

First Extraordinary Session, 2002

# ACT No. 28

SENATE BILL NO. 37 (Duplicate of House Bill No. 112)

BY SENATOR HAINKEL AND REPRESENTATIVE SCHNEIDER AND  
COAUTHORED BY SENATORS SCHEDLER AND  
THOMAS

## AN ACT

To enact R.S. 13:721 and 722 and to repeal R.S. 13:719 and 720, relative to the Twenty-Second Judicial District Court; to provide for the office of commissioner for the Twenty-Second Judicial District Court in criminal matters; to provide for the selection and removal of the commissioner from office; to provide for the qualifications of office, salary, related benefits, expenses of office, and office space; to provide for the sources of funding for the commissioner and his office and employees; to provide for the duties and powers of the commissioner; to provide for conduct of proceedings by the commissioner upon consent of the parties; to provide for delays to traverse the findings and to provide for hearings thereon; to provide for the authority of a judge to accept, reject, or modify the findings; to repeal provisions providing for the existing office of commissioner; to provide for effective dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:721 and 722 are hereby enacted to read as follows:

§721. Commissioner for the Twenty-Second Judicial District Court

### **R.S. 13:721 is all new law.**

A. There is hereby created one office of commissioner for the  
Twenty-Second Judicial District Court.

B. The commissioner shall be selected by a majority of the judges of the Twenty-Second Judicial District and may be removed from office by a majority of those judges. There shall be no term of such office. A commissioner shall serve at the pleasure of the court. Additionally, the commissioner may be subject to removal from office for any reason for which a district judge may be removed.

C. The commissioner shall have jurisdiction over criminal matters.

D. The provisions of this Section shall not affect or limit the jurisdiction of a district judge as provided by law.

E.(1) Subject to the other provisions of this Subsection, the commissioner shall have all of the powers as are enumerated below. The powers of the commissioner shall not be inconsistent with the constitution and laws of this state, the constitution and laws of the United States, or the rules of the Twenty-Second Judicial District Court. The commissioner shall perform such duties as are assigned by the Twenty-Second Judicial District Court, in accordance with the rules which shall be prescribed by the elected judges of the court.

(2) The powers of the commissioner when hearing criminal matters may include but shall not be limited to the power to:

(a) Administer oaths and affirmations.

(b) Take acknowledgments, affidavits, and depositions.

(c) Act on felony charges through arraignment; however, the commissioner shall not accept pleas of guilty on or sign orders disposing of felony charges.

(d) Hear preliminary motions prior to filing the bill of information or indictment and make recommendations to the district

judge.

(e) Act on misdemeanor charges including accepting pleas in misdemeanor cases preliminary to trial on the merits and conduct evidentiary hearings of misdemeanor cases. A trial on the merits in a misdemeanor case shall be tried by the commissioner only upon the written consent of the defendant and the expressed waiver of the defendant's right to have his case heard by a district court judge.

(f) Fix bail.

(g) Review probable cause affidavits within forty-eight hours of warrantless arrests.

(h) Conduct seventy-two hour hearings.

(i) Sign waivers of extradition only upon the written consent of the defendant and the expressed waiver of the defendant's right to have his extradition heard by a district court.

(j) Supervise defendants sentenced under the provisions of the drug court in accordance with the policies set down by the judges of the Twenty-Second Judicial District Court.

(k) Supervise all conditions of bail bonds.

(l) Supervise special conditions of protective orders, domestic violence, and any other probation conditions.

F.(1) When a misdemeanor case, with the written consent of the defendant and the expressed waiver of the defendant's right to have his case heard by a district court judge, is referred to the commissioner by rule of court or assigned to the commissioner by a judge of the Twenty-Second Judicial District Court, the commissioner shall receive all evidence and prepare a written report of his findings which shall contain the following elements:

