

1 ~~A.(1) A member of the legislature and a legislative employee shall have~~
2 ~~peremptory grounds for continuance or extension of a criminal case, civil case, or~~
3 ~~administrative proceeding as provided below. The continuance or extension shall be~~
4 ~~sought by written motion specifically alleging these grounds.~~

5 ~~(2) For purposes of this Section, "legislative employee" means the clerk of~~
6 ~~the House of Representative, 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 ~~B. The peremptory grounds for continuance or extension is available to and~~
11 ~~for the benefit of a member or legislative employee and may only be asserted or~~
12 ~~waived by a member or employee.~~

13 ~~C.(1) Such peremptory grounds are available for the continuance of any type~~
14 ~~of proceeding and the extension of any type of deadline pertaining to a criminal case,~~
15 ~~civil case, or administrative proceeding, if the presence, participation, or~~
16 ~~involvement of a member or employee is required in any capacity, including any~~
17 ~~pretrial or post-trial legal proceeding, during:~~

18 ~~(a) Any time between thirty days prior to the original call to order and thirty~~
19 ~~days following the adjournment sine die of any session of the legislature.~~

20 ~~(b) Any time between thirty days prior to convening and thirty days following~~
21 ~~adjournment sine die of any constitutional convention.~~

22 ~~(c) Any time other than those provided in Subparagraph (a) or (b) of this~~
23 ~~Paragraph when such person is engaged in activities, including travel, in connection~~
24 ~~with or ordered by: (i) the legislature; (ii) any legislative committee or subcommittee~~
25 ~~appointed by the president of the Senate or the speaker of the House of~~
26 ~~Representatives; (iii) any committee or commission appointed by the governor or~~
27 ~~other person authorized to make such appointments; or (iv) any constitutional~~
28 ~~convention or commission.~~

29 ~~(2) Such peremptory grounds are available to any member or employee~~

1 enrolled as counsel of record when his participation is required. The availability of
2 other counsel to assume the duties or responsibilities of counsel invoking the
3 continuance or extension does not negate the peremptory nature of his motion.

4 ~~D.(1) A motion for legislative continuance or extension filed by a legislative~~
5 ~~employee shall be accompanied by an affidavit, verifying such employment or~~
6 ~~service, executed by the presiding officer or the clerk or secretary of the respective~~
7 ~~house.~~

8 ~~(2) A motion for legislative continuance or extension shall be filed at no cost~~
9 ~~to a member, employee, or a client of a member or employee.~~

10 ~~E.(1)(a) If the grounds for a legislative continuance or extension are founded~~
11 ~~upon the convening of a regular legislative session or a constitutional convention, the~~
12 ~~motion for legislative continuance or extension shall be timely if filed no later than~~
13 ~~five calendar days prior to the hearing or proceeding to be continued.~~

14 ~~(b) If the grounds for a legislative continuance or extension are founded upon~~
15 ~~any provision of Subparagraph (C)(1)(c) of this Section or upon the issuance of a call~~
16 ~~for an extraordinary session of the legislature, the motion for legislative continuance~~
17 ~~or extension shall be timely if filed no later than five calendar days prior to the~~
18 ~~hearing or proceeding to be continued or no later than two days following the~~
19 ~~issuance of the notice of the meeting or of the call for the extraordinary legislative~~
20 ~~session, which ever occurs last.~~

21 ~~(c) The provisions of this Paragraph shall not be applied so as to impede the~~
22 ~~peremptory nature of this Section.~~

23 ~~(2) Within seventy-two hours of the filing of a motion for a legislative~~
24 ~~continuance or extension, the court or agency shall grant the continuance or~~
25 ~~extension ex parte as follows:~~

26 ~~(a) If the grounds for the motion are pursuant to Subparagraph (C)(1)(a) or~~
27 ~~(b) of this Section, the continuance or extension shall be granted for a period of not~~
28 ~~less than sixty days from the date of adjournment sine die of the session of the~~
29 ~~legislature or of the constitutional convention.~~

1 ~~(b) If the grounds for the motion are pursuant to Subparagraph (C)(1)(c) of~~
2 ~~this Section, the continuance or extension shall be granted for the day or days the~~
3 ~~member or employee is engaged in such activities.~~

4 ~~F.(1) The provisions of this Section shall not apply to cases in the Supreme~~
5 ~~Court of Louisiana, criminal cases where the death penalty is sought, and~~
6 ~~administrative rulemaking authorized by R.S. 49:961.~~

7 ~~(2) The provisions of this Section shall not apply to cases and proceedings~~
8 ~~wherein a member or employee is called as a witness, in which instances the~~
9 ~~provisions of R.S. 13:3667.1 and 3667.3 shall apply.~~

