

SENATE BILL NO. 75

BY SENATOR MILLER

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

1 AN ACT

2 Solely to reenact Sections 1, 2, and 3 of Act No. 19 of the 2024 Third Extraordinary Session  
3 of the Legislature as that Act was enacted by the legislature, which Act amended and  
4 reenacted R.S. 13:4163, relative to legislative continuances and extensions for  
5 legislators and legislative employees; to provide with respect to continuance and  
6 extension of deadlines; to authorize members of the legislature and legislative  
7 employees to file legislative continuances in certain circumstances; to provide for  
8 peremptory grounds; to provide with respect to time delays and procedures; to  
9 provide for a rebuttable presumption; to provide for service of process; to provide  
10 for notification and reporting requirements; to provide for electronic transmission;  
11 to provide for exceptions; to provide for denial of a motion for continuance or  
12 extension; to provide for the supreme court's authority to regulate disciplinary  
13 proceedings against a member of the legislature or legislative employee; to provide  
14 for an effective date; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Sections 1, 2, and 3 of Act 19 of the 2024 Third Extraordinary Session of  
17 the Legislature as that Act was enacted by the legislature are hereby reenacted to read as  
18 follows:

19 Section 1. R.S. 13:4163 is hereby amended and reenacted to read as follows:

20 §4163. Motion for legislative continuance or extension of time; legislators or  
21 employees engaged in legislative or constitutional convention  
22 activities

23 A.(1)(a) A member of the legislature or legislative employee shall be entitled  
24 to peremptory grounds for a continuance of any court or administrative proceeding  
25 or the extension of any legal delay or deadline, excluding civil prescriptive or  
26 peremptive periods, criminal statutes of limitations, and criminal cases where the  
27 death penalty is sought, if the presence, participation, or involvement of a member

1 of the legislature or legislative employee, who is a party or an attorney for a party,  
2 is required in any criminal or civil case or administrative proceeding, including any  
3 pretrial or post-trial proceeding, during any legislative session or constitutional  
4 convention.

5 (b) For purposes of this Section, "legislative employee" means the clerk of  
6 the House of Representatives, the secretary of the Senate, and an employee of the  
7 House of Representatives, the Senate, or the Legislative Bureau, when such person  
8 is employed full-time during the legislative session or during any other time in which  
9 the continuance or extension is being sought.

10 (c) Peremptory grounds are available any time between twenty-one days  
11 before the convening of any session of the legislature or constitutional convention  
12 and thirty days after the adjournment sine die of any session of the legislature or  
13 constitutional convention.

14 (2)(a) The motion for continuance shall be filed no later than five days prior  
15 to the proceeding to be continued, or no later than five days prior to the expiration  
16 of the deadline to be extended, at no cost and shall be accompanied by an affidavit,  
17 executed by the presiding officer or the clerk or secretary of the respective house,  
18 that the legislative employee will be or is in actual attendance of a session of the  
19 legislature or constitutional convention and that it is the legislative employee's  
20 intention to participate actively in the preparation or presentation of the case.

21 (b) A member of the legislature shall not be required to submit an affidavit  
22 as required by Subparagraph (a) of this Paragraph.

23 (3)(a) The motion for continuance may be filed by electronic means such as  
24 facsimile transmission or electronic mail, or by other electronic means in accordance  
25 with Code of Civil Procedure Article 253 if the member of the legislature or  
26 legislative employee seeking the continuance provides all enrolled counsel or parties  
27 with a copy of the motion prior to or simultaneously with the transmission of the  
28 motion to the clerk of court.

29 (b) Every motion for a legislative continuance or extension shall be served  
30 by transmitting a copy by electronic means to counsel of record, or if there is no

1 counsel of record, to the adverse party, at the number or address expressly designated  
2 in a pleading or other writing for receipt of electronic service. Service by electronic  
3 means is complete upon transmission but is not effective and shall not be certified  
4 if the serving party learns the transmission did not reach the party to be served.

5 B.(1) There shall be a presumption that a motion for continuance filed within  
6 the period specified in Paragraph (A)(2) of this Section by the member of the  
7 legislature or legislative employee is proper and shall be granted within seventy-two  
8 hours of the filing of the motion. The motion shall be granted for a period of not less  
9 than forty-five days from the date of adjournment sine die of any session of the  
10 legislature or constitutional convention.

11 (2) The presumption may be overcome by clear and convincing evidence  
12 under either of the following circumstances:

13 (a) The motion is being presented for an improper purpose, such as to harass,  
14 cause unnecessary delay, or needlessly increase the cost of litigation. A showing that  
15 the continuance shall cause a delay or increase the cost of litigation shall not be  
16 sufficient grounds to overcome the presumption of granting the continuance.

17 (b) The objecting party has a substantial existing right or interest that will be  
18 defeated or abridged and will suffer substantial and immediate irreparable harm if  
19 the requested continuance is granted. Notwithstanding the provisions of this  
20 Paragraph, the court shall also consider any potential substantial and immediate  
21 irreparable harm to the party requesting the continuance which may result from  
22 requiring the party requesting the continuance to obtain new counsel with  
23 insufficient time to prepare.

