

2020 Regular Session

HOUSE BILL NO. 176

BY REPRESENTATIVE MAGEE

(On Recommendation of the Louisiana State Law Institute)

CIVIL/PROCEDURE: Provides for the continuous revision of the Code of Civil Procedure

1 AN ACT

2 To amend and reenact Civil Code Article 3452, Code of Civil Procedure Articles 253.2,
3 592(A)(2) and (3), 893(A)(2), (B), and (C), 927(B), 1352, 1561(A), 1702(D) and (E),
4 1793(D), 1795, 1918, 1951, 2088(A), 3943, 3947(B), 4913(B)(4), and 5001, and R.S.
5 13:3661 and to enact Code of Civil Procedure Articles 1702(F), 4904(D), and
6 4921(C), relative to civil procedure; to provide with respect to certification
7 procedure; to provide for the pleading of damages; to provide for the necessity of
8 pleading prescription; to provide for restrictions on subpoenas; to provide for
9 consolidation; to provide with respect to courts raising the issue of prescription on
10 their own motion; to provide for jury instructions; to provide for the form and
11 amendment of final judgments; to provide for the jurisdiction of trial and justice of
12 the peace courts; to provide for the appeal of judgments; to provide for name
13 confirmation; to provide for witness fees; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Civil Code Article 3452 is hereby amended and reenacted to read as
16 follows:

17 Art. 3452. Necessity for pleading prescription

18 Prescription must be pleaded. ~~Courts~~ Except as otherwise provided by
19 legislation, courts may not supply a plea of prescription.

20 Section 2. Code of Civil Procedure Articles 253.2, 592(A)(2) and (3), 893(A)(2),
21 (B), and (C), 927(B), 1352, 1561(A), 1702(D) and (E), 1793(D), 1795, 1918, 1951, 2088(A),

1 3943, 3947(B), 4913(B)(4), and 5001 are hereby amended and reenacted and Code of Civil
2 Procedure Articles 1702(F), 4904(D), and 4921(C) are hereby enacted to read as follows:

3 Art. 253.2. Transfer and reassignment of pending cases

4 After a case has been assigned to a particular section or division of the court,
5 it may not be transferred from one section or division to another section or division
6 within the same court, unless agreed to by all parties, or unless it is being transferred
7 to effect a consolidation ~~for purpose of trial~~ pursuant to Article 1561. However, the
8 supreme court, by rule, may establish uniform procedures for reassigning cases under
9 circumstances where an expeditious disposition of cases may be effectuated.

10 * * *

11 Art. 592. Certification procedure; notice; judgment; orders

12 A.

13 * * *

14 (2) If the proponent fails to file a motion for certification within the delay
15 allowed by Subparagraph ~~A(1)~~ (1) of this Paragraph, any adverse party may file a
16 notice of the failure to move for certification. On the filing of such a notice and after
17 hearing thereon, the demand for class relief may be stricken. If the demand for class
18 relief is stricken, the action may continue between the named parties alone. A
19 demand for class relief stricken under this Subparagraph may be reinstated upon a
20 showing of good cause by the proponent.

21 (3)(a) No motion to certify an action as a class action shall be granted prior
22 to a hearing on the motion. Such hearing shall be held as soon as practicable, but in
23 no event ~~before~~ until after both of the following have occurred:

24 (i) All named adverse parties have been served with the pleading containing
25 the demand for class relief or have made an appearance or, with respect to unserved
26 defendants who have not appeared, the proponent of the class has made due and
27 diligent effort to perfect service of such pleading, ~~and~~.

28 (ii) The parties have had a reasonable opportunity to obtain discovery on
29 class certification issues, on such terms and conditions as the court deems necessary,

1 which may include expert witness testimony or evidence. The admissibility of
2 expert witness testimony or evidence for class certification purposes shall also be
3 governed by Article 1425(F), although the court in its discretion may change the
4 deadlines for filing or hearing a motion as set forth in Article 1425(F) provided such
5 deadlines are prior to or contemporaneous with the class certification hearing.

