

Regular Session, 2012

HOUSE BILL NO. 1144 (Substitute for House Bill No. 953 by Representative Leger)

BY REPRESENTATIVE LEGER AND SENATOR MURRAY

COURTS: Provides relative to courts in Orleans Parish

1 AN ACT

2 To amend and reenact R.S. 13:477(introductory paragraph), 691(A), 1306, 1307, 1311,

3 1312, 1381.2, and 1594, and R.S. 44:181, to enact R.S. 13:1213.2, and to repeal R.S.

4 13:474.1, 477(41), 621.41, 621.42, 621.43 through 621.46, 714.1, 714.2, 751.1

5 through 751.5, 841.3, 983, 996.62 through 996.64, R.S. 44:181.5 and 181.6, and

6 Sections 6, 8, 9, 22, and 31 of Act No. 621 of the 2006 Regular Session of the

7 Legislature, and Section 19 of Act No. 621 of the 2006 Regular Session of the

8 Legislature as amended by Act No. 675 and Act No. 873 of the 2008 Regular Session

9 of the Legislature, and Act No. 340 of the 2011 Regular Session, relative to courts

10 and judicial procedure; to provide relative to the civil and criminal district courts and

11 juvenile court of the parish of Orleans; to repeal provisions relative to the

12 consolidation of the civil and criminal district courts of Orleans Parish into the Forty-

13 First Judicial District Court and their respective clerks; to repeal effective dates for

14 repeals of provisions related to the civil and criminal district courts and the abolition

15 of the juvenile court of Orleans Parish; to provide that certain provisions of law that

16 would have otherwise been repealed shall remain in effect; to provide for the

17 distribution of fees collected in the Civil District Court; to provide for the salaries

18 of the civil and criminal district court judges and certain family and juvenile court

19 judges; to provide relative to terms of office and elections for Orleans Parish

1 Juvenile Court judges; to direct the Louisiana State Law Institute to redesignate
2 certain statutory provisions; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1.(A) Act No. 621 of the 2006 Regular Session of the Legislature was
5 enacted by the Legislature of Louisiana to reorganize and consolidate the structure of the
6 judiciary in Orleans Parish. Many of the goals of the reorganization and consolidation have
7 been accomplished, including the merger of the civil sheriff and the criminal sheriff into one
8 office, and the merger of the functions of recorder of mortgages, register of conveyances,
9 and the custodian of notarial records into the functions of the civil clerk's office. Act No.
10 621 of the 2006 Regular Session of the Legislature contained an effective date of January
11 1, 2009, to provide additional time for other aspects of the consolidation to take place,
12 including the merger of the Orleans Civil and Criminal District Court and the Orleans
13 Juvenile Court into the Forty-First Judicial District Court, and the merger of the offices of
14 the clerk of each of those courts into one clerk's office.

15 (B) Subsequent acts of the legislature extended the effective date of certain aspects
16 of the consolidation to December 31, 2014. Despite the efforts made to accomplish the
17 consolidation and reorganization, the complexity of the issues involved prevented such a
18 reorganization. Therefore, it is the intent of this legislature that the Forty-First Judicial
19 District Court shall not come into existence and existing structures of the Orleans Parish
20 judiciary system relative to the Civil District Court, Criminal District Court, and Juvenile
21 Court prior to Act No. 621 of the 2006 Regular Session of the Legislature and subsequent
22 acts of the legislature should remain in effect.

23 Section 2. R.S. 13:477(introductory paragraph), 691(A), 1306, 1307, 1311, 1312,
24 1381.2, and 1594 are hereby amended and reenacted and R.S. 13:1213.2 is hereby enacted
25 to read as follows:

26 §477. Judicial districts

27 There shall be ~~forty~~ forty-one judicial districts in the state and each district
28 shall be composed as follows:

29 * * *

1 §691. Annual salaries of district judges; certain civil district court judges; certain
2 criminal district court judges; and certain juvenile and family court judges

3 A. The annual salary of each of the several district judges of judicial
4 districts, including the civil district court judges and the criminal district court judges
5 of the parish of Orleans; the magistrate of the criminal district court for the parish of
6 Orleans; the judges of the juvenile court of the parish of Orleans, the parish of
7 Caddo, the parish of East Baton Rouge, and the parish of Jefferson; and the judges
8 of the family court of East Baton Rouge Parish, ~~shall be seventy-five thousand~~
9 ~~dollars, payable monthly upon the warrant of the judge~~ shall be in the amount
10 provided in accordance with the provisions of R.S. 13:42 et seq., payable monthly
11 upon the warrant of the judge.