10 ~~G. Any action taken against a person, including any sanction imposed on an~~
11 ~~attorney, who has filed a motion for legislative continuance or extension and which~~
12 ~~results from the failure of such person or attorney to appear or comply with an order~~
13 ~~of the court or agency or any deadline shall be considered an absolute nullity and~~
14 ~~shall be set aside by the court or agency upon the filing of a motion by the aggrieved~~
15 ~~person or attorney.~~

16 ~~H.(1) Any person or attorney who has filed a motion for legislative~~
17 ~~continuance or extension which has been denied or which has not been granted~~
18 ~~within seventy-two hours of filing may apply directly to the Supreme Court of~~
19 ~~Louisiana for supervisory writs to review the action or inaction of the court or~~
20 ~~agency where the motion was filed.~~

21 ~~(2) If a motion filed pursuant to Subsection G of this Section is denied, such~~
22 ~~denial shall be an appealable order.~~

23 ~~I.(1) For sufficient cause shown, the court shall consider a motion for~~
24 ~~legislative continuance or extension at any time prior to the hearing or proceeding.~~

25 ~~(2) The motion for a legislative continuance may be filed by electronic means~~
26 ~~such as facsimile transmission or electronic mail, or any other means authorized by~~
27 ~~law, provided that the mover shall provide all opposing counsel or parties with a~~
28 ~~copy of the motion, simultaneously with the transmission of the motion to the court.~~

29 **A.(1)(a) A member of the legislature or legislative employee shall be**

1 entitled to peremptory grounds for a continuance of any court or agency
2 proceeding or the extension of any legal delay or deadline, excluding civil
3 prescriptive or preemptive periods, criminal statutes of limitations, and
4 criminal cases where the death penalty is sought, if the presence, participation,
5 or involvement of a member of the legislature or legislative employee, who is a
6 party or an attorney for a party, is required in any criminal or civil case,
7 including any pretrial or post-trial proceeding, during any legislative session or
8 constitutional convention.

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

13 (2) The motion for continuance shall be filed no later than five days prior
14 to the proceeding to be continued at no cost and shall be accompanied by an
15 affidavit that the member of the legislature or legislative employee will be or is
16 in actual attendance of a session of the legislature or constitutional convention
17 and that it is the legislator or legislative employee's intention to participate
18 actively in the preparation or presentation of the case.

19 (3)(a) The motion for continuance may be filed electronically in
20 accordance with Code of Civil Procedure Article 253 if the member of the
21 legislature or legislative employee seeking the continuance provides all enrolled
22 counsel or parties with a copy of the motion prior to or simultaneously with the
23 transmission of the motion to the clerk of court.

24 (b) Every motion for a legislative continuance or extension shall be
25 served by transmitting a copy by electronic means to counsel of record, or if
26 there is no counsel of record, to the adverse party, at the number or address
27 expressly designated in a pleading or other writing for receipt of electronic
28 service. Service by electronic means is complete upon transmission but is not
29 effective and shall not be certified if the serving party learns the transmission

1 did not reach the party to be served.

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

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

10 (a) The motion is being presented for an improper purpose, such as to
11 harass, cause unnecessary delay, or needlessly increase the cost of litigation.

12 (b) The objecting party has a substantial existing right or interest that
13 will be defeated or abridged and will suffer substantial and immediate
14 irreparable harm if the requested continuance is granted.

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

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

23 E.(1) A member of the legislature or legislative employee who has filed
24 a motion for legislative continuance that has been denied may apply directly to
25 the supreme court for supervisory writs at no cost to review the action or
26 inaction of the court where the motion was filed.

27 (2) If the supreme court affirms the lower court's denial of a motion for
28 a legislative continuance or extension based on Paragraph (B)(1) of this Section,
29 the supreme court may exercise its jurisdiction of disciplinary proceedings

1 against the member of the legislature or legislative employee whose motion was
2 denied or refer the matter to the office of disciplinary counsel.

3 F.(1) For good cause shown, the court may consider a motion for
4 legislative continuance or extension at any time prior to the hearing or
5 proceeding.

6 (2) If seeking a continuance of a court proceeding or extension of any
7 type of deadline occurring outside the time frame of a legislative session or
8 constitutional convention, a member of the legislature or legislative employee
9 that is a party or an attorney for a party to an action may obtain a legislative
10 continuance upon a showing of good cause. A showing, accompanied by an
11 affidavit, that the member or employee is required to attend an interim
12 committee hearing or other official legislative function and that the presence of
13 the member or employee in court is necessary and essential to a fair and proper
14 trial or other proceeding in the suit may be considered good cause.

15 G. If the attorney for a party seeking a continuance under this Section
16 is a member of the legislature, the attorney shall also serve a copy of the motion
17 for a legislative continuance or extension with the judicial administrator for the
18 Louisiana Supreme Court. The copy of the motion shall be sent to the Louisiana
19 Supreme Court contemporaneously with the filing of when the attorney files the
20 motion for legislative continuance or extension with the court.