6 (b) At the hearing on the motion to certify an action as a class action, the
7 proponent of the class shall have the burden of proof to establish that all
8 requirements of Article 591 ~~of this Code~~ have been satisfied.

9 (c) If the court finds that the action should be maintained as a class action,
10 it shall certify the action accordingly. If the court finds that the action should not be
11 maintained as a class action, the action may continue between the named parties. In
12 either event, the court shall give in writing its findings of fact and reasons for
13 judgment provided a request is made not later than ten days after notice of the order
14 or judgment. A suspensive or devolutive appeal, as provided in Article 2081 et seq.
15 ~~of the Code of Civil Procedure~~, may be taken as a matter of right from an the order
16 or judgment ~~provided for herein~~.

17 (d) In the process of class certification, or at any time thereafter before a
18 decision on the merits of the common issues, the court may alter, amend, or recall
19 its initial ruling on certification and may enlarge, restrict, or otherwise redefine the
20 constituency of the class or the issues to be maintained in the class action.

21 ~~(e) No order contemplated in this Subparagraph shall be rendered after a~~
22 ~~judgment or partial judgment on the merits of common issues has been rendered~~
23 ~~against the party opposing the class and over such party's objection.~~

24 * * *

25 Comments - 2020

26 Former Subsubparagraph (A)(3)(e) of this Article has been deleted. This
27 deletion is intended to recognize a series of judicial decisions permitting motions and
28 exceptions that are dispositive of common and determinative issues to be resolved
29 prior to certification of the class action. See, e.g., Cooper v. CVS Caremark
30 Corporation, 176 So. 3d 422 (La. App. 1 Cir. 2015); Smith v. City of New Orleans,

1 131 So. 3d 511 (La. App. 4 Cir. 2013); Clark v. Shackelford Farms Partnership, 880 So. 2d
2 225 (La. App. 2 Cir. 2004); see also Wade v. Kirkland, 118 F. 3d 667 (9 Cir. 1997).

3 * * *

4 Art. 893. Pleading of damages

5 A.

6 * * *

7 (2) If a petition is filed in violation of this Article, the claim for a specific
8 monetary amount of damages shall be stricken upon the motion of an opposing party
9 and the court may award ~~attorney's attorney~~ fees and costs against the person who
10 signed the petition, the party who filed on whose behalf the petition was filed, or
11 both.

12 B. The provisions of Paragraph A of this Article shall not be applicable to
13 a suit on a conventional obligation, promissory note, open account, or other
14 negotiable instrument, for alimony or child support, on a tax claim, or in a
15 garnishment proceeding.

16 C. The prohibitions in Paragraph A of this Article apply only to an original,
17 amended, or incidental demand. Evidence at trial or hearing of a specific monetary
18 amount of damages shall be adduced in accordance with the Louisiana Code of
19 Evidence or other applicable law.

20 Comments - 2020

21 The amendment to Paragraph (A)(2) of this Article is intended to make this
22 paragraph consistent with Article 863, which permits the court to impose sanctions
23 for the improper certification of a pleading against the person who made the
24 certification, the represented party, or both.

25 * * *

26 Art. 927. Objections raised by peremptory exception

27 * * *

28 B. ~~The~~ Except as otherwise provided by Articles 1702(D), 4904(D), and
29 4921(C), the court may not supply the objection of prescription, which shall be
30 specially pleaded. The nonjoinder of a party, peremption, res judicata, the failure to
31 disclose a cause of action or a right or interest in the plaintiff to institute the suit, or

1 discharge in bankruptcy, may be noticed by either the trial or appellate court on its
2 own motion.