12 * * *

13 §1213.2. Fees; clerk of the Civil District Court

14 The clerk of the Civil District Court shall collect the fees set forth in R.S.
15 13:1213.1 and shall deposit no less than sixty percent of the amounts collected in the
16 Clerk's Salary Fund. The remaining funds shall be deposited in the judicial expense
17 fund for the Civil District Court for the Parish of Orleans. The clerk and the chief
18 judge of the Civil District Court may at any time renegotiate the sixty percent
19 collection fees but at no time shall the sixty percent be reduced below fifty percent
20 of the civil filing fees collected by the clerk.

21 * * *

22 §1306. Interest on unclaimed judicial deposits; use by ~~civil~~ sheriff

23 Where interest, which has accrued on any judicial deposit made by the ~~civil~~
24 sheriff of the parish of Orleans with the judicial depository of the parish of Orleans,
25 of funds belonging to a litigant or litigants, shall not be called for or claimed for a
26 period of ten years from date of accrual, the ~~civil~~ sheriff of the parish of Orleans may
27 withdraw the accrued interest from the judicial depository, and use it for the costs
28 and expenses of his office, in the manner provided by law for the use and disposition
29 of other funds received by him for that purpose.

1 §1307. Same; judicial depository to turn interest over to sheriff

2 The judicial depository of the parish of Orleans is directed to turn over to the
3 ~~civil~~ sheriff of the parish of Orleans any accrued interest on any judicial deposit
4 made by him, under the conditions prescribed in R.S. 13:1306.

5 * * *

6 §1311. Sheriff, constables, and deputies; powers of peace officers; exemption from
7 liability

8 The ~~civil~~ sheriff for the parish of Orleans and the constables of the First and
9 Second City Courts of New Orleans and their deputies, are hereby granted the
10 powers of peace officers when carrying out the duties of the court, and are authorized
11 to require incarceration of the subject involved in any of the city, parish or state
12 prisons, precinct stations, or houses of detention in the parish of Orleans. They shall
13 be exempt from liability for their actions in the exercise of this power in the same
14 manner and fashion as liability is excluded generally for peace officers of this state
15 and political subdivisions.

16 §1312. Judicial expense fund; sources, control, and administration

17 A. ~~The clerk of the Civil District Court, the~~ clerks of the First and Second
18 ~~City Court Courts, the register of conveyances, and the recorder of mortgages~~ shall
19 place all sums collected or received under this Section in a separate account to be
20 designated as the Judicial Expense Fund for the Civil District Court for the Parish of
21 Orleans. The judges, en banc, of the Civil District Court for the Parish of Orleans
22 and the First and Second City Courts of the city of New Orleans shall have control
23 over the fund and all disbursements made therefrom. They shall cause to be
24 conducted annually an audit of the fund and the books and accounts relating thereto,
25 and shall file the same with the office of the legislative auditor where it shall be
26 available for public inspection.

27 B. The judges of the Civil District Court for the Parish of Orleans and the
28 First and Second City Courts of the city of New Orleans, sitting en banc, shall have
29 control over the judicial expense fund for the parish of Orleans, accruing and

1 accrued, and to this end shall fix and regulate from time to time the number of
 2 deputies and employees of the offices of the ~~clerk of the Civil District Court, clerks~~
 3 of the city courts, register of conveyances, and recorder of mortgages of said parish
 4 and their expenses, and also shall have the power to fix the tariff of costs and charges
 5 to be paid for official services in ~~said~~ the offices, which are paid into, and constitute
 6 ~~said~~ the fund; due publication of which tariff, when made, shall be given. They shall
 7 have power to determine whether any amounts from ~~said~~ the fund shall be devoted
 8 to the expense or payment of taking testimony by shorthand and to regulate and
 9 provide for the same. The ~~said~~ judges are authorized to contribute out of ~~said~~ the
 10 fund, to the embellishment, maintenance, improvement or repair, or both, of each
 11 courtroom, the courthouse itself or its furnishings, or both, and may contribute to any
 12 pension, retirement system and group hospitalization plans to which officers and
 13 employees paid out of ~~said~~ the fund may belong.