24 C. The court may grant the motion ex parte or grant a hearing on a motion in  
25 opposition to the continuance or extension. If the court grants a hearing, it shall be  
26 conducted by telephone, or other electronic means, within forty-eight hours of the  
27 filing of the motion in opposition or extension.

28 D. A court denying a properly filed motion for a legislative continuance shall  
29 issue contemporaneous written reasons for the denial that shall include an analysis  
30 of Subparagraph (B)(2)(a) or (B)(2)(b) of this Section as applied to the specific facts

1 of the case.

2 E.(1) A member of the legislature or legislative employee who has filed a  
3 motion for legislative continuance that has been denied or which has not been  
4 granted within seventy-two hours may apply directly to the supreme court for  
5 supervisory writs at no cost to review the action or inaction of the court where the  
6 motion was filed, or may file an appeal at no cost with the court of appeal with  
7 jurisdiction as provided in Paragraph (2) of this Subsection.

8 (2) If a motion filed pursuant to this Section is denied or not acted upon  
9 within the requisite deadline, then such denial shall be an appealable order filed at  
10 no cost. The order of appeal shall be signed within twenty-four hours of being filed,  
11 and the provisions of Code of Civil Procedure Article 2088 shall attach.

12 (3) Upon appeal, the reviewing court shall consider de novo any denial or  
13 failure to act on a motion for legislative continuance or extension of proceeding.

14 (4) If the supreme court affirms the lower court's denial of a motion for a  
15 legislative continuance or extension based on the objecting party's overcoming the  
16 presumption pursuant to Paragraph (B)(2) of this Section, the supreme court may  
17 exercise its jurisdiction of disciplinary proceedings against the member of the  
18 legislature or legislative employee whose motion was denied or refer the matter to  
19 the office of disciplinary counsel.

20 F. Notwithstanding the provisions of this Section, if any part of the  
21 proceedings occurs on a day that a member of the legislature has been ordered by a  
22 majority vote of the elected members of each house of the legislature to attend a  
23 session day during which that house is in session, then the provisions of Article III,  
24 Section 10 of the Constitution of Louisiana shall be given effect and no legal  
25 proceedings may be conducted in the member's absence on such day. If any part of  
26 the proceeding occurs in violation of this Subsection, it shall be deemed an absolute  
27 nullity.

28 G.(1) For good cause shown, the court may consider a motion for legislative  
29 continuance or extension at any time prior to the hearing or proceeding.

30 (2) If seeking a continuance of a court proceeding or extension of any type

1 of deadline occurring outside the time frame of a legislative session or constitutional  
2 convention, a member of the legislature or legislative employee who is a party or an  
3 attorney for a party to an action may obtain a legislative continuance upon a showing  
4 of good cause. A showing, accompanied by an affidavit, that the member or  
5 employee is required to attend an interim committee hearing or other official  
6 legislative function and that the presence of the member or employee in court is  
7 necessary and essential to a fair and proper trial or other proceeding in the suit may  
8 be considered good cause.

9 H. If the attorney for a party seeking a continuance under this Section is a  
10 member of the legislature, the attorney shall also serve a copy of the motion for a  
11 legislative continuance or extension with the judicial administrator for the Louisiana  
12 Supreme Court. The copy of the motion shall be sent to the Louisiana Supreme Court  
13 contemporaneously when the attorney files the motion for legislative continuance or  
14 extension with the court.

15 I. The provisions of this Section shall not apply to proceedings wherein a  
16 temporary restraining order, protective order, preliminary injunction, permanent  
17 injunction, court-approved consent agreement resulting from an action brought, or  
18 order issued pursuant to any of the following:

19 (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S.  
20 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq.,  
21 Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant to Code  
22 of Criminal Procedure Article 30(B).

23 (2) Code of Criminal Procedure, including Article 871.1, regarding the  
24 disposition and sentence of a criminal matter.

25 (3) R.S. 46:1846 to prohibit communications between offenders and victims  
26 following a charge or after sentencing for any crime of violence.

27 (4) R.S. 15:574.4.2(A)(5) as condition of a parole release that requires that  
28 the parolee stay away from any specific person.

29 J. The provisions of this Section shall not apply to child custody proceedings  
30 or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act,

1 Code of Criminal Procedure Article 1001 et seq.

2 K. The provisions of this Section shall not apply to proceedings for writs of  
3 habeas corpus for the determination and enforcement of rights to the custody of a  
4 minor or for the release of a person in custody in which the family court has original  
5 jurisdiction.

6 Section 2. This Act shall become effective upon signature by the governor or, if not  
7 signed by the governor, upon expiration of the time for bills to become law without signature  
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
10 effective on the day following such approval.

11 Section 3. The provisions of this Act shall be given prospective and retroactive  
12 application to all actions filed or pending on or after October 25, 2024.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_