

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 178

## 2025 Regular Session

**Mike Johnson**

**CIVIL/PROCEDURE:** Provides for the continuous revision of the Code of Civil Procedure

## Synopsis of Senate Amendments

1. Makes technical changes.
2. Removes the requirement that a court shall conduct a pretrial or scheduling conference to establish deadlines in all actions in which a party intends to file the affidavit of an expert in a summary judgment proceeding or call upon an expert to serve as a witness at a hearing or trial.
3. Provides that in an ordinary proceeding to enforce a promissory note combined with a security device, the judgment or order of executory process granted may include any amounts which accrue after the rendition of the judgment or order.
4. Provides that prior to the sheriff's sale, the seizing creditor or his counsel shall file the payoff amount to the obligation being enforced, including amounts which have accrued after the filing of the petition or rendition of the judgment or order.
5. Provides that any party with an interest in the property seized may file a rule to show cause to traverse the payoff amount filed, and the rule to show cause shall be filed prior to the sheriff's disbursement of funds from the judicial sale.

## Digest of Bill as Finally Passed by Senate

Present law (C.C. Art. 3462) provides that if an action is commenced in a competent court of improper venue, prescription is suspended for a period of seven days as to a defendant not served by process within the prescriptive period.

Present law (C.C.P. Art. 863(F)) provides for the imposition of sanctions.

Proposed law retains present law but provides that sanctions shall not be imposed with respect to an original petition that is filed within 60 days of an applicable prescriptive date and then transferred to a court of proper venue.

Present law (C.C.P. Art. 74.2 (E)) provides for custody proceedings.

Proposed law retains present law but makes minor semantic changes.

Present law (C.C.P. Art. 74.2(F)) provides for motions made prior to Dec. 31, 2007.

Proposed law repeals outdated present law.

Present law (C.C.P. Art. 371) provides for attorney conduct.

Proposed law retains present law but adds that an attorney shall exercise reasonable diligence with respect to the authentication of evidence that may be false or artificially manipulated. Proposed law also makes minor semantic changes.

Present law (C.C.P. Art. 684) provides that a mental incompetent does not have the procedural capacity to sue.

Proposed law changes present law by providing that a person fully interdicted or a person whose limited interdiction specifically restricts the procedural capacity to sue does not have the procedural capacity to sue.

Present law (C.C.P. Art. 927(A)(5)) provides that the objection of no cause of action may be raised through the peremptory exception.

Proposed law retains present law but specifically includes objections of no cause of action in part.

Present law (C.C.P. Art. 966(B)(5)) provides for summary judgment procedure.

Proposed law retains present law but removes a reference to Art. 1915(B)(2).

Present law (C.C.P. Art. 1201(C)) sets forth that a defendant may waive service of citation unless the defendant files a declinatory exception of insufficiency of service of process specifically alleging the failure to timely request service of citation.

Proposed law retains present law but adds that a defendant may also file a contradictory motion in accordance with Art. 1672(C).

Present law (C.C.P. Art. 1313(A)(4)) provides for service by electronic means.

Proposed law retains present law but adds that if service cannot be effected electronically, service may be effected by mail or delivery.

Present law (C.C.P. Art. 1351) provides for the issuance of a subpoena.

Proposed law clarifies present law and sets forth that the clerk of the court in which the action is pending, at the request of the court or a party, shall issue subpoenas.

Present law (C.C.P. Art. 1551) provides for pretrial and scheduling conferences and orders.

Proposed law clarifies present law, further provides for the setting of deadlines for pretrial motions relative to the authenticity and admissibility of purportedly false evidence, and makes minor semantic changes.

Present law (C.C.P. Art. 1702(A)(5)) provides for proof of the required notice to render a default judgment.

Proposed law clarifies present law and sets forth the manner in which proof of the required notice may be made.

Present law (C.C.P. Art. 1811(A)) sets forth that a party may move for a judgment notwithstanding the verdict not less than seven days after the clerk has mailed the notice of judgment.

Proposed law retains present law but adds that the notice may be delivered in open court.

Present law (C.C.P. Art. 1911(B)) sets forth the requirements to take an appeal from a final judgment.

Proposed law changes present law by providing that no appeal shall be taken from a final judgment until the judgment has been signed by the judge. Proposed law also removes references to Art. 1915(A) and (B).

Present law (C.C.P. Art. 1913(A)) provides that notice of the signing of a final judgment is required and shall be mailed by the clerk.

