Louisiana Code of Criminal Procedure 2026, Updated Articles

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Contents

Art. 14.1. Electronic filings

A. Until January 1, 2026, any document in a traffic or criminal action may be transmitted electronically in accordance with a system established by the clerk of court. The clerk of court shall adopt a system for the electronic filing and storage of any pleading, document, or exhibit other than those documents or exhibits introduced and filed at a hearing or trial. Furthermore, in a court that accepts electronic filings in accordance with this Paragraph, the official record shall be the electronic record. A pleading or document filed electronically is deemed filed on the date and time stated on the confirmation of electronic filing sent from the system, if the clerk of court accepts the electronic filing. Public access to electronically filed pleadings and documents shall be in accordance with the rules governing access to written filings.

B. Beginning January 1, 2026, all filings as provided in this Article and all other provisions of this Code filed by an attorney shall only be filed in person in paper form or transmitted electronically in accordance with a system established by a clerk of court or by the Louisiana Clerks' Remote Access Authority. The filer shall be responsible for ensuring that private information is not included in filings. No filing shall include the first five digits of any social security number, tax identification numbers, state identification numbers, driver's license numbers, financial account numbers, full dates of birth, or any information protected from disclosure by state or federal law. The clerk of court shall adopt a system for the electronic filing and storage of any pleading, document, or exhibit other than those documents or exhibits introduced and filed at a hearing or trial. Furthermore, in a court that accepts electronic filings in accordance with this Paragraph, the official record shall be the electronic record. A pleading or document filed electronically is deemed filed on the date and time stated on the confirmation of electronic filing sent from the system, if the clerk of court accepts the electronic filing. Public access to electronically filed pleadings and documents shall be in accordance with the rules governing access to written filings.

C. Upon adoption of uniform filing standards by the Louisiana Clerks' Remote Access Authority, no clerk of court shall accept a filing not in accordance with the adopted standards.

Acts 2001, No. 319, §3; Acts 2016, No. 109, §2; Acts 2021, No. 341, §1; Acts 2024, No. 501, §2; Acts 2024, No. 694, §5; Acts 2025, No. 352, §2.

TITLE VIII. BAIL

Art. 311. Definitions

For the purpose of this Title, the following definitions shall apply:

(1) Bail is the security given by a person to assure a defendant's appearance before the proper court whenever required.

(2) An appearance is a personal appearance before the court or the court's designee, where the charges are pending.

(3) A surrender is the detention of the defendant at the request of the surety by the officer originally charged with his detention on the original commitment. When the surety has requested the surrender of the defendant, the officer shall acknowledge the surrender by a certificate of surrender signed by him and delivered to the surety.

(4) A constructive surrender is the detention of the defendant in another parish of the state of Louisiana or a foreign jurisdiction under the following circumstances:

(a) A warrant for arrest has been issued for the defendant in the jurisdiction in which the bail obligation is in place.

(b) The surety has provided proof of the defendant's current incarceration to the court in which the bail obligation is in place, to the prosecuting attorney, and to the officer originally charged with the defendant's detention.

(c) The surety agrees to pay reasonable or actual costs of returning the defendant to the jurisdiction where the warrant for arrest was issued. If the surety fails to pay a set amount of the reasonable or actual costs, the recovery shall be through a summary proceeding against both the principal and the surety, as provided in Code of Civil Procedure Article 2592(4).

(5) A surety's motion and affidavit for issuance of warrant may be filed when the defendant is found incarcerated in another parish of the state of Louisiana or a foreign jurisdiction and a warrant has not been issued by the court or in which the bail obligation is in place. In such instances, the surety may file a motion with the court requesting a warrant be issued when the following conditions have been met:

(a) There has been a breach of the bail undertaking.

(b) The surety provides proof of the defendant's current incarceration outside of the state of Louisiana. The defendant's incarceration may be used as evidence of a breach of the bail undertaking.

(c) The defendant did not have written permission from the court to leave the state of Louisiana.

(d) Upon presentation of evidence of the breach of the bail undertaking, the court may issue a warrant for the defendant's violation of the conditions of the bail undertaking.

(e) The surety may then file the constructive surrender in accordance with this Article and Article 331.

(6) A personal surety is a natural person domiciled in the state of Louisiana who owns property in this state that is subject to seizure and is of sufficient value to satisfy, considering all his property, the amount specified in the bail undertaking. The value of the property shall exclude the amount exempt from execution, and shall be over and above all other liabilities including the amount of any other bail undertaking on which he may be principal or surety. If there is more than one personal surety, then the requirements shall apply to the aggregate value of their property. A personal surety shall not charge a fee or receive any compensation for posting a bail undertaking. A bail undertaking of a personal surety may be unsecured or secured.

(7) Bail enforcement is the apprehension or surrender by a natural person of a principal who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which the principal may be prosecuted.

(8) A bail enforcement agent is a licensed bail agent who engages in the apprehension or surrender by a natural person of a principal who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which the principal may be prosecuted.

(9) The originating jurisdiction is the jurisdiction where the warrant for the arrest was issued and where the charges are pending.

(10) The executing jurisdiction is the jurisdiction where the defendant is arrested and incarcerated on a warrant for arrest.

(11) Electronic bond is a commercial bail bond contract executed digitally as security given by a surety to assure a defendant's appearance before the proper court whenever required.

Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2020, No. 267, §1; Acts 2021, No. 197, §1; Acts 2021, No. 243, §1; Acts 2024, No. 222, §1; Acts 2024, No. 564, §1; Acts 2025, No. 140, §2.

Art. 331. Discharge of bail obligation

A.(1) Upon conviction in any case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking by operation of law without the need to

file a motion or other pleading. The provisions of this Subparagraph shall not prejudice the state's right to obtain a judgment of bond forfeiture after the elapse of one hundred eighty days following the execution of the certificate that notice of warrant for arrest was sent pursuant to Article 334.