3 * * *

4 Art. 1352. Restrictions on subpoena

5 A witness, whether a party or not, who resides or is employed in this state
6 may be subpoenaed to attend a trial or hearing wherever held in this state. No
7 subpoena shall issue to compel the attendance of such a witness ~~who resides and is~~
8 ~~employed outside the parish and more than twenty-five miles from the courthouse~~
9 ~~where the trial or hearing is to be held~~, unless the provisions of R.S. 13:3661 are
10 complied with.

11 * * *

12 Art. 1561. Consolidation for trial

13 A. When two or more separate actions are pending in the same court, the
14 section or division of the court in which the first filed action is pending may order
15 consolidation of the actions for trial or other limited purposes after a contradictory
16 hearing, ~~and~~ upon a finding that common issues of fact and law predominate, and,
17 in the event a trial date has been set in a subsequently filed action, upon a finding
18 that consolidation is in the interest of justice. The contradictory hearing may be
19 waived upon the certification by the mover that all parties in all cases to be
20 consolidated consent to the consolidation.

21 * * *

22 Comments - 2020

23 The amendment to this Article to allow the court in its discretion to
24 consolidate two or more separate actions for trial or other limited purposes, such as
25 discovery, is intended to legislatively overrule the decision of the Fourth Circuit
26 Court of Appeal in Boh v. James Indus. Contractors, LLC, 868 So. 2d 180 (La. App.
27 4 Cir. 2004).

28 * * *

29 Art. 1702. Confirmation of preliminary default

30 * * *

31 D. When the demand is based on an open account, promissory note, or other
32 negotiable instrument that the plaintiff acquired by assignment, the court may raise

1 Art. 1793. Instructions to jury; objections

2 * * *

3 D. The jury may take with it or have sent to it a written copy of all
4 instructions and charges ~~and any object or document received in evidence when a~~
5 ~~physical examination thereof is required to enable the jury to arrive at a verdict.~~

6 Comments - 2020

7 Paragraph D of this Article has been amended to delete the restriction that the
8 jury may take evidence into the jury room only when a physical examination of the
9 evidence is required to enable the jury to arrive at a verdict. This language
10 incorrectly imposed the criminal procedural rule of Code of Criminal Procedure
11 Article 793(A). In civil proceedings, Article 1794(B) permits the jury to take into
12 the deliberation room any object or writing received in evidence, except depositions
13 and except as otherwise provided in the Louisiana Code of Evidence.

14 * * *

15 Art. 1795. Jury request to review ~~evidence~~ testimony

16 A. If the jury, after retiring for deliberation, requests a review of certain
17 testimony ~~or other evidence~~, they shall be conducted to the courtroom. After giving
18 notice to the parties, the court may have the requested testimony read to the jury.

19 ~~B. After giving notice to the parties, the court may have the requested~~
20 ~~testimony read to the jury and may permit the jury to examine the requested~~
21 ~~materials admitted into evidence.~~

22 Comments - 2020

23 This Article has been amended to clarify a misunderstanding concerning the
24 review of testimony by the jury. Under this Article, when the jury retires for
25 deliberation and later requests review of certain testimony, the jury must be
26 conducted to the courtroom where, after notifying the parties, the requested
27 testimony may be read to the jury; however, the jury may not take depositions, trial
28 transcripts, or other testimony into the jury room for examination. Because Article
29 1794 already permits the jury, with certain exceptions, to take with it any object or
30 writing received into evidence, the references to "other evidence" and "materials"
31 have been deleted to eliminate confusion.

32 * * *

33 Art. 1918. Form of final judgment

34 A. A final judgment in accordance with Article 1841 shall be identified as
35 such by appropriate language; shall be signed and dated; and shall, in its decree,
36 identify the name of the party in whose favor the relief is awarded, the name of the

1 party against whom the relief is awarded, and the relief that is awarded. If appealed,
2 a final judgment that does not contain the appropriate decretal language shall be
3 remanded to the trial court, where the judgment may be amended in accordance with
4 Article 1951.

5 B. When written reasons for the judgment are assigned, they shall be set out
6 in an opinion separate from the judgment.