Proposed law retains present law but adds that notice of the signing of a final judgment may be delivered in open court. Proposed law further adds that delivery of the signed judgment in open court shall constitute notice of judgment and shall be documented in the record of the proceeding.

Present law (C.C.P. Art. 1913(C)) provides that notice of the signing of a default judgment shall be mailed by the clerk to the defendant at the address where personal service was obtained or to the last known address of the defendant.

Proposed law retains present law and makes minor semantic changes.

Present law (C.C.P. Art. 1913(D)) provides that the clerk shall file a certificate in the record showing the date on which notice of the signing of the judgment was mailed

Proposed law retains present law but adds that the clerk shall file the certificate for notice delivered in open court.

Present law (C.C.P. Art. 1914(B) and (D)) provides for notice of interlocutory judgments.

Proposed law retains present law, adds that a judgment granted or an exception sustained in accordance with Article 1915(C) shall be reduced to writing, and makes minor semantic changes. Proposed law further adds that delivery of the signed judgment in open court shall constitute notice of judgment and shall be documented in the record of the proceeding.

Present law (C.C.P. Art. 1915) provides for judgments that may not adjudicate all of the issues in the case.

Proposed law changes present law by removing that a judgment may be designated as final by the court after an express determination that there is no just reason for delay. Proposed law adds that when a court grants a judgment, or sustains an exception in part, that judgment is an interlocutory judgment.

Proposed law further adds a requirement that all judgments rendered in accordance with proposed law shall be reduced to writing and signed by the court. Proposed law also makes minor semantic changes, applies prospectively only, and does not apply to appeals and supervisory writs filed prior to the effective date.

Present law (C.C.P. Art. 1974) provides that a party may file a motion for new trial after the clerk has mailed the notice of judgment as required by Art. 1913.

Proposed law retains present law but adds that a party may file a motion for new trial after the clerk has delivered in open court the notice of judgment.

Present law (C.C.P. Art. 2088(A)(11) and (12)) sets forth that the jurisdiction of a trial court in matters not reviewable under appeal includes certification of a partial judgment or partial summary judgment in accordance with Art. 1915(B) and amendment of a judgment to provide proper decretal language.

Proposed law changes present law by removing from the jurisdiction of the trial court certification of a partial judgment or partial summary judgment in accordance with Art. 1915(B).

Present law (C.C.P. Art. 2595) provides that, upon reasonable notice, a summary proceeding may be tried in open court or in chambers, in term or in vacation.

Proposed law removes from present law outdated provisions as to where a summary proceeding may be tried.

Present law (C.C.P. Art. 3721) provides that a conventional mortgage is enforced by ordinary

or executory proceedings.

Proposed law retains present law but provides that in an ordinary proceeding to enforce a promissory note combined with a security device, the judgment or order of executory process granted may include any amounts which accrue after the rendition of the judgment or order.

Proposed law provides that prior to the sheriff's sale, the seizing creditor or his counsel shall file the payoff amount to the obligation being enforced, including amounts which have accrued after the filing of the petition or rendition of the judgment or order.

Proposed law provides that any party with an interest in the property seized may file a rule to show cause to traverse the payoff amount filed, and the rule to show cause shall be filed prior to the sheriff's disbursement of funds from the judicial sale.

Present law (C.C.P. Art. 4607) provides that all counsel of record, including curators, shall be given notice of the sale date.

Proposed law retains present law and makes minor semantic changes.

Present law (C.C.P. Art. 4873) provides for transfers to district court.

Proposed law retains present law but adds that a plaintiff may oppose the transfer only if the plaintiff stipulates that the action does not exceed \$10,000 exclusive of interest and costs.

Present law (C.C.P. Art. 5059) provides that in computing a period of time, the date of the act after which the period begins to run is included.

Proposed law changes present law by providing that in computing a period of time, the date of the act from which the period begins to run is included. Proposed law also provides for the definition of "next day" to mean the subsequent calendar day that is not a legal holiday following a legal holiday and makes minor semantic changes.

(Amends C.C. Art. 3462 and C.C.P. Arts. 74.2(E), 371, 684, 863(F), 927(A)(5), 966(B)(5), 1201(C), 1313(A)(4), 1351, 1551, 1702(A)(5), 1811(A)(1), 1911(B), 1913(A), (C), and (D), 1914(B) and (D), 1915(A)(1), (4), and (5), (B), and (C), 1974, 2088(A)(11), 2595, 3721, 4607, 4873, and 5059; Adds C.C.P. Art. 1915(D); Repeals C.C.P. Arts. 74.2(F), 2088(A)(12), and 3784)