

SENATE BILL NO. 321

BY SENATOR KLEINPETER

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 328(C) and R.S. 22:822(A), relative
3 to electronic bonds; to provide for certain conditions on the use of electronic bonds;
4 to provide for requirements on electronic bonds; to provide for a parish registry of
5 electronic bond agents; to provide for procedures for the issuance of electronic
6 bonds; to provide for types of payment; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Art. 328(C) is hereby amended and reenacted
9 to read as follows:

10 Art. 328. Bail undertaking

11 * * *

12 C.(1) An electronic bond ~~may~~ **shall only** be executed in a parish where the
13 sheriff has electronic bond software in place. ~~Agents~~ **Only agents** ~~may be~~ approved
14 by the sheriff ~~to~~ **shall** execute an electronic bond. A licensed bail bond producer
15 applying for electronic bond authority ~~may~~ **shall** make an application to the sheriff
16 and shall be domiciled and maintain a principal place of business in this state and
17 possess a Louisiana bail bond producer license for at least three years preceding the
18 date of application.

19 (2) The approving sheriff authority may require any documents deemed
20 necessary to verify the information contained in the application **and may establish**
21 **additional requirements for approval of electronic bond authority within the**
22 **parish, including but not limited to geographic limitations, proof of local**
23 **domicile or principal place of business within the parish, geofencing**
24 **parameters, or other requirements that the sheriff deems appropriate for the**
25 **administration of electronic bonds within the parish.**

26 (3) **Any parish that elects to implement electronic bonds shall allow both**
27 **in-person and electronic methods of posting bail bonds.**

1 **(4)(a) The electronic bond provider shall maintain a registry of agents**
2 **approved by each participating parish sheriff to execute electronic bonds within**
3 **that parish.**

4 **(b) Prior to permitting the execution of any electronic bond, the provider**
5 **shall verify that the agent seeking to post the bond is listed in the approved**
6 **agent registry for the parish in which the bond is to be posted. The provider**
7 **shall deny electronic bond access to any agent who does not appear in the**
8 **applicable registry.**

9 **(c) The sheriff shall provide the electronic bond provider with timely**
10 **notice of any additions to or removals from the approved registry.**

11 **(5) When an electronic bond is used, all of the following procedures shall**
12 **be followed:**

13 **(a) The electronic bond provider shall implement multi-factor**
14 **authentication for each individual bond posting transaction, which shall include**
15 **at a minimum both of the following:**

16 **(i) Facial recognition liveness verification linked to the identity of the**
17 **approved licensed agent executing the bond.**

18 **(ii) A secondary authentication factor independent of the agent's account**
19 **login credentials.**

20 **(b) The electronic bond provider shall ensure that the authentication**
21 **required by Subparagraph (a) of this Paragraph is performed personally by the**
22 **approved agent of record at the time of each individual bond posting. The**
23 **provider shall not permit the use of shared login credentials, shared**
24 **authentication devices or factors, or proxy authentication by any person other**
25 **than the approved agent of record.**

26 **(c) The approving sheriff may, as a condition of authorizing electronic**
27 **bond posting within the parish, require the electronic bond provider to**
28 **incorporate a geographic restriction, including a geofence, limiting electronic**
29 **bond posting to a defined geographic area within or proximate to the parish.**

30 **(d) The electronic bond provider shall offer automated clearing house**

1 **(ACH) electronic funds transfer as a method of payment for fees associated with**
2 **the posting of an electronic bond.**

3 Section 2. R.S. 22:822(A) is hereby amended and reenacted to read as follows:

4 §822. Criminal bail bond ~~annual license~~ fee

5 A.**(1)** On premiums for all commercial surety underwriters who write
6 criminal bail bonds in the state of Louisiana, there shall be a fee equal to two dollars
7 for each one hundred dollars worth of liability underwritten by the commercial
8 surety. Except as authorized under the provisions of R.S. 13:718(I)(2), this shall be
9 the exclusive fee or tax on any criminal bail bond premium, including thereto
10 premium taxes owed. In furtherance of the payment of this premium fee all
11 commercial surety underwriters underwriting criminal bail bonds in the state of
12 Louisiana shall, upon submitting the appearance bond and their power of attorney,
13 simultaneously pay to the sheriff of the parish, a fee of two dollars for each one
14 hundred dollars worth of liability on the bail bond being presented for the release of
15 a person on bail. Failure to pay the fee shall prevent the sheriff from accepting the
16 appearance bond and power of attorney. The sheriff may receive the fee by check,
17 ~~or cash,~~ **or automated clearing house (ACH)** and shall ~~only~~ accept it **only** from the
18 surety or the agent of the surety.

19 **(2)(a) When an electronic bond is posted pursuant to Code of Criminal**
20 **Procedure Article 328, the sheriff shall accept payment of the fee by ACH**
21 **electronic funds transfer, and a licensed bail bond producer may collect from**
22 **the defendant, principal, or indemnitor any fees associated with the posting of**
23 **an electronic bond that are authorized by law, including but not limited to**
24 **platform access fees, transaction fees, and ACH processing fees.**

25 **(b) The fees shall not exceed the actual cost charged to the producer by**
26 **the electronic bond provider.**

27 **(c)** In the event a surety or agent of the surety presents payment of the fee by
28 an instrument which is returned for insufficient funds, the agent or the agent of the
29 surety shall be prevented from presenting the appearance bonds with their power of
30 attorney attached until the outstanding fees are paid to the sheriff.

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Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____