7 Comments - 2020

8 (a) The amendments to this Article are intended to codify Louisiana
9 jurisprudence providing that a final judgment must contain decretal language
10 identifying the relief that is awarded and the parties in whose favor and against
11 whom the relief is awarded. See, e.g., Matter of Succession of Porche, 213 So. 3d
12 401 (La. App. 1 Cir. 2017); Abshire v. Town of Gueydan, 208 So. 3d 405 (La. App.
13 3 Cir. 2016); Schiff v. Pollard, 222 So. 3d 867 (La. App. 4 Cir. 2017); Contreras v.
14 Vesper, 202 So. 3d 1186 (La. App. 5 Cir. 2016). The issue of whether a judgment
15 constitutes a final judgment should be determined in accordance with Article 1841.
16 A judgment's lack of proper decretal language does not divest the appellate court of
17 jurisdiction but is instead a flaw that may be corrected by an amendment in
18 accordance with Article 1951.

19 (b) The amendments to this Article are consistent with existing requirements
20 pertaining to final judgments affecting immovable property under Article 1919 and
21 those granting an injunction or temporary restraining order under Article 3605.

22 * * *

23 Art. 1951. Amendment of judgment

24 On motion of the court or any party, a final judgment may be amended at any
25 time to alter the phraseology of the judgment, ~~but not its substance~~, or to correct
26 deficiencies in the decretal language or errors of calculation. The judgment may be
27 amended only after a hearing with notice to all parties, except that a hearing is not
28 required if all parties consent or if the court or the party submitting the amended
29 judgment certifies that it was provided to all parties at least five days before the
30 amendment and that no opposition has been received. A final judgment may not be
31 amended under this Article to change its substance.

32 * * *

33 Art. 2088. Divesting of jurisdiction of trial court

34 A. The jurisdiction of the trial court over all matters in the case reviewable
35 under the appeal is divested, and that of the appellate court attaches, on the granting

1 of the order of appeal and the timely filing of the appeal bond, in the case of a
2 suspensive appeal or on the granting of the order of appeal, in the case of a
3 devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over
4 those matters not reviewable under the appeal, including the right to do any of the
5 following:

- 6 (1) Allow the taking of a deposition, as provided in Article 1433~~;~~
- 7 (2) Extend the return day of the appeal, as provided in Article 2125~~;~~
- 8 (3) Make, or permit the making of, a written narrative of the facts of the
9 case, as provided in Article 2131~~;~~
- 10 (4) Correct any misstatement, irregularity, informality, or omission of the
11 trial record, as provided in Article 2132~~;~~
- 12 (5) Test the solvency of the surety on the appeal bond as of the date of its
13 filing or subsequently, consider objections to the form, substance, and sufficiency
14 of the appeal bond, and permit the curing thereof, as provided in Articles 5123, 5124,
15 and 5126~~;~~
- 16 (6) Grant an appeal to another party~~;~~
- 17 (7) Execute or give effect to the judgment when its execution or effect is not
18 suspended by the appeal~~;~~
- 19 (8) Enter orders permitting the deposit of sums of money within the meaning
20 of Article 4658 of this Code~~;~~
- 21 (9) Impose the penalties provided by Article 2126, or dismiss the appeal,
22 when the appellant fails to timely pay the estimated costs or the difference between
23 the estimated costs and the actual costs of the appeal~~; or~~
- 24 (10) Set and tax costs and expert witness fees.

25 * * *

26 Comments - 2020

27 The amendment to Subparagraph (A)(10) of this Article clarifies that the trial
28 court retains jurisdiction for purposes of setting attorney fees after an appeal has
29 been taken from the initial judgment. Trial courts award reasonable attorney fees in
30 many judgments, but often these judgments are appealed before the attorney fees are
31 set. With this amendment, it is no longer necessary for an appellate court to dismiss
32 an appeal in order to allow the trial court to set the amount of the attorney fees,

1 because the trial court has jurisdiction to set attorney fees while the appeal is
2 pending.

