HLS 24RS-989 ORIGINAL

2024 Regular Session

HOUSE BILL NO. 497

BY REPRESENTATIVE FONTENOT

BAIL: Provides relative to constructive surrender

1 AN ACT 2 To amend and reenact Code of Criminal Procedure Article 311(4)(c), relative to constructive 3 surrender; to provide for the payment of certain costs; and to provide for related 4 matters. 5 Be it enacted by the Legislature of Louisiana: 6 Section 1. Code of Criminal Procedure Article 311(4)(c) is hereby amended and 7 reenacted to read as follows: 8 Art. 311. Definitions 9 For the purpose of this Title, the following definitions shall apply: 10 11 (4) A constructive surrender is the detention of the defendant in another 12 parish of the state of Louisiana or a foreign jurisdiction under the following 13 circumstances: 14 15 (c) The surety has paid agrees to pay reasonable or actual costs of returning 16 the defendant to the jurisdiction where the warrant for arrest was issued by one of the 17 following methods:. 18 (i) Upon presentation of proof of the defendant's current incarceration in a 19 foreign jurisdiction to the officer originally charged with the defendant's detention, 20 the officer shall provide the surety with the reasonable or actual costs of returning 21 the defendant to the jurisdiction where the warrant for arrest was issued when the costs are immediately known or can be estimated. 22

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(11) The surety tenders to the officer originally charged with the defendant's
2	detention the reasonable or actual costs of returning the defendant to the jurisdiction
3	where the warrant for arrest was issued.
4	(iii) The surety provides proof of payment to the court and to the prosecuting
5	attorney.
6	(iv)(aa) In cases where the reasonable or actual costs of returning the
7	defendant to the jurisdiction where the warrant for arrest was issued are not
8	immediately known, the officer originally charged with the defendant's detention
9	shall accept the surety's tender of reasonable costs as provided in R.S. 13:5535 for
10	in-state transfers or for estimated costs for out-of-state transfers.
11	(bb) The surety shall provide proof of payment to the court and the
12	prosecuting attorney.
13	(cc) If the actual costs of returning the defendant to the jurisdiction where
14	the warrant for arrest was issued are more than the estimated costs tendered by the
15	surety, the officer originally charged with the defendant's detention may file a rule
16	to show cause with the court to recover the difference.
17	* * *

## **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 497 Original

2024 Regular Session

Fontenot

**Abstract:** Provides relative to the conditions of constructive surrender.

<u>Present law</u> provides the instances when a constructive surrender occurs.

<u>Present law</u> provides that a constructive surrender occurs when a surety has paid reasonable or actual costs pursuant to <u>present law</u> for the return of the defendant to the jurisdiction where the arrest warrant was issued.

<u>Proposed law</u> changes <u>present law</u> by providing that a surety's agreement to pay is a constructive surrender as opposed to the actual payment of reasonable or actual costs of returning the defendant.

(Amends C.Cr.P. Art. 311(4)(c))