(2) In all cases, if necessary to assure the presence of the defendant at all future stages of the proceedings, the court may in its discretion, in accordance with Article 312 require the defendant to post another bail undertaking or other acceptable security, or may release the defendant on bail without surety as provided for in Article 325. The court may continue the existing bail undertaking with the written approval of the surety on the bail undertaking. Such approval must be obtained from the surety after conviction.

(3) Repealed by Acts 2017, No. 205, §2.

B. When the district attorney dismisses an indictment or information and institutes a subsequent indictment or information for the same offense or for a lesser offense based on the same facts, the court shall reinstate any bail discharged when the district attorney dismissed the initial indictment or information if the surety consents to the reinstatement expressly and in writing. Orleans Parish district judges with criminal jurisdiction sitting en banc may adopt rules effectuating telephonic communication and verification of bail undertakings and releases.

C.(1) A surety may surrender the defendant at any time. For the purpose of surrendering the defendant, the surety may arrest him. The surety shall pay a fee of twenty-five dollars to the officer charged with the defendant's detention for accepting the surrender, processing the paperwork, and giving the surety a certificate of surrender. Upon the surrender of the defendant, the officer shall retain a copy and forward a copy of the certificate of surrender to the clerk of court and the prosecuting attorney.

(2) Upon surrender of the defendant at any time prior to the expiration of one hundred eighty days after the notice of warrant for arrest was sent, the surety shall be fully and finally discharged and relieved of all obligations under the bail undertaking by operation of law, without the need to file a motion or other pleading.

D. A surety may constructively surrender the defendant only within one hundred eighty days of when the notice of warrant for arrest was sent. After the constructive surrender of the defendant, the surety shall be fully and finally discharged and relieved of all obligations under the bail undertaking by operation of law, without the need to file a motion or other pleading.

E. At any time prior to the defendant's failure to appear or within one hundred eighty days after the notice of warrant for arrest is sent, the surety may file with the clerk of court and present to the court a certificate of death naming the defendant as the deceased party. The certificate shall be under seal of the authority confirming the defendant's death. Upon proof that the surety is unable to obtain a certificate of death, the surety or the court may invoke a contradictory hearing in order to establish proof of death by clear and convincing evidence. If the court determines that the defendant is deceased thereafter, the surety shall be fully and finally discharged and relieved of any and all obligations under the bail undertaking.

F.(1) Forty-five days after the defendant's failure to appear and while there is still an active arrest warrant in the proceeding for which the bond was posted, the surety or bail bond producer who posted the bond may file with the clerk of court where the charges are pending an affidavit requesting the defendant be remanded and surrendered upon his appearance before the court. The clerk of court shall forward a copy of the affidavit to the court before which the charges are pending. The affidavit must meet all the requirements set forth in R.S. 22:1585 and be filed before the court where the charges are pending. A copy of the affidavit must be provided to the prosecuting attorney.

(2) Upon the appearance of the defendant within one hundred eighty days of when the notice of warrant for arrest was sent, the court shall grant the relief requested and remand the defendant to the custody of the officer originally charged with the defendant's detention. Upon remand and payment by the surety of the twenty-five dollar fee to the officer charged with the defendant's detention, the court shall relieve the surety of all obligations under the bail undertaking.

G. Any time after the defendant's failure to appear and the issuance of the warrant of arrest, the surety may request that the officer originally charged with the detention of a defendant place the name of the defendant into the National Crime Information Center registry. The officer shall determine if the placement of the name is authorized by the rules governing the National Crime Information Center registry within thirty days of the request. If not authorized, the officer shall provide notice to the surety of the reason for nonplacement. If placement is authorized, the surety shall pay to that officer a fee of twenty-five dollars for processing the placement. If authorized and after payment of the twenty-five-dollar fee, the name of the defendant is removed from the National Crime Information Center registry without cause during the period provided for surrendering the defendant, the period for filing a rule to show cause under Article 335 shall be suspended until the name of the defendant is placed back in the registry.

H. In the case of any fee required under the provisions of this Article, the officer charged with the defendant's detention shall provide the surety with a receipt indicating the amount of the fee collected, the name of the defendant, the purpose of the fee collected, the name of the person from whom the fee was collected, information sufficient to identify any applicable bail undertaking, and the date and time the defendant was surrendered.

I. In all cases and by operation of law, during the period of time declared by the governor to be a statewide public health emergency due to COVID-19, the time period for the appearance or surrender of a defendant shall be calculated as follows:

(1) For cases when the defendant failed to appear in court and one hundred eighty days from the date the notice of warrant for arrest was sent has not elapsed prior to March 11, 2020, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until March 17, 2022.

(2) For cases when the defendant failed to appear in court between March 11, 2020, and August 31, 2020, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until June 1, 2022.

(3) For cases when the defendant failed to appear in court between September 1, 2020, and February 28, 2021, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until August 1, 2022.

(4) For cases when the defendant failed to appear in court between March 1, 2021, and August 31, 2021, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until October 1, 2022.

(5) For cases when the defendant failed to appear in court between September 1, 2021, and March 16, 2022, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until December 1, 2022.

(6) For cases when the defendant failed to appear in court on or after March 17, 2022, the one-hundred-eighty-day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall begin to run after the notice of warrant for arrest is sent pursuant to Article 335.

J.(1) Additionally, a surety may file a motion in the criminal court of records seeking additional time to surrender a defendant citing specific circumstances related to COVID-19 and pertaining to the defendant in the criminal matter. A motion seeking relief pursuant to this Paragraph shall be filed prior to or at a hearing on a rule to show cause to obtain a judgment of bond forfeiture. The motion shall include all of the following as a bona fide effort of active investigation in the recovery of the defendant:

(a) A sworn affidavit affirming efforts to locate and recover the defendant.

(b) A signed agreement of the engagement contract between the bail bondsman surety and the fugitive recovery team.

(c) Evidence of the last contact between the bail bondsman and either the defendant's next of kin or the indemnitor of the defendant.