3 * * *

4 Art. 3943. Appeal from judgment awarding, modifying, or denying custody,
5 visitation, or support

6 An appeal from a judgment awarding, modifying, or denying custody,
7 visitation, or support of a person can be taken only within the delay provided in
8 Article 3942. Such an appeal shall not suspend execution of the judgment insofar
9 as the judgment relates to custody, visitation, or support.

10 * * *

11 Art. 3947. Name confirmation

12 * * *

13 B. The court may enter an order confirming the name of a ~~married woman~~
14 spouse in a divorce proceeding, whether ~~she~~ the person is the plaintiff or defendant,
15 which confirmation shall be limited to the name ~~which she~~ that the person was using
16 at the time of the marriage, or the name of ~~her~~ the person's minor children, or ~~her~~
17 ~~maiden name~~ the person's surname on the birth certificate, without complying with
18 the provisions of R.S. 13:4751 through 4755. This Article shall not be construed to
19 allow ~~her to amend her~~ an amendment to a birth certificate with the Bureau of Vital
20 Statistics.

21 * * *

22 Art. 4904. Final default judgment in parish and city courts

23 * * *

24 D. When the demand is based on an open account, promissory note, or other
25 negotiable instrument that the plaintiff acquired by assignment, the court may raise
26 an objection of prescription before entering a final default judgment if the grounds
27 for the objection appear from the pleadings or from the evidence submitted by the
28 plaintiff. If the court raises an objection of prescription, it shall not enter the final
29 default judgment unless the plaintiff presents prima facie proof that the action is not

1 barred by prescription. If the plaintiff requests, the court shall hold a hearing for the
2 submission of such proof.

3 * * *

4 Art. 4913. Limitations upon jurisdiction; nature of proceedings; justice of the peace
5 courts

6 * * *

7 B. A justice of the peace court has no jurisdiction in any of the following
8 cases or proceedings:

9 * * *

10 (4) A claim for annulment of marriage, separation from bed and board,
11 divorce, separation of property, ~~or alimony~~ custody, visitation, spousal support, or
12 child support.

13 * * *

14 Art. 4921. Final default judgment; justice of the peace courts; district courts with
15 concurrent jurisdiction

16 * * *

17 C. When the demand is based on an open account, promissory note, or other
18 negotiable instrument that the plaintiff acquired by assignment, the court may raise
19 an objection of prescription before entering a final default judgment if the grounds
20 for the objection appear from the pleadings or from the evidence submitted by the
21 plaintiff. If the court raises an objection of prescription, it shall not enter the final
22 default judgment unless the plaintiff presents prima facie proof that the action is not
23 barred by prescription. If the plaintiff requests, the court shall hold a hearing for the
24 submission of such proof.

25 * * *

26 Art. 5001. Appeals from city and parish courts

27 ~~A. Except as provided in Paragraph B of this Article, an~~ An appeal from a
28 judgment rendered by a parish court or by a city court shall be taken to the court of
29 appeal.

1 B. ~~Appeal from a judgment rendered by a city court located in the~~
2 Nineteenth Judicial District shall be taken to the district court of the parish in which
3 the court of original jurisdiction is located.

4 ~~C.~~ Appeal shall be on the record and shall be taken in the same manner as
5 an appeal from the district court.

6 Section 3. R.S. 13:3661 is hereby amended and reenacted to read as follows:

7 §3661. Attendance compulsory in civil cases; witnesses ~~outside parish but~~ within
8 state; deposit

9 A. Witnesses in civil cases who reside or who are employed in this state may
10 be subpoenaed and compelled to attend trials or hearings wherever held in this state.

11 B. Witnesses who are subpoenaed to attend a trial or hearing shall be paid
12 their travel expenses to and from the courthouse at the rate of forty cents per mile
13 and an attendance fee of fifty dollars for each day that the witness is required to
14 appear in court.

