

2015 Regular Session

HOUSE BILL NO. 728

BY REPRESENTATIVE GAROFALO

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

COURTS/JUSTICE OF PEACE: Provides relative to justice of the peace courts

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 4917, 4918, 4919(A)(introductory
3 paragraph) and (5), (B), and (C), 4922, and 4925(A) and to enact Code of Civil
4 Procedure Articles 4917.1, 4917.2, 4917.3, 4921.1(C) and 4921.2, relative to justice
5 of the peace courts; to provide the filing of written pleadings; to provide for service;
6 to provide relative to trial procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Articles 4917, 4918, 4919(A)(introductory
9 paragraph) and (5), (B), and (C), 4922, and 4925(A) are hereby amended and reenacted and
10 Code of Civil Procedure Articles 4917.1, 4917.2, 4917.3, 4921.1(C) and 4921.2 are hereby
11 enacted to read as follows:

12 Art. 4917. Pleadings; justice of the peace courts; district courts with concurrent
13 jurisdiction

14 A. A party or his attorney ~~may state~~ shall file the claim petition, exceptions,
15 motions, defenses answers, or other pleas orally pleadings in writing, and submit the
16 original and at least one copy to the justice of the peace or the clerk of court. ~~No~~
17 ~~written pleadings shall be required.~~

1 B. ~~A party may file written pleadings if he so desires, but additional fees~~
2 ~~resulting from written pleadings not required shall not be imposed upon the party~~
3 ~~cast as costs of court.~~

4 ~~C.~~ A defendant shall include in his answer, ~~whether oral or in writing,~~ all of
5 the exceptions upon which he intends to rely.

6 Art. 4917.1. Form of pleadings; justice of the peace courts; district courts with
7 concurrent jurisdiction

8 No technical forms of pleading are required. However, every pleading shall
9 contain a caption setting forth the name of the court, the title and number of the
10 action, and a designation of the pleading. The title of the action shall state the name
11 of the first party on each side with an appropriate indication of other parties.

12 Art. 4917.2. Signing of pleadings

13 A party who is not represented by an attorney shall sign his pleading and state
14 his address. Every pleading of a party represented by an attorney shall be signed by
15 at least one attorney of record in his individual name, whose address shall be stated.

16 Art. 4917.3. Form of petition

17 The petition shall comply with 4917.1 and 4917.2. It shall set forth the name,
18 surname, and domicile of the parties; shall contain a short, clear, and concise
19 statement of all causes of action arising out of, and of the material facts of, the
20 transaction or occurrence that is the subject matter of the litigation; shall designate
21 an address, not a post office box, for receipt of service of all items involving the
22 litigation; and shall conclude with a prayer for judgment for the relief sought. Relief
23 may be prayed for in the alternative.

24 Art. 4918. Record of the case; ~~subsequent entries;~~ justice of the peace courts;
25 district courts with concurrent jurisdiction

26 ~~When no written pleadings are required, the~~ The justice of the peace or the
27 clerk of court shall record in a ~~permanent~~ book or case file the title of the case, the
28 docket number, the name and address of all parties, a brief statement of the nature
29 and amount of the claim, the issuance and service of citation, the defenses pleaded,

1 motions and other ~~pleas made~~ pleadings filed, the names of witnesses who testified,
2 a list of the documents offered at the trial, the rendition of judgment, and any appeal
3 therefrom.

4 Art. 4919. Citation; service of citation; justice of the peace courts; district courts
5 with concurrent jurisdiction

6 A. The citation must be signed by the justice of the peace or the clerk of
7 court issuing it, with an expression of his official capacity and under the seal of his
8 office, must be accompanied by a certified copy of the petition, exclusive of exhibits,
9 even if made a part thereof, and must contain the following:

10 * * *

11 (5)(a) A statement that the person cited must either comply with the demand
12 contained of the plaintiff against him or make an appearance, either by filing a
13 pleading or otherwise, in the court issuing the citation within the delay provided
14 under Article 4920 under penalty of default.

15 (b) If the matter is set for hearing pursuant to Article 4921.1(C), the citation
16 must contain a statement that the person cited must either comply with the demand
17 of the plaintiff against him or appear in the court issuing the citation at the time and
18 date provided and that if he fails to appear, judgment may be entered against him.