(2) If the motion meets the requirements of this Paragraph, the court may grant an additional extension of time not to exceed one hundred eighty days. If the court grants an extension of time, the rule to show cause hearing shall be continued after the expiration of the extension of time. If the motion does not meet the requirements of this Paragraph, the court may deny the motion.

K. In cases which were continued by the court during the time period declared by the governor to be a statewide public health emergency due to COVID-19, it is required that notice of any new date be provided to the defendant or his duly appointed agent and his personal surety or the commercial surety or the agent or bondsman who posted the bail undertaking for the commercial surety in accordance with Article 330(D).

L. The court shall order the bail obligation canceled when there is no further liability thereon.

M. At any time prior to the defendant's failure to appear or within one hundred eighty days after the notice of warrant for arrest is sent, the surety may file proof of the defendant's deportation with the clerk of court. If the surety is unable to obtain proof of deportation, the surety or the court may invoke a contradictory hearing in order to establish proof of the defendant's deportation. If the court determines that the defendant's deportation has occurred, the surety shall be fully and finally discharged and relieved of any and all obligations under the bail undertaking.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2017, No. 205, §§1, 2; Acts 2020, No. 267, §1; Acts 2022, No. 90, §1, eff. May 24, 2022; Acts 2022, No. 593, §1; Acts 2025, No. 149, §1.

Art. 334. Notice of warrant for arrest

After a warrant for arrest is issued, the clerk of court shall, within sixty days of the defendant's failure to appear, send a notice of warrant for arrest to the prosecuting attorney. The notice shall also be sent by United States mail or electronic means to the defendant, the bail agent or bondsman, if any, and the personal surety. Notice shall be sent by electronic means or by certified mail return receipt requested to the commercial surety. When the agent or bondsman has filed a "Notice of Electronic Notification Opt In" form with the clerk of court, the notice of warrant for arrest shall be sent to the agent or bondsman by electronic means. All notices shall be sent to the addresses provided pursuant to Article 329 or an address registered with the Department of Insurance. The notice to the commercial surety shall include the power of attorney number used to execute the bail undertaking. Failure to include the power of attorney number shall not affect the validity or enforcement of a resulting judgment. After sending the notice of warrant for arrest, the clerk of court shall execute a certificate that notice was sent and place the certificate in the record. Failure to send notice to the commercial surety and the agent or bondsman who has opted into electronic notification within sixty days of the defendant's failure to appear shall release the surety of all obligations under the bail undertaking.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1995, No. 853, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2025, No. 63, §1.

Art. 571.1. Time limitation for certain sex offenses

Except as provided by Article 571, 572, or any other provision of law that establishes a longer period of limitation, the time within which to institute prosecution of the perpetration or attempted perpetration of, conspiracy to commit, or commission of any sex offense as defined in

R.S. 15:541 that involves a victim under eighteen years of age shall be thirty years. This thirty-year period begins to run when the victim attains the age of eighteen.

Acts 1993, No. 592, §1, eff. June 15, 1993; Acts 2001, No. 207, §1; Acts 2001, No. 533, §1; Acts 2003, No. 809, §1, eff. July 1, 2003; Acts 2004, No. 676, §3; Acts 2005, No. 186, §1; Acts 2012, No. 446, §5; Acts 2014, No. 602, §2, eff. June 12, 2014; Acts 2016, No. 41, §1; Acts 2022, No. 202, §2; Acts 2024, No. 698, §1; Acts 2025, No. 346, §2.

Art. 648. Procedure after determination of mental capacity or incapacity

A. The criminal prosecution shall be resumed unless the court determines by a preponderance of the evidence that the defendant does not have the mental capacity to proceed. If the court determines that the defendant lacks mental capacity to proceed, the proceedings shall be suspended and one of the following dispositions made:

(1) If the court determines that the defendant's mental capacity is likely to be restored within ninety days by outpatient care and treatment at a treatment facility as defined by R.S. 28:2 while remaining in the custody of the criminal authorities, and if the person is not charged with a felony or a misdemeanor classified as an offense against the person and is considered by the court to be unlikely to commit crimes of violence, then the court may order outpatient care and treatment at any institution as defined by R.S. 28:2.

(2)(a) Except as otherwise provided for in Subsubparagraph (b) of this Subparagraph, if the person is charged with a felony, or with a misdemeanor violation of R.S. 14:35.3, and is considered by the court to be likely to commit crimes of violence, and the court determines that his mental capacity is likely to be restored within ninety days as a result of treatment, the court may order immediate jail-based treatment by the Louisiana Department of Health not to exceed ninety days. Otherwise, if his capacity cannot be restored within ninety days and inpatient treatment is recommended, the court shall commit the defendant to the Feliciana Forensic Facility.

(b) If a person is charged with a felony violation of the Uniform Controlled Dangerous Substances Law, except for violations punishable under the provisions of R.S. 40:966(D) and (F) and 967(F)(1)(b) and (c), (2), and (3), and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(c) If a person is charged with a misdemeanor classified as an offense against a person, except for a misdemeanor violation of R.S. 14:35.3, and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(d) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the court's determination that he lacks the mental capacity to proceed, the court shall order a status conference to be held with the defense and the district attorney present, and for good cause shown and on motion of the defendant or the district attorney or on the court's own motion, the court shall order a contradictory hearing to determine whether there has been a change in the defendant's condition or other circumstances sufficient to warrant a modification of the previous order.

(e) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the initial status conference provided in Subsubparagraph (d) of this Subparagraph, the court shall order a contradictory hearing to determine whether to release the defendant or to order the appropriate authorities to institute civil commitment proceedings pursuant to R.S. 28:54. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is civilly committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending.

