

Regular Session, 2005
HOUSE BILL NO. 258

ACT No. 174

BY REPRESENTATIVE BRUNEAU AND SENATOR MURRAY

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

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AN ACT

To enact R.S. 13:1336(C) and 1338, relative to the jurisdiction of the Criminal District Court for the Parish of Orleans; to provide for commitment jurisdiction of the court when the criminal court determines a mentally defective defendant is incapable of standing trial, is a danger to himself or others, and is unlikely in the foreseeable future to be capable of standing trial; to provide for the transfer of all pending cases filed in the Civil District Court for the Parish of Orleans; to provide for an order of transfer; to provide for delivery of the records; to grant the criminal sheriff for the Criminal District Court for the Parish of Orleans the authority to make service and return of court processes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:1336(C) and 1338 are hereby enacted to read as follows:

§1336. Criminal District Court for the Parish of Orleans; jurisdiction; powers; probation officers

* * *

C.(1) Pursuant to the authority vested by Sections 16 and 32 of Article V of the Constitution, the Criminal District Court for the Parish of Orleans is hereby vested with additional jurisdiction of certain cases previously under the jurisdiction of the Civil District Court for the Parish of Orleans as provided for in Paragraph (2) of this Subsection.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (2) The Criminal District Court for the Parish of Orleans shall have exclusive
 2 jurisdiction over civil commitment proceedings when the court determines a
 3 mentally defective defendant, who is under the jurisdiction of the court on pending
 4 criminal charges but is incapable of standing trial, is a danger to himself or others,
 5 and is unlikely in the foreseeable future to be capable of standing trial.

6 * * *

7 §1338. Transfer of cases

8 A. All pending cases filed in the Civil District Court for the Parish of
 9 Orleans over civil commitment proceedings where the Criminal District Court for
 10 the Parish of Orleans has determined a mentally defective defendant is incapable of
 11 standing trial, is a danger to himself or others, and is unlikely in the foreseeable
 12 future to be capable of standing trial are hereby transferred to the Criminal District
 13 Court for the Parish of Orleans for further proceedings in accordance with law. A
 14 judge of the civil district court or the criminal district court on his own motion, or
 15 upon motion by the district attorney of Orleans Parish or the attorney of the
 16 defendant, may have such case transferred upon the signing of the order to transfer
 17 by either a judge of the Criminal District Court for the Parish of Orleans or a judge
 18 of the Civil District Court for the Parish of Orleans. Upon the signing of such an
 19 order, the clerk of the Civil District Court for the Parish of Orleans or the clerk of
 20 the Criminal District Court for the Parish of Orleans shall effect delivery of the
 21 record to the clerk of the Criminal District Court for the Parish of Orleans, who shall
 22 receipt the same and properly file it in his office. The Criminal District Court for the
 23 Parish of Orleans shall hear and dispose of the case with the same legal effect as if
 24 it had been instituted in that court in the first instance.

25 B. With respect to cases and jurisdiction transferred according to this
 26 Section, the criminal sheriff for the parish of Orleans is vested with the power and

1 authority to serve all notices, subpoenas, papers, writs, and orders and to make
2 proper return thereto to the Criminal District Court for the Parish of Orleans.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____