19 B. ~~When a written petition has been filed, a copy thereof shall be attached~~
20 ~~to the citation.~~

21 C. ~~When the plaintiff has not filed a written petition, the citation shall:~~

22 (1) ~~State the amount and nature of the claim and the year or years in which~~
23 ~~the indebtedness was contracted or arose and shall describe sufficiently to place the~~
24 ~~defendant on notice any promissory note or other written evidence of indebtedness~~
25 ~~on which the demand is based; and~~

26 (2) ~~Describe the movable property and state the value thereof, if the suit is~~
27 ~~for the ownership or possession of movable property.~~

1 ~~Ð~~(1) Service of citation or other process may be made by the court by
2 certified mail, with return receipt requested, when costs therefore are posted with the
3 court.

4 (2) If the properly addressed certified mail return receipt reply form is signed
5 by the addressee who is the defendant, service shall be considered personal service.

6 (3) If the properly addressed certified mail return receipt reply form is signed
7 by a person other than the defendant, service shall be considered domiciliary service.

8 * * *

9 Art. 4921.1. Demand for trial; abandonment; applicability

10 * * *

11 C. Notwithstanding the provisions in (A), the justice of peace or clerk may
12 set the matter for trial upon filing of the petition. The date, time, and location of the
13 rial shall be contained in the citation. The first scheduled trial date shall be not more
14 than forty-five days from the issuance of the citation provided notice was served not
15 less than ten days before the time set for trial. If the defendant appears, he need not
16 file an answer unless ordered to dos so by the court. If a defendant who has been
17 served with citation fails to appear at the time and place specified in the citation, the
18 judge may enter a default judgment for the plaintiff in the amount proved to be due.
19 If the plaintiff does not appear, the judge may enter an order dismissing the action
20 without prejudice.

21 Art. 4921.2. Duties of the justice of the peace; trial procedure; rules of evidence;
22 depositions

23 A. At trial, it is the duty of the justice of the peace to conduct an informal
24 hearing and to develop all of the facts necessary and relevant to an impartial
25 determination of the case. The judge may take testimony, raise defenses or claims
26 of which the parties may be unaware, summon any party to appear as a witness in the
27 suit upon his own motion, and do other acts which in his discretion appear necessary
28 to effect a correct judgment and speedy disposition of the case. He may attempt to
29 mediate disputes and encourage fair settlements among the parties.

1 B. The technical rules of evidence are relaxed, and all relevant evidence is
2 admissible, including hearsay, provided the justice of the peace satisfies himself of
3 its general reliability, and further provided that the judgment is founded upon
4 competent evidence.

5 C. No depositions shall be taken and no interrogatories or other discovery
6 proceedings shall be used except upon approval of the court. The court should grant
7 discovery only upon notice and good cause shown and should limit such action to the
8 necessities of the case.

9 Art. 4922. Notice of judgment; justice of the peace courts; district courts with
10 concurrent jurisdiction

11 Notice of the signing of any final judgment shall be given as required by
12 Article 1913, except that if the party is personally served with the judgment in open
13 court, no further notice shall be required.

14 * * *

15 Art. 4925. Delay for appeal; justice of the peace courts; district courts with
16 concurrent jurisdiction

17 A. The appellant from a judgment rendered by a justice of the peace court
18 or the clerk of court shall file suit for a trial de novo in the district court or the parish
19 court within fifteen days from the date of the judgment or from the service of notice
20 of judgment, when such notice is necessary. A copy of the suit for trial de novo must
21 be provided to all parties or their attorneys of record and the justice of the peace
22 court whose judgment is being appealed. The rules of the district court or parish
23 court shall thereafter apply.

24 * * *

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 728 Original

2015 Regular Session

Garofalo

Abstract: Requires written pleadings in justice of the peace courts and provides with respect to trial procedures, evidence, and authorizes service.

Present law authorizes claims, exceptions, defenses, and pleas to be made by a party or his attorney, orally or in writing.

Proposed law requires that all pleadings be in writing and an original and one copy be filed with the justice of the peace or clerk of court.

Proposed law provides for the form and signature requirements relative to all pleadings.

Present law requires the permanent recordation of relevant case information and pleadings by the clerk of court or justice of the peace.

Proposed law retains present law except that the justice of the peace or clerk of court shall record all case information that has been filed with the court.

Present law provides general provisions for trial.

Proposed law retains present law but provides the following:

- (1) Provides for requirements relative to the citation.
- (2) Authorizes the justice of the peace or clerk of court to set matters for trial within certain time delays.
- (3) Provides for duties of the justice of the peace as it relates to trial procedures.
- (4) Provides relative to notice of judgment and procedures for appeal.

(Amends C.C.P. Arts. 4917, 4918, 4919(A)(intro. para.) and (5), (B), and (C), 4922, and 4925(A); Adds C.C.P. Arts. 4917.1, 4917.2, 4917.3, 4921.1(C) and 4921.2)