B.(1) In no instance shall such custody, care, and treatment exceed the time of the maximum sentence the defendant could receive if convicted of the crime with which he is charged. At any time after commitment and on the recommendation of the director or administrator of the treatment facility that the defendant will not attain the capacity to proceed with his trial in the foreseeable future, the court shall, within sixty days and after at least ten days notice to the district attorney, defendant's counsel, and the bureau of legal services of the Louisiana Department of Health, conduct a contradictory hearing to determine whether the defendant is, and will in the foreseeable future be, incapable of standing trial and whether he is a danger to himself or others.

(2) Repealed by Acts 2008, No. 861, §2, eff. July 9, 2008.

(3) If, after the hearing, the court determines that the incompetent defendant is unlikely in the foreseeable future to be capable of standing trial, the court shall order the defendant released or remanded to the custody of the Louisiana Department of Health which, within ten days exclusive of weekends and holidays, may institute civil commitment proceedings pursuant to Title 28 of the Louisiana Revised Statutes of 1950, or release the defendant. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending. If not dismissed without prejudice at an earlier trial, charges against an unrestorable incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner, except for the following charges:

(a) Charges of a crime of violence as defined in R.S. 14:2(B).

(b) R.S. 14:46 (false imprisonment).

(c) R.S. 14:46.1 (false imprisonment; offender armed with dangerous weapon).

(d) R.S. 14:52 (simple arson).

(e) R.S. 14:62 (simple burglary).

(f) R.S. 14:62.3 (unauthorized entry of an inhabited dwelling).

(g) R.S. 14:80[1] (carnal knowledge of a juvenile).

(h) R.S. 14:81 (indecent behavior with juveniles).

(i) R.S. 14:81.1 (child sexual abuse materials).

(j) R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability).

(k) R.S. 14:89(A)(2) (crime against nature).

(l) R.S. 14:89.1(A)(2) (aggravated crime against nature).

(m) R.S. 14:92 (contributing to the delinquency of juveniles).

(n) R.S. 14:92.1 (encouraging or contributing to child delinquency, dependency, or neglect).

(o) R.S. 14:93 (cruelty to juveniles).

(p) R.S. 14:93.2.3 (second degree cruelty to juveniles).

(q) R.S. 14:93.3 (cruelty to persons with infirmities).

(r) R.S. 14:93.4 (exploitation of persons with infirmities).

(s) R.S. 14:93.5 (sexual battery of persons with infirmities).

(t) R.S. 14:102 (cruelty to animals).

(u) R.S. 14:106 (obscenity).

(v) R.S. 14:283 (video voyeurism).

(w) R.S. 14:284 (Peeping Tom).

(x) Charges against a defendant who has been convicted of a felony offense within ten years prior to the date on which he was charged for the current offense.

C. The superintendent of the forensic unit of the Feliciana Forensic Facility shall admit only those persons specified in R.S. 28:25.1 and those persons found not guilty by reason of insanity on conditional release who have a physician's emergency certificate or who seek voluntary admission pursuant to Article 658(B)(4).

Acts 1975, No. 325, §1; Acts 1979, No. 318, §1; Acts 1980, No. 612, §1; Acts 1982, No. 495, §1; Acts 1983, No. 399, §1; Acts 1987, No. 928, §1, eff. July 20, 1987; Acts 1988, No. 383, §1; Acts 1990, No. 755, §1; Acts 1992, No. 400, §1; Acts 1995, No. 800, §1; Acts 1997, No. 723, §1; Acts 2001, No. 472, §1; Acts 2008, No. 861, §§1, 2, eff. July 9, 2008; Acts 2010, No. 419, §1, eff. June 21, 2010; Acts 2014, No. 602, §2, eff. June 12, 2014; Acts 2014, No. 811, §31, eff. June 23, 2014; Acts 2017, No. 369, §5; Acts 2025, No. 261, §5.

Art. 718.1. Evidence of obscenity, video voyeurism, child sexual abuse materials, or unlawful posting of criminal activity for notoriety and publicity; prohibition on reproduction of child sexual abuse materials

A. In any criminal proceeding, any property or material that is alleged to constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as defined in R.S. 14:283, child sexual abuse materials as defined in R.S. 14:81.1, or unlawful posting of criminal activity for notoriety and publicity as defined in R.S. 14:107.4 shall remain in the care, custody, and control of the investigating law enforcement agency, the court, or the district attorney.

B. Notwithstanding any other provision of law to the contrary, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that is alleged to constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as defined in R.S. 14:283, child sexual abuse materials as defined in R.S. 14:81.1, or unlawful posting of criminal activity for notoriety and publicity as defined in R.S. 14:107.4, provided that the district attorney makes the property or material reasonably available to the defendant.

C. For purposes of this Article, the property or material shall be deemed reasonably available to the defendant if the district attorney provides ample opportunity for the inspection, viewing, and examination at the office of the district attorney of the property or material by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

D. Any material described in Paragraph A of this Article shall be contraband and shall not be disseminated or viewed by anyone other than as provided for in this Article or for the purposes of prosecution of the related criminal offenses. The court may issue any orders it deems appropriate to ensure that the privacy concerns of the victim are addressed.

Acts 2012, No. 404, §1; Acts 2012, No. 558, §1, eff. June 5, 2012; Acts 2016, No. 82, §1; Acts 2020, No. 353, §1; Acts 2025, No. 261, §5.

Art. 812. Same; polling and disposition of jury

A. In all cases, the court shall order the clerk to poll the jury if requested by the state or the defendant. The poll shall be conducted in writing by applying the procedures of Paragraph B of this Article and shall be done in open court.

B.(1) In cases in which a verdict was reached, the procedure for the written polling of the jury shall require that the clerk hand to each juror a separate piece of paper containing the name of the juror and the words "Is this your verdict?" Each juror shall write on the slip of paper the words "Yes" or "No" along with his signature. The clerk shall collect the slips of paper, make them available for inspection by the court and counsel, and record the results.