14 * * *

15 §1381.2. ~~Criminal sheriff's~~ Sheriff's detention and prison security fee fund

16 A. Any defendant, other than an indigent, who pleads guilty or is convicted
 17 of an offense by the Criminal District Court for the Parish of Orleans shall be
 18 assessed a fee of not less than twenty-five dollars, such costs to be in addition to any
 19 fine, clerk's fees, costs due to the criminal court cost fund or sentence imposed by the
 20 court. When any defendant, other than an indigent, fails to pay the costs referred to
 21 hereinabove, he shall be sentenced to a term of thirty days in the parish prison in
 22 default of the payment of same.

23 B. Costs assessed against defendants pursuant to this ~~section~~ Section shall
 24 be collected by the ~~criminal~~ sheriff of the parish of Orleans. All sums so collected
 25 shall be deposited in a bank or banks in the city of New Orleans in which deposits
 26 are insured or guaranteed by the federal government or any agency thereof. No
 27 deposit shall be made in any such bank in excess of the amount of the federal
 28 insurance or guaranty unless the amount deposited in excess of the federal insurance
 29 or guaranty is secured by any security authorized by law as security for the deposit

1 of state funds. The deposits shall be credited to a special fund to be designated as the
2 criminal sheriff's detention and prison security fee fund.

3 C. The ~~criminal~~ sheriff's fee fund shall be administered by the ~~criminal~~
4 sheriff of the Parish of Orleans. Disbursements shall be made from the fund upon
5 the signature of the ~~criminal~~ sheriff of the Parish of Orleans. Such fund is to be
6 expended to assist in the operation security and maintenance of the office of the
7 criminal sheriff of the parish of Orleans.

8 D. When any bail bond posted in the Criminal District Court for the parish
9 of Orleans guaranteeing the appearance of any defendant in any case in the Criminal
10 District Court for the parish of Orleans has been forfeited, ~~said the~~ surety company
11 ~~and/or , the~~ local agent ~~and/or , or the~~ insurance company for which ~~said the~~ agent
12 is writing bail bonds, shall be assessed costs not more than twenty-five dollars. The
13 forfeiture of any bond referred to hereinabove shall not be set aside until the above
14 costs have been paid, in addition to the other legal requirements of law having been
15 met for the setting aside of the forfeiture. Costs assessed against surety companies
16 pursuant to this ~~section~~ Section shall be collected and administered in the same
17 manner as that set out in Subsection B of this ~~section~~ Section.

18 * * *

19 §1594. Election; term

20 The first judge for ~~said the~~ additional judgeship of the juvenile court for the
21 parish of Orleans, who shall preside over the additional section of ~~said the~~ court, as
22 provided herein, shall be elected in a manner herein below set forth provided that the
23 governor shall make an interim appointment to that office to serve through December
24 31, 1960, and his successor shall be elected for a term of eight years commencing on
25 January 1, 1961, at the congressional election to be held on the first Tuesday after
26 the first Monday in November, 1960 ~~and his successor every eight years thereafter,~~
27 ~~each serving until his successor is elected and qualified.~~ The terms of office of the
28 judges of the juvenile court serving in the parish of Orleans on August 1, 2012, shall
29 be extended through December 31, 2014. Their successors shall be elected for a

1 Section 5.(A) R.S. 13:1, 471, 474, 477, 691(A), 759, 842(A), and 846(A) as
2 amended and reenacted by Act No. 621 of the 2006 Regular Session of the Legislature shall
3 not become effective on December 31, 2014.

4 (B) The provisions of R.S. 13:1, 471, 474, 759, 842(A), and 846(A) in effect on
5 August 1, 2012, shall remain in effect until later amended or repealed.

6 Section 6. The Louisiana State Law Institute is hereby directed to redesignate R.S.
7 13:621.42.1 as R.S. 13:1141.

8 Section 7. The provisions of this Act shall supersede and control in the case of any
9 conflict with Act No. 621 of the 2006 Regular Session of the Legislature and any
10 amendments made thereto by subsequent acts.

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)]

Leger

HB No. 1144

Abstract: Repeals provisions relating to the consolidation of Orleans Parish district and juvenile courts into the 41st JDC and clerks of Orleans Parish, and provides for the Civil and Criminal District Court and Juvenile Courts for the Parish of Orleans and their respective clerks to remain in existence.

