

SENATE BILL NO. 9

BY SENATOR MILLER

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AN ACT

To amend and reenact R.S. 13:4163, relative to legislative continuances and extensions for legislators and legislative employees; to provide with respect to continuance and extension of deadlines; to authorize members of the legislature and legislative employees to file legislative continuances in certain circumstances; to provide for peremptory grounds; to provide with respect to time delays and procedures; to provide for a rebuttable presumption; to provide for service of process; to provide for notification and reporting requirements; to provide for electronic transmission; to provide for exceptions; to provide for denial of a motion for continuance or extension; to provide for the supreme court's authority to regulate disciplinary proceedings against a member of the legislature or legislative employee; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§4163. ~~Ex parte motion~~ **Motion** for legislative continuance or extension of time, legislators or employees engaged in legislative or constitutional convention activities

~~A.(1) 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 as provided below. The continuance or extension shall be sought by written motion specifically alleging these grounds.~~

~~(2) For purposes of this Section, "legislative employee" means the clerk of the House of Representative, the secretary of the Senate, and an employee of the House of Representatives, the Senate, or the Legislative Bureau, when such person is employed full-time during the legislative session or during any other time in which the continuance or extension is being sought.~~

~~B. The peremptory grounds for continuance or extension is available to and~~

1 for the benefit of a member or legislative employee and may only be asserted or
2 waived by a member or employee.

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

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

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

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

19 ~~(2) Such peremptory grounds are available to any member or employee
20 enrolled as counsel of record when his participation is required. The availability of
21 other counsel to assume the duties or responsibilities of counsel invoking the
22 continuance or extension does not negate the peremptory nature of his motion.~~

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

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

29 ~~E.(1)(a) If the grounds for a legislative continuance or extension are founded
30 upon the convening of a regular legislative session or a constitutional convention, the~~

1 motion for legislative continuance or extension shall be timely if filed no later than
2 five calendar days prior to the hearing or proceeding to be continued.

3 (b) If the grounds for a legislative continuance or extension are founded upon
4 any provision of Subparagraph (C)(1)(c) of this Section or upon the issuance of a call
5 for an extraordinary session of the legislature, the motion for legislative continuance
6 or extension shall be timely if filed no later than five calendar days prior to the
7 hearing or proceeding to be continued or no later than two days following the
8 issuance of the notice of the meeting or of the call for the extraordinary legislative
9 session, which ever occurs last.

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

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

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

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

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

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

28 G. Any action taken against a person, including any sanction imposed on an
29 attorney, who has filed a motion for legislative continuance or extension and which
30 results from the failure of such person or attorney to appear or comply with an order

1 of the court or agency or any deadline shall be considered an absolute nullity and
 2 shall be set aside by the court or agency upon the filing of a motion by the aggrieved
 3 person or attorney.

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

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

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

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

17 **A.(1)(a) A member of the legislature or legislative employee shall be**
 18 **entitled to peremptory grounds for a continuance of any court or administrative**
 19 **proceeding or the extension of any legal delay or deadline, excluding civil**
 20 **prescriptive or preemptive periods, criminal statutes of limitations, and**
 21 **criminal cases where the death penalty is sought, if the presence, participation,**
 22 **or involvement of a member of the legislature or legislative employee, who is a**
 23 **party or an attorney for a party, is required in any criminal or civil case or**
 24 **administrative proceeding, including any pretrial or post-trial proceeding,**
 25 **during any legislative session or constitutional convention.**

26 **(b) For purposes of this Section, "legislative employee" means the clerk**
 27 **of the House of Representatives, the secretary of the Senate, and an employee**
 28 **of the House of Representatives, the Senate, or the Legislative Bureau, when**
 29 **such person is employed full-time during the legislative session or during any**
 30 **other time in which the continuance or extension is being sought.**

1 (c) Peremptory grounds are available any time between twenty-one days
2 before the convening of any session of the legislature or constitutional
3 convention and thirty days after the adjournment sine die of any session of the
4 legislature or constitutional convention.

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

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

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

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

28 B.(1) There shall be a presumption that a motion for continuance filed
29 within the period specified in Paragraph (A)(2) of this Section by the member
30 of the legislature or legislative employee is proper and shall be granted within

1 seventy-two hours of the filing of the motion. The motion shall be granted for
2 a period of not less than forty-five days from the date of adjournment sine die
3 of any session of the legislature or constitutional convention.

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

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

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

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

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

26 E.(1) A member of the legislature or legislative employee who has filed
27 a motion for legislative continuance that has been denied or which has not been
28 granted within seventy-two hours may apply directly to the supreme court for
29 supervisory writs at no cost to review the action or inaction of the court where
30 the motion was filed, or may file an appeal at no cost with the court of appeal

1 with jurisdiction as provided in Paragraph (2) of this Subsection.

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

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

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

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

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

26 (2) If seeking a continuance of a court proceeding or extension of any
27 type of deadline occurring outside the time frame of a legislative session or
28 constitutional convention, a member of the legislature or legislative employee
29 who is a party or an attorney for a party to an action may obtain a legislative
30 continuance upon a showing of good cause. A showing, accompanied by an

1 affidavit, that the member or employee is required to attend an interim
2 committee hearing or other official legislative function and that the presence of
3 the member or employee in court is necessary and essential to a fair and proper
4 trial or other proceeding in the suit may be considered good cause.

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

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

15 (1) R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S.
16 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et
17 seq., Code of Civil Procedure Articles 3604 and 3607.1, or peace bonds pursuant
18 to Code of Criminal Procedure Article 30(B).

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

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

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

25 J. The provisions of this Section shall not apply to child custody
26 proceedings or proceedings pursuant to the Domestic Violence Prevention
27 Firearm Transfer Act, Code of Criminal Procedure Article 1001 et seq.

28 K. The provisions of this Section shall not apply to proceedings for writs
29 of habeas corpus for the determination and enforcement of rights to the custody
30 of a minor or for the release of a person in custody in which the family court has

1 original jurisdiction.

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____