(2) If a sufficient number of jurors as required by law to reach a verdict answer "yes" the clerk shall so inform the court. Upon verification of the results, the court shall order the clerk to record the verdict and order the jury discharged. If an insufficient number required to find a verdict answer "Yes," the court may remand the jury for further deliberation, or the court may declare a mistrial in accordance with Article 775. The polling slips may be placed under seal upon order of the court, which shall state the specific reasons for placing the polling slips under seal. If so ordered the polling slips shall not be released to the public without a subsequent order of the court authorizing their release. If the court orders the release of the polling slips, the names of the jurors shall be redacted.

C. In cases for which no verdict could be reached and a mistrial has been declared under Article 775(2), the court shall order the clerk to poll the jury if requested by the state or the defendant. The poll shall be conducted in writing by applying the procedures of Paragraph D of this Article and shall be done in open court.

D. The procedure for the written polling of the jury shall require that the clerk hand to each juror a separate piece of paper containing the name of the juror and the words "What was your verdict?". Each juror shall write on the slip of paper the words "guilty" or "not guilty" or "guilty of a lesser offense" along with his signature. The clerk shall collect the slips of paper, make them available for inspection by the court and counsel, and record the results. The polling slips may be placed under seal upon order of the court, which shall state the specific reasons for

placing the polling slips under seal. If so ordered, the polling slips shall not be released to the public without a subsequent order of the court authorizing their release. If the court orders the release of the polling slips, the names of the jurors shall be redacted.

Amended by Acts 1975, No. 475, §1; Acts 2018, No. 335, §1; Acts 2025, No. 76, §1.

Art. 892. Post-sentence statement by sheriff; accompanying documents

A. The sheriff shall prepare a statement indicating the amount of time a defendant has spent in custody prior to conviction when the defendant has been convicted of a felony and is committed to the Department of Public Safety and Corrections, has been convicted of a misdemeanor and sentenced for a term of one year or more to any penal institution, or has been ordered committed to any mental institution or mental hospital. The sheriff shall retain a copy of the statement and submit the original to the sheriff of the parish to which the defendant is sentenced.

B.(1) When a sheriff's statement is required pursuant to Paragraph A of this Article, the clerk of court shall also prepare the following documents:

(a) A copy of the indictment under which the defendant was convicted.

(b) A copy of the Uniform Sentencing Commitment Order in the format authorized by the Louisiana Supreme Court which shall include the name and address of the judge, the district attorney, and the defense attorney who participated in the sentencing trial. If the department needs information relating to the sentence not provided in the Uniform Sentencing Commitment Order, it may request that information from the court.

(2) The clerk shall retain a copy of the statement and documents and send the original to the sheriff of the parish to which the defendant has been sentenced, where they shall be preserved. The documents, or copies thereof, shall be made available to the governor, the pardon board, and the parole committee.

C.(1) All statements and documents required by this Article shall physically accompany any defendant when said defendant is transferred to a penal institution or a mental institution or mental hospital. Said documents and statements shall be tendered to the officer in charge of the institution at the time that the defendant is presented for admittance thereto.

(2) For defendants who have been convicted of a felony and committed to the Department of Public Safety and Corrections, all statements and documents required by this Article shall be submitted electronically in accordance with R.S. 15:1228.10.

D. Failure to comply with the provisions of this Article shall not affect the validity of a prosecution, conviction, or sentence.

Amended by Acts 1975, No. 731, §1; Acts 1977, No. 608, §1; Acts 1978, No. 179, §1; Acts 1982, No. 543, §1; Acts 1987, No. 98, §1; Acts 2011, No. 186, §1; Acts 2017, No. 36, §1; Acts 2017, No. 98, §1, eff. December 1, 2017; Acts 2025, No. 46, §1.

Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a specifically enumerated misdemeanor; submission to jury

A.(1) If a motion was filed by the state in compliance with Article 893.1, a determination shall be made as to all of the following:

(a) Whether a firearm was discharged, or used during the commission of the felony or specifically enumerated misdemeanor, or actually possessed during the commission of any of the following:

(i) A felony which is a crime of violence as defined by R.S. 14:2(B).

(ii) Felony theft.

(iii) Simple burglary.

(iv) Simple burglary of an inhabited dwelling.

(v) Unauthorized entry of an inhabited dwelling.

(vi) Production, manufacturing, distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law.

(vii) A specifically enumerated misdemeanor.

(b) Whether the mandatory minimum sentencing provisions of Article 893.3 have been shown to be applicable.

(2) Such determination is a specific finding of fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

B. If a motion was filed by the state in compliance with Article 893.1 and the case is resolved pursuant to a plea agreement, the district attorney and the defendant may stipulate that the provisions of Article 893.3 are applicable. Any such stipulation shall identify for the court all of the following:

(1) The specific provision of Article 893.3 that applies.

(2) The specific underlying felony or specifically enumerated misdemeanor within Article 893.3 that applies.

Acts 1988, No. 319, §1; Acts 1999, No. 575, §1; Acts 2019, No. 326, §1, eff. June 11, 2019; Acts 2021, No. 349, §1; Acts 2025, No. 52, §1, eff. June 4, 2025.

Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in which firearm was possessed, used, or discharged

A. If the finder of fact finds beyond a reasonable doubt or a plea agreement is reached that includes a stipulation pursuant to Article 893.2(B) that the offender actually possessed a firearm during the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than two years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than two years, the court shall impose the maximum sentence.

B. If the finder of fact finds beyond a reasonable doubt or a plea agreement is reached that includes a stipulation pursuant to Article 893.2(B) that the offender actually used a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than five years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than five years, the court shall impose the maximum sentence.

C. If the finder of fact finds beyond a reasonable doubt or a plea agreement is reached that includes a stipulation pursuant to Article 893.2(B) that the offender actually discharged a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than ten years, the court shall impose the maximum sentence.