- (a) A statement of the pleadings.
  - (b) A statement of the facts as found by the commissioner.
  - (c) An opinion based on the pleadings and facts.
  - (d) A judgment as he determines should be rendered with the recommendation to the judge that it be made the judgment of the court.
- (2) In such a case, the commissioner shall file a report containing proposed findings and recommendations with the court, and a copy shall be promptly provided to all parties or their counsel of record either at the hearing or by mail.
- (3) Any party, within ten days after filing the report, may traverse such findings or recommendations in writing in such manner as shall be specified by the rules of the district court.
- (4) If exceptions to the report are timely filed within ten days, the judge may set the exceptions for hearing within thirty days, may hear argument on the exceptions and decide the exceptions on the record and evidence previously made before the commissioner.
- (5) The judge may accept, reject, or modify in whole or in part the findings or recommendations made by the commissioner and also may receive further evidence or recommit the matter to the commissioner with instructions or may hear the case de novo and enter judgment.

§722. Commissioners: qualifications; salary and benefits; restrictions on employment; office space; supplies; equipment; employees

**R.S. 13:722 is all new law.**

A. The qualifications for the office of commissioner for the Twenty-Second Judicial District Court shall be the same as the

qualifications for office for district court judges.

B. The salary of the commissioner shall be set by a majority of the elected judges of the Twenty-Second Judicial District Court and shall not exceed seventy-two thousand five hundred dollars per annum. A commissioner may be a member of the Parochial Employees' Retirement System. A commissioner may be reimbursed for his expenses as provided for by court rule.

C. A commissioner shall be a full-time employee of the Twenty-Second Judicial District Court. A commissioner shall not engage in any outside business, occupation, or employment that is inconsistent with the expeditious, proper, and impartial performance of his duties as judicial officer, nor shall he engage in the practice of law. Any question regarding the conduct of any outside business, occupation, or employment by the commissioner shall be resolved by a majority of the elected judges of the Twenty-Second Judicial District Court. The provisions of this Subsection shall not abrogate or supersede any provisions of the Rules for Lawyer Disciplinary Enforcement or the Code of Judicial Conduct applicable to judges and attorneys.

D. Office space for the commissioner may be provided by the Twenty-Second Judicial District Court, out of funds available to the court.

E. Any employee of the office of commissioner shall be hired only upon the prior approval of employment by a majority of the elected judges of the court pursuant to adopted rules or the specific order of the court and may be a member of the Parochial Employees' Retirement System.

F. The salaries, related benefits, and expenses of the commissioner, and the salaries and related benefits of the employees of the commissioner, the costs of the equipment and supplies of the commissioner and his employees, and other costs of implementing this Section and R.S. 13:721 shall be paid from funds available to the Twenty-Second Judicial District Court.

G. The sources of funding for the commissioner and his offices and employees shall include but shall not be limited to the following sources:

(1) Subject to the other provisions of this Section, there is hereby imposed an additional fee on all persons convicted in the Twenty-Second Judicial District Court of felony, misdemeanor, and traffic offenses. The amount of the additional fees shall be set by the judges of the Twenty-Second Judicial District Court sitting en banc. The amount of the additional fee in felony cases shall not exceed one hundred dollars. The amount of the additional fee in misdemeanor and traffic cases shall not exceed seven dollars and fifty cents.

(2) The additional fees created in this Section shall be collected by the sheriffs in the same manner as all other criminal court costs. All additional fees collected under this Section shall be remitted by the sheriffs to the police juries of the parishes of St. Tammany and Washington and deposited into special accounts. These funds are to be used by the parishes, only when authorized by court order from the chief judge of the Twenty-Second Judicial District Court, to defray the costs and expenses incurred pursuant to the provisions of this Section and other related judicial expenditures.

(3) If any part of the provisions of this Section become

dependent upon monies from the general fund of the respective parishes, the provisions of this Section and of R.S. 13:721 shall terminate if the parish police juries fail to appropriate sufficient monies to provide for the continuation of the office of commissioner for the Twenty-Second Judicial District Court.

H. The commissioner shall use the title of commissioner in the performance of his duties under the provisions of this Section and R.S. 13:721.

Section 2. R.S. 13:719 and 720 are hereby repealed in their entirety.

Section 3. The provisions of Section 1 of this Act shall become effective on August 16, 2002.

Section 4. The provisions of Section 2 of this Act shall become effective on August 15, 2002.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_