
40 from annoyance, embarrassment, oppression, or undue burden or expense, including
41 one or more of the following:

42 * * *

43 B. If the motion for a protective order or a motion to quash is denied in
44 whole or in part, the court may, on ~~such~~ terms and conditions as are just, order that

1 any party or person provide or permit discovery. The provisions of Article 1469
2 apply to the award of expenses incurred in relation to the motion.

3 C. No provision of this Article authorizes a court to issue a protective order
4 or grant a motion to quash preventing or limiting discovery or ordering records
5 sealed if the information or material sought to be protected relates to a public hazard
6 or relates to information ~~which~~ that may be useful to members of the public in
7 protecting themselves from injury that might result from ~~such~~ the public hazard,
8 unless ~~such~~ the information or material sought to be protected is a trade secret or
9 other confidential research, development, or commercial information.

10 * * *

11 Art. 1572. ~~Written request for notice~~ Notice of trial

12 The clerk shall give written notice of the date of the trial ~~whenever a written~~
13 ~~request therefor is filed in the record or is made by registered mail by a party or to~~
14 all counsel of record, or if there is no counsel of record, to a self-represented party.

15 This notice shall be sent in accordance with Article 1313(A)(4) or mailed by the
16 clerk, by certified mail, properly stamped and addressed, at least ten days before the
17 date fixed for the trial. The provisions of this ~~article~~ Article may be waived in
18 writing or on the record by ~~all counsel of record at a pre-trial conference~~ a party or
19 the party's attorney.

20 Comments - 2026

21 The amendment to this Article removes the requirement that a party must
22 submit a written request to receive notice of trial. The clerk of court must now
23 provide notice of trial to all counsel of record, or if there is no counsel of record, to
24 a self-represented party. The notice must be sent either by electronic means in
25 accordance with the requirements of Article 1313(A)(4) or by certified mail. The
26 amendment also provides that any waiver of notice of trial must be in writing or on
27 the record.

28 * * *

29 Art. 1702. Default judgment

30 * * *

31 C. In those proceedings in which the sum due is on an open account or a
32 promissory note, other negotiable instrument, or other conventional obligation, or a
33 deficiency judgment derived therefrom, including those proceedings in which one

1 or more mortgages, pledges, or other security for the open account, promissory note,
 2 negotiable instrument, conventional obligation, or deficiency judgment derived
 3 therefrom is sought to be enforced, maintained, or recognized, or in which the
 4 amount sought is that authorized by R.S. 9:2782 for a check dishonored for
 5 nonsufficient funds, a hearing in open court shall not be required unless the ~~judge~~
 6 court, in ~~his~~ its discretion, directs that ~~such a~~ the hearing be held. The plaintiff shall
 7 submit to the clerk of court the proof required by law and the ~~original and not less~~
 8 ~~than one copy of the~~ proposed default judgment. The ~~judge~~ court shall, within
 9 seventy-two hours ~~of~~ after receipt of ~~such~~ the submission from the clerk of court,
 10 sign the proposed default judgment or direct that a hearing be held. ~~The~~ Before the
 11 default judgment is signed, the clerk of court shall certify that no answer or other
 12 pleading has been filed by the defendant. The minute clerk shall make an entry
 13 showing the dates of receipt of proof, review of the record, and rendition of the
 14 default judgment. A certified copy of the signed default judgment shall be sent to the
 15 plaintiff by the clerk of court, and notice of the signing of the default judgment shall
 16 be given ~~as provided in accordance with~~ Article 1913.

17 * * *

18 Art. 1841. Judgments; interlocutory and final

19 A. A judgment is the determination of the rights of the parties in an action
 20 and may award any relief to which the parties are entitled. It may be interlocutory
 21 or final.

22 B.(1) A judgment that ~~does not determine the merits but only preliminary~~
 23 ~~matters in the course of the action is an interlocutory judgment~~ determines the merits
 24 in whole is a final judgment.

25 (2) A judgment that determines the merits ~~in whole or in part is~~ may be a
 26 partial final judgment in accordance with Article 1915(A) or an interlocutory
 27 judgment in accordance with Article 1915(C).

28 C. A judgment that does not determine the merits but determines only
 29 preliminary matters in the course of the action is an interlocutory judgment.

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Comments - 2026

This amendment seeks to clarify the law. Article 1915(A) provides for partial final judgments that are appealable. Article 1915(C) provides for partial judgments that are interlocutory judgments. Article 2083 provides that a partial final judgment and an interlocutory judgment are appealable only when expressly provided by law.