D. If the finder of fact finds beyond a reasonable doubt or a plea agreement is reached that includes a stipulation pursuant to Article 893.2(B) that a firearm was actually used or discharged by the defendant during the commission of the felony for which he was convicted, and thereby caused bodily injury, the court shall impose a term of imprisonment of not less than fifteen years nor more than the maximum term of imprisonment provided for the underlying

offense; however, if the maximum sentence for the underlying felony is less than fifteen years, the court shall impose the maximum sentence.

E.(1)(a) Notwithstanding any other provision of law to the contrary, if the finder of fact has determined or a plea agreement is reached that includes a stipulation pursuant to Article 893.2(B) that the defendant committed a felony with a firearm as provided in this Article, and the crime is considered a violent felony as defined in this Paragraph, the court shall impose a minimum term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense. In addition, if the firearm is discharged during the commission of such a violent felony, the court shall impose a minimum term of imprisonment of not less than twenty years nor more than the maximum term of imprisonment provided for the underlying offense.

(b) A "violent felony" for the purposes of this Paragraph is: second degree sexual battery, aggravated burglary, carjacking, armed robbery, second degree kidnapping, manslaughter, or forcible or second degree rape.

(2) A sentence imposed under this Paragraph shall be without benefit of parole, probation or suspension of sentence.

F. A sentence imposed under the provisions of this Article shall not be suspended and shall be imposed in the same manner as provided in the felony for which the defendant was convicted.

G. A defendant sentenced under the provisions of this Article shall not be eligible for parole during the period of the mandatory minimum sentence.

H. If the court finds that a sentence imposed under provisions of this Article would be excessive, the court shall state for the record the reasons for such finding and shall impose the most severe sentence which is not excessive.

I. For the purpose of this Article, "firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within.

J. For purposes of this Article, the specifically enumerated misdemeanors to which these sentencing provisions are applicable shall be:

(1) R.S. 14:79, violation of a protective order, involving an assault or battery of the person protected.

(2) R.S. 14:67, theft.

(3) R.S. 14:35, simple battery.

(4) R.S. 14:37, aggravated assault.

(5) R.S. 14:40.2, stalking.

(6) R.S. 14:35.3, domestic abuse battery.

Acts 1988, No. 319, §1; Acts 1994, 3rd Ex. Sess., No. 41, §1; Acts 1999, No. 575, §1; Acts 2004, No. 676, §3; Acts 2007, No. 41, §1; Acts 2015, No. 184, §6; Acts 2019, No. 326, §1, eff. June 11, 2019; Acts 2025, No. 52, §1, eff. June 4, 2025.

Art. 900. Violation hearing; sanctions

A. After an arrest pursuant to Article 899, the court shall cause a defendant who continues to be held in custody to be brought before it within thirty days for a hearing. If a summons is issued pursuant to Article 899, or if the defendant has been admitted to bail, the court shall set the matter for a violation hearing within a reasonable time. The hearing may be informal or summary. The defendant may choose, with the court's consent, to appear at the violation hearing and stipulate the revocation by simultaneous audio-visual transmission in accordance with the provisions of Article 562. If the court decides that the defendant has violated, or was about to violate, a condition of his probation, it may:

(1) Reprimand and warn the defendant.

(2) Order that supervision be intensified.

(3) Add additional conditions to the probation.

(4) Order the defendant, as an additional condition of probation, to be committed to a community rehabilitation center operated by, or under contract with, the Department of Public Safety and Corrections for a period of time not to exceed six months, without benefit of parole or good time, if:

(a) There is bed space available.

(b) The offender has been sentenced to the department, and the sentence has been suspended pursuant to Article 893.

(c) Such commitment does not extend the period of probation beyond the maximum period of probation provided by law.

(d) The violation of probation did not involve the commission of another felony.

(e) The placement in a community rehabilitation center is recommended by the division of probation and parole.

(5) Order that the probation be revoked. In the event of revocation the defendant shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court. If the imposition of sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing.

(6)(a) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the drug division probation program pursuant to R.S. 13:5304, and who has had his probation revoked under the provisions of this Article for a technical violation of drug division probation as determined by the court, may be ordered to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than twelve months without diminution of sentence in the intensive incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful completion of the program, the defendant shall return to active, supervised probation with the drug division probation program for a period of time as ordered by the court, subject to any additional conditions imposed by the court and under the same provisions of law under which the defendant was originally sentenced. If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court for resentencing in accordance with the provisions of Article 881.1.

(b) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined by R.S. 15:541, and who has been determined by the court to have committed a technical violation of his probation, may be required to serve a sentence of not more than ninety days without diminution of sentence.

(c) The defendant shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation in a local detention facility, state institution, or out-of-state institution pursuant to Article 880. The term of the revocation for a technical violation shall begin on the date the court orders the revocation. Upon completion of the imposed sentence for the technical revocation, the defendant shall return to active and supervised probation for a period equal to the remainder of the original period of probation subject to any additional conditions imposed by the court. The provisions of this Subparagraph shall apply only to the defendant's first revocation for a technical violation.

(d) A "technical violation", as used in this Paragraph, means any violation of a condition of probation that may be addressed by an administrative sanction authorized by the court pursuant to Article 899.1.

(e) None of the following, unless deemed a technical violation by the court when its discretion is permitted, shall be considered a technical violation nor addressed by administrative sanctions:

(i) Being arrested for, charged with, or convicted of any of the following:

(aa) A felony.

(bb) A violation of any provision of Title 40 of the Louisiana Revised Statutes of 1950, except for misdemeanor possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof as provided in R.S. 40:966(C)(2) or any prohibited act involving drug paraphernalia as provided in R.S. 40:1023, which shall be considered a "technical violation".

(cc) Any intentional misdemeanor directly affecting the person.

(dd) Any criminal act that is a violation of a protective order, pursuant to R.S. 14:79, issued against the offender to protect a family member or household member as defined by R.S. 14:35.3 or dating partner as defined by R.S. 46:2151.

(ee) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.

(ff) At the discretion of the court, any attempt to commit any other misdemeanor.

(ii) Being in possession of a firearm or other prohibited weapon.