15 ~~B.(1)C.~~ No witness ~~residing and employed outside of the parish and more~~
16 ~~than twenty-five miles from the courthouse where the trial or hearing is to be held~~
17 shall be subpoenaed to attend court personally a trial or hearing unless the party who
18 ~~desired~~ desires the testimony of the witness has deposited with the clerk of court a
19 sum of money sufficient to cover: the estimated attendance fee and travel expenses.

20 ~~(a) Reimbursement of the traveling expenses of the witness in traveling to~~
21 ~~the court and returning, at the rate of twenty cents a mile.~~

22 ~~(b) The witness' fee at the rate of twenty-five dollars a day.~~

23 ~~(c) Hotel and meal expenses at the rate of five dollars a day.~~

24 ~~(2)D.~~ Such a The witness shall be paid ~~his expenses and~~ the attendance fee
25 and travel expenses immediately by the clerk of court when the witness has answered
26 the subpoena and has appeared for the purpose of testifying.

27 E. In cases of exceptional hardship, the court may increase the travel
28 expenses paid to the witness.

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Comments - 2020

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This Section has been amended to increase the witness attendance fee from twenty-five dollars per day to fifty dollars per day, and the travel expense reimbursement from twenty cents per mile to forty cents per mile. The prior provision for reimbursement of hotel and meal expenses at the rate of five dollars per day has been eliminated, and a new provision has been added to provide the court with the discretion to increase the amount paid to witnesses in cases of exceptional hardship.

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 176 Original

2020 Regular Session

Magee

Abstract: Provides for the continuous revision of the Code of Civil Procedure.

Present law (C.C. Art. 3452) provides that prescription must be pleaded and cannot be supplied by the courts.

Proposed law retains present law but creates an exception where legislation provides otherwise.

Present law (C.C.P. Art. 253.2) provides for the transfer of pending cases and includes an exception for cases being transferred to effect a consolidation.

Proposed law retains present law but recognizes that consolidations can be effected for purposes other than trial under present law (C.C.P. Art. 1561(A)) as amended by proposed law.

Present law (C.C.P. Art. 592) provides the procedure for certification of class actions.

Proposed law retains present law but makes minor semantic changes.

Present law (C.C.P. Art. 592(A)(3)(e)) prohibits the certification of a class after a judgment on the merits of common issues has been rendered against the party opposing the class.

Proposed law deletes present law.

Present law (C.C.P. Art. 893) provides for the pleading of damages and permits the court to award attorney fees and costs against the party who filed the petition.

Proposed law retains present law and permits the court to award attorney fees and costs against the person who signed the petition, the party on whose behalf the petition was filed, or both. Proposed law also makes minor semantic changes.

Present law (C.C.P. Art. 927(B)) provides that prescription must be pleaded and cannot be supplied by the courts.

Proposed law retains present law but creates an exception where the Code of Civil Procedure provides otherwise.

Present law (C.C.P. Art. 1352) sets forth a restriction on the issuance of a subpoena when the witness resides and is employed outside of the parish and more than 25 miles from the courthouse.

Proposed law removes the restriction set forth by present law, making the provision consistent with other provisions of present law (R.S. 13:3661) as amended by proposed law.

Present law (C.C.P. Art. 1561(A)) provides for the consolidation of actions for trial.

Proposed law retains present law but also provides that actions may be consolidated for other limited purposes, such as discovery.

Present law (C.C.P. Art. 1702) provides the procedure for the confirmation of a preliminary default and the rendition of a final default judgment.

Proposed law retains present law but provides that the court may raise an objection of prescription before entering a final default judgment when the demand is based on an open account, promissory note, or other negotiable instrument that the plaintiff acquired by assignment. Proposed law further provides the procedures that the court must follow.

Present law (C.C.P. Art. 1793(D)) sets forth the circumstances under which the jury may take written instructions and evidence into the jury room.