Present law as provided for in Act No. 621 of the 2006 R.S., consolidates the civil, criminal, and juvenile courts, and the clerks of the respective courts into the 41st Judicial District Court; establishes one clerk of court for Orleans Parish; and establishes the salaries, composition, jurisdiction of such judicial officials, including magistrates and commissioners; transfers all the duties, powers, and functions of the former offices to the consolidated office; and creates the Consolidated Judicial Expense Fund for the 41st Judicial District Court for the civil and criminal district courts, the juvenile court for the parish of Orleans, and the First and Second City Court of the city of New Orleans. Further provides that such fund and all disbursements shall be administered and controlled by a committee composed of certain judicial officials, and otherwise establishes consolidated public offices similar to the other 41 existing judicial districts in the state.

Present law abolishes the Orleans Parish Juvenile Court effective Jan. 1, 2015, and extends the terms of the six judges now in office to Dec. 31, 2014. The 41st JDC is vested with jurisdiction of the juvenile court. Establishes six additional judges of the 41st JDC to be assigned to the juvenile section of that court, effective Jan. 1, 2015.

Present law and amendments made by subsequent Acts provides an effective date of Dec. 31, 2014.

Proposed law repeals present law.

Present law provides for the civil and criminal district courts for Orleans Parish, and the jurisdiction, compensation, authority, rulemaking ability, assignment, and designation of divisions, cases, expenses, costs, fees, personnel, number of judges, commissioners, magistrates allocated to divisions or sections, clerks of civil and criminal courts, compensation, fees, resultant judicial expenses, funds, deposits, bonds, retirement, and related duties and privileges, court reporters' selection, salary, fees, magistrates and commissioners, their respective duties, jurisdiction, compensation, authority, and designations of the civil and criminal district courts for Orleans Parish.

Present law, as provided for in Act No. 621 of the 2006 Regular Session, repeals all statutory authority for the civil and criminal district courts for Orleans Parish and their respective clerks effective Dec. 31, 2014.

Proposed law repeals the effective date of Dec. 31, 2014, in present law and provides for the civil and criminal district courts for Orleans Parish and provides that the clerks of the respective courts shall continue to function as they do under present law.

Present law transfers the offices of the custodian of notarial records, register of conveyances, and recorder of mortgages and their respective duties and functions to the clerk of civil district court as parish recorder and abolishes such offices effective Jan. 1, 2009. Provides for the clerk to assume the duties of the custodian, the register, and the recorder on that date.

Proposed law retains present law and removes all references to the register of conveyances, the recorder of mortgages, and custodian of notarial records.

Present law provides that the annual salary of \$75,000 shall be paid monthly to the district judges of each judicial district, including the civil, criminal, magistrates of the criminal, and juvenile judges of the parish of Orleans.

Proposed law provides that the annual salary to be paid monthly to all judges shall be determined by the Judicial Compensation Commission.

Proposed law requires clerk of the Civil District Court to collect all fees authorized under R.S. 13:1213.1 and deposit no less than 60% of the amounts collected in the Clerk's Operational Fund, and the remaining to be deposited in the Civil District Court Judicial Expense Fund.

Present law provides for the consolidation of the offices of the civil and criminal sheriffs of the parish of Orleans into one office. Provides that the one office of sheriff shall be effective for purposes of qualification and election for the election of the parochial and municipal officials to be elected in 2010 and serve for a term of four years. Provides for the functions, duties, responsibilities, powers and transfer of property.

Proposed law retains present law and removes all references to the civil and criminal sheriff from present law.

Present law requires the first judge for the additional judgeship of the juvenile court for the parish of Orleans, to be elected for a term of eight years commencing on Jan. 1, 1961, at the congressional election, and his successor to be elected every eight years thereafter.

Proposed law retains present law except that it changes the terms of office from eight years to six years and extends the terms of those juvenile court judges currently in office on Aug. 1, 2012, to Dec. 31, 2014.

(Amends R.S. 13:477(intro. para.), 691(A), 1306, 1307, 1311, 1312, 1381.2, and 1594, and R.S. 44:181; Adds R.S. 13:1213.2; Repeals R.S. 13:474.1, 477(41), 621.41, 621.42, 621.43-621.46, 714.1, 714.2, 751.1-751.5, 841.3, 983, 996.62- 996.64, R.S. 44:181.5 and 181.6, and §§ 6, 8, 9, 22, and 31 of Act No. 621 of the 2006 R.S.)