(iii) At the discretion of the court, failing to appear at any court hearing.

(iv) Absconding from the jurisdiction of the court.

(v) At the discretion of the court, failing to satisfactorily complete a drug court program if ordered to do so as a special condition of probation.

(vi) At the discretion of the court, failing to report to the probation officer for more than one hundred twenty consecutive days.

(7) Extend the period of probation, provided the total amount of time served by the defendant on probation for any one offense shall not exceed the maximum period of probation provided by law.

B. When a defendant has been committed to a community rehabilitation center pursuant to Subparagraph (A)(4) of this Article, upon written request of the department that an offender be removed for violating the rules or regulations of the community rehabilitation center, the court shall cause the defendant to be brought before it and order that probation be revoked with credit for the time served in the community rehabilitation center.

C. The department may pay a per diem for offenders placed in a community rehabilitation center pursuant to the provisions of Subparagraph (A)(4) of this Article.

D. When a court considers the revocation of probation, the court shall consider aggravating and mitigating circumstances in the case, including but not limited to the circumstances stated in Article 894.1. If the court revokes the probation of the defendant, the court shall issue oral or written reasons for revocation which shall be entered into the record. The oral or written reasons for revocation shall state the allegations made by the probation officer

concerning a violation or threatened violation of the conditions of probation, the findings of the court concerning those allegations, the factual basis or bases for those findings, and the aggravating circumstances, or mitigating circumstances, or both, considered by the court.

Amended by Acts 1979, No. 90, §1; Acts 1991, No. 96, §1; Acts 1995, No. 335, §1; Acts 1997, No. 1323, §1; Acts 2006, No. 113, §1; Acts 2007, No. 402, §1; Acts 2009, No. 182, §1; Acts 2010, No. 352, §1; Acts 2011, No. 33, §1; Acts 2014, No. 271, §1; Acts 2014, No. 633, §1; Acts 2016, No. 213, §1; Acts 2017, No. 280, §1, eff. November 1, 2017; Acts 2017, No. 406, §1; Acts 2018, No. 668, §2; Acts 2024, 2nd Ex. Sess., No. 8, §1; Acts 2025, No. 72, §1.

Art. 901. Revocation for commission of another offense

A. In addition to the grounds for revocation of probation enumerated in Article 900, a defendant who is on probation for a felony who subsequently commits and is convicted of a felony under the laws of this state, another state, the United States, or the District of Columbia, and which if committed in this state would be a felony, shall have his probation revoked as of the date of the commission of the felony or final conviction of the felony.

B. When a defendant who is under a suspended sentence or on probation for a misdemeanor commits or is convicted of any offense under the laws of this state, a political subdivision thereof, another state or a political subdivision thereof, the United States, or the District of Columbia, his suspended sentence or probation may be revoked as of the date of the commission or final conviction of the offense.

C. In cases of revocation provided for in this Article:

(1) No credit shall be allowed for time spent on probation or for the time elapsed during suspension of the sentence.

(2) When the new conviction is a Louisiana conviction, the court shall specify in the minutes whether the sentence shall run consecutively or concurrently with the sentence for the new conviction.

(3) The defendant may be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a probation violation in a local detention facility, state institution, or out-of-state institution pursuant to Article 880.

D. The provisions of this Article shall not apply to a defendant who, as an additional condition for the violation of his probation, has been ordered to complete a drug or specialty court program. A defendant who is eligible for revocation of probation pursuant to Paragraph A of this Article and does not successfully complete such court-ordered drug or specialty court

program shall have his probation revoked as of the date of the commission of the felony or final conviction of the felony.

Amended by Acts 1975, No. 331, §1; Acts 1977, No. 397, §2; Acts 1981, No. 439, §1; Acts 2016, No. 214, §1; Acts 2025, No. 72, §1.

TITLE XXXI-A

POST CONVICTION RELIEF

Art. 924. Definitions

As used in this Title:

(1) "Application for post conviction relief" means a petition filed by a person in custody after sentence following conviction for the commission of an offense seeking to have the conviction and sentence set aside.

(2) "Custody" means detention or confinement, or probation or parole supervision, after sentence following conviction for the commission of an offense.

(3) "DNA testing" means any method of testing and comparing deoxyribonucleic acid that would be admissible under the Louisiana Code of Evidence.

(4) "Post conviction relief" means a procedure that allows an individual who has been convicted of a crime in this state to challenge the legality of his confinement. It is a form of post conviction habeas corpus and is a collateral action to test the detention of a criminal defendant after his sentence and conviction have become final.

(5) "Shell petition" means a petition that does not contain fully briefed claims for relief.

(6) "Unknown sample" means a biological sample from an unknown donor constituting evidence of the commission of an offense or tending to prove the identity of the perpetrator of an offense.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2001, No. 1020, §1; Acts 2025, No. 393, §1.

Art. 926. Petition

A. An application for post conviction relief shall be by written petition addressed to the district court for the parish in which the petitioner was convicted. A copy of the judgment of conviction and sentence shall be annexed to the petition, or the petition shall allege that a copy has been demanded and refused.

B. The petition shall allege all of the following:

(1) The name of the person in custody and the place of custody, if known, or if not known, a statement to that effect.

(2) That the person is actually in custody, and the name of the place of custody, if known.

(3) The name of the custodian, if known, or if not known, a designation or description of him as far as possible.

(4) A statement of the grounds upon which relief is sought, alleged in good faith and specifying with reasonable particularity the factual basis for such relief.

(5) A statement of all prior applications for writs of habeas corpus or for post conviction relief filed by or on behalf of the person in custody in connection with his present custody.

(6) All errors known or discoverable by the exercise of due diligence.

C. The application shall be signed by the petitioner and be accompanied by his affidavit that the allegations contained in the petition are true to the best of his information and belief.

D. The petitioner shall use the uniform application for post conviction relief approved by the Supreme Court of Louisiana. If the petitioner fails to use the uniform application, the court may provide the petitioner with the uniform application and require its use.