21 H. The provisions of this Section shall not apply to proceedings wherein
22 a temporary restraining order, protective order, preliminary injunction,
23 permanent injunction, court-approved consent agreement resulting from an
24 action brought, or order issued pursuant to any of the following:

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

29 (2) Code of Criminal Procedure Articles, including Article 871.1,

1 regarding the disposition, sentence, or bail condition of a criminal matter.

2 (3) R.S. 46:1846 to prohibit communications between offenders and
3 victims following a charge or after sentencing for any crime of violence as
4 defined in R.S. 14:2, felony sex offense as defined in R.S. 46:1844(W), felony
5 human trafficking-related offense as defined in R.S. 46:1844(W), or a felony
6 offense committed upon a family member, household member, or dating
7 partner as defined by R.S. 46:2132, or upon an immediate family member of
8 such person.

9 (4) R.S. 15:574.4.2(A)(5) as condition of a parole release that requires
10 that the parolee stay away from any specific person, when the order is issued for
11 the purpose of preventing violent or threatening acts, harassment against,
12 contact or communication with, or physical proximity to, another person to
13 prevent witness intimidation, domestic abuse, stalking, dating violence, or
14 sexual assault.

15 I. The provisions of this Section shall not apply to child custody
16 proceedings or proceedings pursuant to the Domestic Violence Prevention
17 Firearm Transfer Act, Code of Criminal Procedure Article 1001 et seq.

18 J. The provisions of this Section shall not apply to proceedings for writs
19 of habeas corpus for the determination and enforcement of rights to the custody
20 of a minor or for the release of a person in custody in which the family court has
21 original jurisdiction.

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

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

SB 9 Original

2024 Third Extraordinary Session

Miller

Present law provides a member of the legislature and a legislative employee shall have peremptory grounds for continuance or extension of a criminal case, civil case, or administrative proceeding. Provides that the peremptory grounds for continuance or extension is available to and for the benefit of a member or legislative employee and may be asserted or waived only by the member or employee. Provides that such peremptory grounds are available if the presence, participation, or involvement of the member or employee is required in any capacity, including any pretrial or post-trial legal proceeding, during:

- (1) Any time between 30 days prior to the original call to order and 30 days following the adjournment sine die of any session of the legislature.
- (2) Any time between 30 days prior to convening and 30 days following adjournment sine die of any constitutional convention.
- (3) Any time when such person is engaged in activities, including travel, in connection with or ordered by the legislature, any legislative committee or subcommittee appointed by the president of the Senate or the speaker of the House of Representatives, any committee or commission appointed by the governor or other person authorized to make such appointments, or any constitutional convention or commission.

Proposed law provides that a member of the legislature or legislative employee shall be entitled to peremptory grounds for a continuance of any court or agency proceeding or the extension of any legal delay or deadline, if the presence, participation, or involvement of a member of the legislature or legislative employee, who is a party or an attorney for a party, is required in any criminal or civil case, including any pretrial or post-trial proceeding, during any legislative session or constitutional convention. Provides that the peremptory grounds are available any time between 30 days before the convening of any session of the legislature or constitutional convention and 30 days after the adjournment sine die of any session of the legislature or constitutional convention.

Present law provides that a motion for legislative continuance or extension filed by a legislative employee shall be accompanied by an affidavit, verifying such employment or service, executed by the presiding officer or the clerk or secretary of the respective house. Provides that the motion for legislative continuance or extension shall be filed at no cost to a member, employee, or a client of a member or employee. Requires the filing no later than five calendar days prior to the hearing or proceeding to be continued. Provides special provisions for extraordinary sessions. Provides that the motion for a legislative continuance may be filed by electronic means such as facsimile transmission or electronic mail, or any other means authorized by law, provided that the mover shall provide all opposing counsel or parties with a copy of the motion, simultaneously with the transmission of the motion to the court.

Proposed law provides that the motion for continuance shall be filed no later than five days prior to the proceeding to be continued at no cost and shall be accompanied by an affidavit that the member of the legislature or legislative employee will be or is in actual attendance of a session of the legislature or constitutional convention and that it is the legislator or legislative employee's intention to participate actively in the preparation or presentation of the case. Provides that the motion for continuance may be filed electronically if the member of the legislature or legislative employee seeking the continuance provides all enrolled

counsel or parties with a copy of the motion prior to or simultaneously with the transmission of the motion for continuance to the clerk of court. Provides that every motion for a legislative continuance or extension shall be served by transmitting a copy by electronic means to counsel of record, or if there is no counsel of record, to the adverse party, at the number or address expressly designated in a pleading or other writing for receipt of electronic service. Service by electronic means is complete upon transmission but is not effective and shall not be certified if the serving party learns the transmission did not reach the party to be served.