* * *

Art. 1914. Interlocutory judgments; notice; delay for further action

* * *

E. The provisions of this Article do not apply to ~~an interlocutory injunctive order or judgment~~ the certification or denial of a certification of a class action in accordance with Article 592(A)(3)(c) or appealable orders or judgments granting or denying a preliminary injunction in accordance with Article 3612.

Comments - 2026

This amendment clarifies the law. Articles 592(A)(3)(c) and 3612 provide for interlocutory orders and judgments from which an appeal may be taken as a matter of right. Thus, the notice requirements set forth in this Article are not applicable. Rather, the required notice should satisfy the provisions of Article 1913. This is consistent with Article 2083 providing that an interlocutory judgment is appealable only when expressly provided by law.

* * *

Art. 2083. Judgments appealable

* * *

~~B. In reviewing a judgment reformed in accordance with a remittitur or additur, the court shall consider the reasonableness of the underlying jury verdict.~~
A partial final judgment rendered in accordance with Article 1915(A) is appealable in all causes in which appeals are given by law. Other partial final judgments are appealable only when expressly provided by law.

* * *

D. In reviewing a judgment reformed in accordance with a remittitur or additur, the court shall consider the reasonableness of the underlying jury verdict.

Comments - 2026

The amendment to Paragraph B of this Article clarifies the law and is consistent with the amendments to Article 1841. See also Articles 592(A)(3)(c) and

1 3612 for examples of instances in which an appeal may be taken as a matter of right
 2 from an interlocutory order or judgment.

3 * * *

4 Art. 2126. Payment of costs

5 A. ~~The clerk of the trial court, immediately after~~ After the order of appeal
 6 has been granted, the clerk of the trial court shall estimate the cost of the preparation
 7 of the record on appeal, including the fee of the court reporter for preparing the
 8 transcript and the filing fee required by the appellate court. The clerk shall ~~send~~
 9 transmit notices of the estimated costs ~~by certified mail~~ to the appellant and ~~by first~~
 10 ~~class mail~~ to the appellee.

11 B. ~~Within twenty days of the mailing of notice~~ If the parties have not
 12 designated the record on appeal pursuant to Article 2128, the appellant shall, within
 13 twenty days after transmission of the notice of the estimated costs, pay the amount
 14 of the estimated costs to the clerk. The trial court may grant one extension of the
 15 period for paying the amount of the estimated costs for not more than an additional
 16 twenty days upon written motion showing good cause for the extension.

17 C. If the parties have designated the record on appeal pursuant to Article
 18 2128, the clerk shall transmit a revised notice of the estimated costs to the appellant
 19 and appellee. The appellant shall, within twenty days after transmission of the
 20 revised notice of estimated costs, pay the amount of the estimated costs to the clerk.
 21 The trial court may grant one extension of the period for paying the amount of the
 22 revised estimated costs for not more than an additional twenty days upon written
 23 motion showing good cause for the extension.

24 D. The appellant may question the excessiveness of the estimated costs by
 25 filing a written ~~application~~ motion for reduction in the trial court within the first
 26 twenty-day time limit, ~~and the~~ if the record has not been designated pursuant to
 27 Article 2128, or within twenty days after transmission of the revised notice of
 28 estimated costs if the record has been designated pursuant to Article 2128. The trial
 29 court may order reduction of the estimate upon proper showing. ~~If an application~~ the
 30 motion for reduction has been timely filed, the appellant shall have twenty days to

1 pay the costs beginning from the date of the action by the trial court on ~~application~~
 2 the motion for reduction.

3 ~~D. E.~~ E. After the preparation of the record on appeal has been completed, the
 4 clerk of the trial court shall, as the situation may require, either refund to the
 5 appellant the difference between the estimated costs and the actual costs, if the
 6 estimated costs exceed the actual costs, or ~~send a~~ transmit notice ~~by certified mail~~ to
 7 the appellant of the amount of additional costs due, if the actual costs exceed the
 8 estimated costs. If the payment of additional costs is required, the appellant shall pay
 9 the amount of additional costs within twenty days ~~of the mailing~~ after transmission
 10 of the notice.

11 E. F. If the appellant fails to pay the estimated costs, or the difference
 12 between the estimated costs and the actual costs, within the time specified, the trial
 13 judge, on his own motion or upon motion by the clerk or by any party, and after a
 14 hearing, shall do one of the following:

15 (1) Enter a formal order of dismissal of the appeal on the grounds of
 16 abandonment; ~~or~~.

17 (2) Grant a ~~ten-day~~ ten-day period within which costs ~~must~~ shall be paid in
 18 full, in default of which the appeal is dismissed as abandoned.

19 F. G. If the appellant pays the costs required by this Article, the appeal ~~may~~
 20 shall not be dismissed because of the passage of the return day without an extension
 21 being obtained or because of an untimely lodging of the record on appeal.

