

2021 Regular Session

SENATE BILL NO. 245 (Substitute of Senate Bill No. 71 by Senator Bernard)

BY SENATOR BERNARD

CIVIL PROCEDURE. Provides relative to civil jury trials and deposits for costs and expenses. (8/1/21) (2/3 - CA7s2.1(A))

1 AN ACT

2 To amend and reenact Code of Civil Procedure Arts. 1734(A) and 1734.1, relative to civil

3 jury trials; to provide for the costs and expenses related to jury trials; to provide for

4 the payment of jurors; to provide for certain deposits and amounts; to provide for

5 certain actions by the court and clerk; to provide certain terms, conditions, and

6 procedures; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Articles 1734(A) and 1734.1 are hereby amended
9 and reenacted to read as follows:

10 Art. 1734. Fixing the bond; calling the jury venire

11 A. Except as otherwise provided by R.S. 13:3105 et seq., when the case has

12 been set for trial, the court shall fix the amount of the bond to cover all costs

13 **estimated by the court or the clerk, as the case may be,** related to the trial by jury

14 and shall fix the time for filing the bond, which shall be no later than sixty days prior

15 to trial. Notice of the fixing of the bond shall be served on all parties. If the bond is

16 not filed timely, any other party shall have an additional ten days to file the bond.

17 * * *

1 Art. 1734.1. Cash deposit; procedure

2 A. When the case has been set for trial, the court may order, in lieu of the
3 bond required in Article 1734, a deposit for costs, which shall be a specific ~~cash~~
4 amount **estimated by the court or the clerk, as the case may be**, and the court shall
5 fix the time for making the deposit, which shall be no later than ~~thirty~~ **sixty** days
6 prior to trial. The deposit shall include sufficient funds for payment of all costs
7 associated with a jury trial, including juror fees and expenses and charges of the jury
8 commission, clerk of court, and sheriff. The required deposit shall not exceed ~~two~~
9 **fifteen** thousand dollars for the first day, **or above ten thousand dollars for the**
10 **first day if a five thousand dollar deposit was required and has been made**
11 **pursuant to Code of Civil Procedure Article 1733(A)(2)(a) for the first day**, and
12 ~~four hundred~~ **one thousand** dollars per day for each additional day the court
13 estimates the trial will last. **A deposit above the applicable stated amount for the**
14 **first day may be ordered by the court upon contradictory motion of the clerk**
15 **of court, on a showing that amount is insufficient**. Notice of the fixing of the
16 deposit shall be served on all parties. If the deposit is not timely made, any other
17 party shall have an additional ten days to make the required deposit. Failure to post
18 the ~~cash~~ deposit shall constitute a waiver of a trial by jury. However, no ~~cash~~ deposit
19 shall be required of an applicant for a jury trial under the provisions of this Article
20 if waived or an order is rendered, pursuant to Chapter 5 of Title I of Book IX of the
21 Code of Civil Procedure, permitting the applicant to litigate or continue to litigate
22 without payment of costs in advance or furnishing security therefor.

23 **B. When the deposit has been filed, the clerk of court shall order the jury**
24 **commission to draw a sufficient number of jurors to try and determine the**
25 **cause, such drawing to be made in accordance with R.S. 13:3044.**

26 **C.** The clerk of court ~~may~~ **shall** disburse funds from the cash deposit for
27 payment of all or a part of the jury costs as such costs accrue. The clerk shall keep
28 a record of funds disbursed ~~by him~~ from the ~~cash~~ deposit.

29 ~~C.D.~~ The court ~~may~~ **shall** require an additional ~~amount~~ **deposit** to be filed

1 during the trial if the original amount of the ~~cash~~ deposit is insufficient to pay jury
2 costs.

3 ~~D.E.~~ The funds disbursed from the cash deposit for payment of jury costs
4 shall be assessed as costs of court.

5 ~~E.F.~~ After payment of all jury costs, any unexpended amounts remaining in
6 ~~the cash~~ on deposit shall be refunded by the clerk of court to the party **or attorney**
7 filing the ~~cash~~ deposit.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 245 Original

2021 Regular Session

Bernard

Present law (Art. 1734) requires generally that when the case has been set for trial, the court fix the amount of the bond to cover all costs related to the trial by jury and fix the time for filing the bond, which shall be no later than 60 days prior to trial. Requires that notice of the fixing of the bond be served on all parties. Provides that if the bond is not filed timely, any other party shall have an additional 10 days to file the bond. Requires that when the bond has been filed, the clerk of court order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with law.

Proposed law provides that the costs are to be estimated by the court or clerk of court, as the case may be. Otherwise retains present law.

Present law (Art. 1734.1) provides that when the case has been set for trial, the court may order, in lieu of the bond required in Article 1734, a deposit for costs, which shall be a specific cash amount, and the court shall fix the time for making the deposit, which shall be no later than 30 days prior to trial. Requires that the required deposit not exceed \$2,000 for the first day and \$400 per day for each additional day the court estimates the trial will last.

Proposed law requires that the court fix the time for making the deposit, which shall be no later than 60 days prior to trial and increases the maximum deposit to \$15,000 for the first day, or above \$10,000 for the first day if a \$5,000 deposit was required and has been made pursuant to C.C.P. Art. 1733(A)(2)(a), and \$1,000 per day for each additional day the court estimates the trial will last. Further provides that a deposit above the applicable stated maximum amount for the first day may be ordered by the court upon contradictory motion of the clerk of court, on a showing that amount is insufficient. Requires that when the deposit has been filed, the clerk of court order the jury commission to draw a sufficient number of jurors to try and determine the cause, such drawing to be made in accordance with law.

Present law provides that the clerk of court may disburse funds from the cash deposit for payment of all or a part of the jury costs as such costs accrue. Proposed law requires the clerk to disburse funds for the payment of costs as costs accrue.

Present law requires that the clerk keep a record of funds disbursed by him from the cash deposit. Authorizes the court to require an additional amount to be filed during the trial if the original amount of the cash deposit is insufficient to pay jury costs. Requires that funds disbursed from the cash deposit for payment of jury costs be assessed as costs of court. Requires that after payment of all jury costs, any unexpended amounts remaining in the deposit be refunded by the clerk to the party filing the cash deposit. Proposed law requires

that any unexpended amounts remaining on deposit be refunded by the clerk of court to the party or attorney filing the deposit. Otherwise retains present law.

Effective August 1, 2021.

(Amends C.C.P. Arts. 1734(A) and 1734.1)