Proposed law deletes the requirement under present law that the jury may only take evidence into the jury room when a physical examination thereof is required to enable the jury to arrive at a verdict.

Present law (C.C.P. Art. 1795) permits the jury to review certain testimony or other evidence.

Proposed law changes present law by clarifying that the review of the requested testimony shall be conducted in the courtroom.

Present law (C.C.P. Art. 1918) requires final judgments to be identified as such by appropriate language.

Proposed law retains present law but also requires final judgments to be signed and dated and to contain the name of the party in favor of whom relief is awarded, the name of the party against whom relief is awarded, and the relief that is awarded. Proposed law further provides that a final judgment that does not satisfy these requirements shall be remanded to the trial court for amendment.

Present law (C.C.P. Art. 1951) permits a final judgment to be amended to alter its phraseology or to correct errors of calculation.

Proposed law retains present law but also permits a final judgment to be amended to correct deficiencies in decretal language.

Present law (C.C.P. Art. 2088(A)) sets forth the matters over which the trial court retains jurisdiction while an appeal is pending.

Proposed law adds to present law the right to set attorney fees.

Present law (C.C.P. Art. 3943) provides for the delays within which appeals from judgments awarding custody, visitation, or support must be taken.

Proposed law retains present law but extends its application to judgments awarding, modifying, or denying custody, visitation, or support.

Present law (C.C.P. Art. 3947(B)) provides for the confirmation of the name of a married woman in a divorce proceeding.

Proposed law changes present law by using gender-neutral terminology.

Present law (C.C.P. Art. 4904) provides the procedure for the rendition of a final default judgment in parish and city courts.

Proposed law retains present law but provides that the court may raise an objection of prescription before entering a final default judgment when the demand is based on an open account, promissory note, or other negotiable instrument that the plaintiff acquired by assignment. Proposed law further provides the procedures that the court must follow.

Present law (C.C.P. Art. 4913(B)(4)) provides that justice of the peace courts have no jurisdiction over a claim for annulment of marriage, separation from bed and board, divorce, separation of property, or alimony.

Proposed law changes present law by replacing "alimony" with "spousal support" and adding custody, visitation, and child support.

Present law (C.C.P. Art. 4921) provides the procedure for the rendition of a final default judgment in justice of the peace courts.

Proposed law retains present law but provides that the court may raise an objection of prescription before entering a final default judgment when the demand is based on an open account, promissory note, or other negotiable instrument that the plaintiff acquired by assignment. Proposed law further provides the procedures that the court must follow.

Present law (C.C.P. Art. 5001) provides that appeals from judgments rendered by city and parish courts shall be taken to the court of appeal, except that in city courts located in the 19th Judicial District, the appeal shall be taken to the applicable district court.

Proposed law removes the exception under present law for city courts located in the 19th Judicial District, such that appeals from judgments rendered by these courts will also be taken to the court of appeal.

Present law (R.S. 13:3661) sets forth the fees owed to witnesses who are subpoenaed to attend court more than 25 miles from where they reside and are employed, including travel expenses to and from the courthouse at the rate of twenty cents per mile, a witness fee of \$25 per day, and hotel and meal expenses at the rate of five dollars per day.

Proposed law removes the 25 mile requirement under present law and increases the fees owed to witnesses for travel expenses from \$.20 to \$.40 per mile and for attendance from \$25 per day to \$50 per day. Proposed law also deletes the reimbursement of five dollars per day for hotel and meal expenses and provides the court with the discretion to increase the amount paid to witnesses in cases of exceptional hardship.

(Amends C.C. Art. 3452, C.C.P. Arts. 253.2, 592(A)(2) and (3), 893(A)(2), (B), and (C), 927(B), 1352, 1561(A), 1702(D) and (E), 1793(D), 1795, 1918, 1951, 2088(A), 3943, 3947(B), 4913(B)(4), and 5001, and R.S. 13:3661; Adds C.C.P. Arts. 1702(F), 4904(D), and 4921(C))