22 H. For the purposes of this Article, "transmit" means the sending of notice
 23 via certified mail, electronic mail to the email address designated by counsel or the
 24 party, or commercial courier. The sending of notice by electronic means is complete
 25 upon transmission, provided that the sender receives an electronic confirmation of
 26 delivery.

27 Comments – 2026

28 Requirements relative to the transmission of the notice for the payment of
 29 estimated costs are adapted from the service requirements set forth in Article
 30 1313(C) applicable to pleadings and orders that set a court date and from Article
 31 2166(F) defining "transmission of notice" with respect to the appellate court.

32 * * *

1 Art. 2128. Same; determination of content

2 The form and content of the record on appeal shall be in accordance with the

3 rules of the appellate court, except as provided in the ~~constitution~~ Constitution of

4 Louisiana and as provided in Article 2128.1. ~~However, within three days, exclusive~~

5 ~~of holidays, after taking the appeal~~ Within ten days after transmission of the notices

6 of estimated costs by the clerk of court as provided in Article 2126, however, the

7 appellant may designate ~~in a writing~~ by written notice filed with the trial court ~~such~~

8 the portions of the record which he that the appellant desires to constitute the record

9 on appeal. ~~Within five~~ fourteen days, ~~exclusive of holidays,~~ after service of a copy

10 of this designation on the other party, that party may also designate ~~in a writing~~ by

11 written notice filed with the trial court ~~such~~ other portions of the record as ~~he~~ the

12 party considers necessary. In ~~such~~ those cases, the clerk shall prepare the record on

13 appeal as so directed, but a party or the trial court may cause to be filed thereafter

14 any omitted portion of the record as a supplemental record. When no designation is

15 made, the record shall be a transcript of all of the proceedings as well as all

16 documents filed in the trial court.

17 * * *

18 Art. 2166. Court of appeal judgment rehearing; finality; stay

19 * * *

20 F. For the purposes of this Article, "transmission of the notice" means the

21 sending of the notice via the United States Postal Service; or electronic mail, ~~or~~

22 ~~facsimile.~~

23 Art. 2167. Supreme court judgment rehearing; finality; stay

24 * * *

25 D. For the purposes of this Article, "transmission of the notice" means the

26 sending of the notice via the United States Postal Service; or electronic mail, ~~or~~

27 ~~facsimile.~~

28 * * *

1 Art. 4922. Notice of judgment; justice of the peace courts; district courts with
2 concurrent jurisdiction

3 Notice of the signing of any final judgment shall be given ~~as required by in~~
4 accordance with Article 1913; ~~except that if the party is personally served with the~~
5 ~~judgment in open court, no further notice shall be required.~~

6 Comments - 2026

7 This amendment does not change the law. Article 1913 was previously
8 amended to provide that delivery of the signed judgment in open court shall
9 constitute notice of judgment and shall be documented in the record of the
10 proceeding.

11 Section 2. R.S. 13:319 and 5206 are hereby amended and reenacted to read as
12 follows:

13 §319. Assignment and allotment of cases

14 Each civil and criminal appeal and each application for writs shall be
15 randomly assigned by the clerk, subject to the direct supervision of the court. Except
16 for good cause shown, all writs and appeals from contemporaneously rendered orders
17 or judgments from a lower court in the same action or consolidated cases shall be
18 assigned to the same randomly selected panel.

19 Comments - 2026

20 This amendment permits the clerk of the court of appeal to assign writs and
21 appeals in accordance with procedures that were commonly used prior to the 2018
22 amendment of this Section, thus preventing duplicative adjudication of identical
23 issues derived from the same action. See also Code of Civil Procedure Article
24 2164.1.

25 * * *

26 §5206. Reconventional demand beyond jurisdiction; filing in court of competent
27 jurisdiction; transfer of proceedings from small claims division

28 A. If a defendant in a small claims action ~~shall have~~ has a claim against the
29 plaintiff in ~~such~~ the action for an amount over the jurisdiction of the small claims
30 division as set forth in R.S. 13:5202(A), but of a nature ~~which~~ that may be asserted
31 by a reconventional demand as authorized by Code of Civil Procedure Article 1061
32 ~~of the Louisiana Code of Civil Procedure~~, the defendant may assert ~~his~~ the claim in
33 the manner provided by this Section; in order to secure consolidation for trial of the
34 small claims action with ~~his~~ the defendant's own claim.

1 Section 5. The provisions of Code of Civil Procedure Article 561 as amended by
2 Section 1 of this Act shall have prospective application only and shall apply to motions to
3 dismiss based on abandonment filed on or after the effective date of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____