

2020 Regular Session

HOUSE BILL NO. 759

BY REPRESENTATIVE MARINO

CRIMINAL/PROCEDURE: Provides for the suspension of certain time periods, limitations, and delays in declared states of disaster or emergency

1 AN ACT

2 To enact Code of Criminal Procedure Article 958, relative to suspension of time limitations
3 in declared states of disaster or emergency; to provide relative to the authority of the
4 supreme court to suspend certain time periods, limitations, and delays during a
5 declared state of disaster or emergency; to provide for the authority to terminate and
6 to extend the suspension period; to provide for certain exceptions; to provide relative
7 to the application of other provisions of law regarding suspension and interruption
8 of time periods, limitations, and delays; to provide for an effective date; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 958 is hereby enacted to read as
12 follows:

13 Art. 958. Suspension of time limitations in declared states of disaster or emergency

14 A. Notwithstanding any provision of law to the contrary, if the governor has
15 declared a disaster or emergency pursuant to the provisions of R.S. 29:721 et seq.,
16 the supreme court is authorized to issue an order, or series of orders as it determines
17 to be necessary and appropriate, that shall have the full force and effect of
18 suspending all time periods, limitations, and delays pertaining to the initiation,
19 continuation, prosecution, defense, appeal, and post-conviction relief of any
20 prosecution of any state or municipal criminal, juvenile, wildlife, or traffic matter

1 within the state of Louisiana including but not limited to any such provisions in the
2 Code of Criminal Procedure, the Children's Code, and Titles 14, 15, 32, 40, and 56
3 of the Louisiana Revised Statutes of 1950, or in any other provision of Louisiana
4 law, for a determinate period of thirty days except as otherwise provided by this
5 Article.

6 B. The thirty-day period provided for in this Article shall commence to run
7 from the date the supreme court issues the order or from a particular date specified
8 by the supreme court in the order, whichever is earlier.

9 C. The thirty-day period provided in Paragraph A of this Article may be
10 extended by further order of the supreme court for additional successive periods with
11 each period not exceeding thirty days.

12 D. The period of suspension authorized by the provisions of this Article shall
13 terminate upon order of the supreme court or upon cessation of the declared state of
14 disaster or emergency, whichever is earlier.

15 E. The provisions of this Article shall not apply to Code of Criminal
16 Procedure Articles 230.1, 230.2, and 232 and Children's Code Articles 624 and 819.

17 F. Nothing in this Article shall be construed to negate or impair the
18 application of any other provision of law regarding the suspension or interruption of
19 time periods, limitations, or delays.

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.

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)]

HB 759 Original

2020 Regular Session

Marino

Abstract: Authorizes the supreme court to issue an order suspending certain time periods, limitations, and delays during a gubernatorially declared state of disaster or emergency.

Present law provides for certain time periods, limitations, and delays pertaining to the initiation, continuation, prosecution, defense, appeal, and post-conviction relief of any prosecution of any state or municipal criminal, juvenile, wildlife, or traffic matter within the state of La.

Proposed law retains present law but provides that if the governor has declared a disaster or emergency pursuant to the provisions of present law (R.S. 29:721 et seq.), the supreme court is authorized to issue an order, or series of orders as it determines to be necessary and appropriate, that shall have the full force and effect of suspending all time periods, limitations, and delays pertaining to the initiation, continuation, prosecution, defense, appeal, and post-conviction relief of any prosecution of any state or municipal criminal, juvenile, wildlife, or traffic matter within the state of La. including but not limited to any such provisions in the Code of Criminal Procedure, the Children's Code, and Titles 14, 15, 32, 40, and 56 of the La. Revised Statutes, or in any other provision of La. law, for a determinate period of 30 days except as otherwise provided by proposed law.

Proposed law provides that the 30-day period shall commence to run from the date the supreme court issues the order or from a particular date specified by the court in the order, whichever is earlier.

Proposed law provides that the 30-day period may be extended by further order of the supreme court for additional successive periods with each period not exceeding 30 days.

Proposed law provides that the period of suspension authorized by the provisions of proposed law shall terminate upon order of the supreme court or upon cessation of the declared state of disaster or emergency, whichever is earlier.

Proposed law does not apply to time periods, delays, or limitations applicable to the maximum time for appearance before a judge for the purpose of appointment of counsel (C.Cr.P. Art. 230.1), the time period within which a probable cause determination is required to be made (C.Cr.P. Art. 230.2), the time period within which an arrested person is required to be taken before a judge to determine the lawfulness of the arrest (C.Cr.P. Art. 232), and the time period within which a continued custody hearing is required after a child has been taken into custody in Child in Need of Care and delinquency cases (Ch.C.Art. 624 and 819).

Proposed law provides that nothing in proposed law shall be construed to negate or impair the application of any other provision of present law regarding the suspension or interruption of time periods, limitations, or delays.

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

(Adds C.Cr.P. Art. 958)