Proposed law provides that if the attorney for a party seeking a continuance is a member of the legislature, the attorney shall also serve a copy of the motion for a legislative continuance or extension with the judicial administrator for the Louisiana Supreme Court. The copy of the motion shall be sent to the Louisiana Supreme Court contemporaneously with the filing of the motion for legislative continuance or extension with the court.

Proposed law provides that there shall be a presumption that a motion for continuance filed timely by the member of the legislature or legislative employee is proper and shall be granted within 72 hours of the filing of the motion. Requires the proceeding, legal delay or deadline to be reset to a date not less than 60 days from the date of adjournment sine die of any session of the legislature or constitutional convention.

Proposed law provides that the presumption may be overcome by clear and convincing evidence under either of the following circumstances:

- (1) The motion is being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.
- (2) The objecting party has a substantial existing right or interest that will be defeated or abridged and will suffer substantial and immediate irreparable harm if the requested continuance is granted.

Proposed law provides that the court may grant the motion ex parte or grant a hearing on a motion in opposition to the continuance or extension. If the court grants a hearing, it shall be conducted by telephone, or other electronic means, within 48 hours of the filing of the motion in opposition or extension.

Proposed law requires a court denying a properly filed motion for a legislative continuance shall issue contemporaneous written reasons for the denial that shall include an analysis of proposed law as applied to the specific facts of the case.

Present law provides that any person or attorney who has filed a motion for legislative continuance or extension that has been denied or which has not been granted within 72 hours of filing may apply directly to the supreme court for supervisory writs to review the action or inaction of the court or agency where the motion was filed.

Proposed law provides that a member of the legislature or legislative employee who has filed a motion for legislative continuance that has been denied may apply directly to the supreme court for supervisory writs at no cost to review the action or inaction of the court where the motion was filed.

Proposed law provides that if the supreme court affirms the lower court's denial of a motion for a legislative continuance or extension based on proposed law, the supreme court may exercise its jurisdiction of disciplinary proceedings against the member of the legislature or legislative employee whose motion was denied or refer the matter to the office of disciplinary counsel.

Proposed law provides that for good cause shown, the court may consider a motion for legislative continuance or extension at any time prior to the hearing or proceeding.

Proposed law provides that if seeking a continuance of a court proceeding or extension of any type of deadline occurring outside the time frame of a legislative session or constitutional convention, a member of the legislature or legislative employee that is a party or an attorney for a party to an action may obtain a legislative continuance upon a showing of good cause. A showing, accompanied by an affidavit, that the member or employee is required to attend an interim committee hearing or other official legislative function and that the presence of the member or employee in court is necessary and essential to a fair and proper trial or other proceeding in the suit may be considered good cause.

Present law provides that any action taken against a person, including any sanction imposed on an attorney, who has filed a motion for legislative continuance or extension and which results from the failure of such person or attorney to appear or comply with an order of the court or agency or any deadline shall be considered an absolute nullity and shall be set aside by the court or agency upon the filing of a motion by the aggrieved person or attorney.

Proposed law deletes present law.

Present law provides that legislative continuances shall not apply to cases in the Louisiana Supreme Court, criminal cases where the death penalty is sought, and administrative rulemaking. Also, provides that present law shall not apply to cases and proceedings wherein a member or employee is called as a witness, in which instances other provisions of present law shall apply.

Proposed law provides that civil prescriptive or preemptive periods, criminal statutes of limitations, and criminal cases where the death penalty is sought are excluded from legislative continuances. Also provides that proposed law does not apply to proceedings wherein a temporary restraining order, protective order, preliminary injunction, permanent injunction, court-approved consent agreement resulting from an action brought, or order issued pursuant to any of the following:

- (1) Certain present law provisions regarding domestic violence, dating violence, stalking, sexual assault and peace bonds relating for such acts.
- (2) Criminal procedure law regarding the disposition, sentence, or bail condition of a criminal matter.
- (3) Present law prohibits communications between offenders and victims following a charge or after sentencing for any crime of violence, felony sex offense, felony human trafficking-related offense, or a felony offense committed upon a family member, household member, or dating partner.
- (4) Present law provides that as condition of a parole release which requires that the parolee stay away from any specific person, when the order is issued for the purpose of preventing violent or threatening acts, harassment against, contact or communication with, or physical proximity to, another person to prevent witness intimidation, domestic abuse, stalking, dating violence, or sexual assault.
- (5) Child custody proceedings or proceedings pursuant to the Domestic Violence Prevention Firearm Transfer Act.
- (6) Proceedings for writs of habeas corpus for the determination and enforcement of rights to the custody of a minor or for the release of a person in custody in which the family court has original jurisdiction.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:4163)