E. The petition and any successive petitions shall be served upon both the attorney general and the district attorney for the parish where the defendant was convicted.

F.(1) An individual shall be eligible for post conviction relief if he meets both of the following:

(a) He is currently serving a sentence of imprisonment or is on probation or parole pursuant to a conviction.

(b) He is in actual custody or under supervision of the division of probation and parole.

(2) An application for post conviction relief filed after the petitioner has completed his sentence shall be dismissed.

(3) Any claim alleged in an application that is procedurally barred or is frivolous on its face shall be dismissed.

G. Inexcusable failure of the petitioner to comply with the provisions of this Article may be a basis for dismissal of his application.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2025, No. 393, §1.

Art. 927. Action required after filing of application; procedural objections; answer

A.(1) The court shall conduct a preliminary review of all petitions for post-conviction relief for compliance with the limitations for relief established in this Title. In conducting its review of the application, the court shall consider, among other things, all of the following:

(a) Whether the petitioner was in custody at the time the application for post-conviction relief was filed.

(b) Whether the application is timely pursuant to Article 930.8.

(c) Whether the application states adequate factual or legal grounds for relief.

(d) Whether the application states legal grounds for relief that are not meritorious.

(e) Whether the application states factual grounds which, if established, do not entitle the petitioner to relief.

(f) Whether the application states factual grounds that, if true, entitle the petitioner to relief but are so contradicted by the court record that the court is satisfied that the factual allegations are untrue.

(g) Whether each claim in the application is procedurally barred or frivolous on its face.

(2) If it is evident from the petition and any attached exhibits that the petitioner is not entitled to relief, the court shall dismiss the application. If the application is not dismissed, the judge shall order an answer pursuant to Paragraph B of this Article. The fact that the court has not dismissed the application upon preliminary review shall not preclude the district attorney or the attorney general from subsequently raising objections on any of the grounds listed in Subparagraph (1) of this Paragraph or any other grounds provided by law.

B. If an application is not dismissed pursuant to Paragraph A of this Article, the court shall order the custodian, through the district attorney in the parish in which the defendant was convicted, to file any procedural objections he may have, or an answer on the merits if there are no procedural objections, within a specified period not in excess of sixty days. If the district attorney waives or does not file procedural objections, the response shall be provided to the attorney general concurrent with filing. The court's order shall include a copy of the application for post conviction relief and the attorney general shall have thirty days to file objections. If procedural objections are filed by the district attorney or the attorney general, no answer on the merits of the claim nor any hearing on the merits shall be ordered until such objections have been considered and rulings thereon have become final.

C. In any order of the court requiring a response by the district attorney or attorney general pursuant to this Article, the court shall render specific rulings dismissing any claim which, if established as alleged, would not entitle the petitioner to relief and shall order a response only as to such claim or claims which, if established as alleged, would entitle the petitioner to relief.

D. If the court orders an answer filed, the court need not order production of the petitioner except as provided in Article 930.

E. Subject to the provisions of Article 930.4(F), if the application is successive or supplemental to a previous application, the court shall send notice to the attorney general.

F. If the court has determined that the application cannot be summarily dismissed, the court shall determine after an answer is filed whether an evidentiary hearing is necessary and shall set a status conference within sixty days.

Acts 1990, No. 523, §1; Acts 2025, No. 393, §1.

Art. 927.1. Abandonment of application

A. After filing an application for post conviction relief, the petitioner is responsible for seeking a ruling on his application and pursuing his claims. Failure to actively seek a ruling on an application for post conviction relief after it has been filed shall constitute abandonment of the application, resulting in the dismissal of the application.

B. An application for post conviction relief shall be deemed to be abandoned when the petitioner fails to file any pleading in furtherance of disposition of the application for a period of two years following the filing of the application, irrespective of the stage of the proceedings.

C. This Article shall be operative without a formal order when an abandonment of an application pursuant to Paragraph B of this Article has occurred. On ex parte motion of the district attorney or the attorney general, accompanied by an affidavit that states that action has not been timely taken, the court shall enter a formal order of dismissal as of the date of the application's abandonment.

D. If the petitioner has a shell petition pending as of July 1, 2025, he shall submit a fully-briefed petition to the court no later than July 1, 2026, unless a shorter period of time has been established by the court. Any application for post conviction relief filed before July 1, 2023, shall be dismissed, set for a hearing, or otherwise adjudicated no later than July 1, 2026, unless the court has good cause to establish a later date, provided however that the claims shall be fully adjudicated no later than January 1, 2027. The district attorney or the attorney general shall have a right to seek mandamus to enforce this Paragraph.

E. For the purposes of this Article, "pleading in furtherance of disposition of the application" means a filing that seeks the trial court's ruling on the merits of the application or a claim asserted therein, such as a motion to set the case on the docket, a motion seeking an order, or an application for writ of mandamus seeking a ruling on the application.

Acts 2025, No. 393, §1.

Art. 928. Repealed by Acts 2025, No. 393, §3.

Art. 930. Evidentiary hearing

A. An evidentiary hearing for the taking of testimony or other evidence shall be ordered within the time period provided in Article 930.11 whenever there are questions of fact which cannot properly be resolved pursuant to Articles 928 and 929. The petitioner, in absence of an express waiver, is entitled to be present at such hearing, unless the only evidence to be received is evidence as permitted pursuant to Paragraph B of this Article, and the petitioner has been or will be provided with copies of such evidence and an opportunity to respond thereto in writing.

B. Duly authenticated records, transcripts, depositions, documents, or portions thereof, or admissions of facts may be received in evidence.

C. No evidentiary hearing on the merits of a claim shall be ordered or conducted, nor shall any proffer of evidence be received over the objection of the respondent, and no ruling upon procedural objections to the petition shall purport to address the merits of the claim over the objection of the respondent, unless the court has first ruled upon all procedural objections raised by the respondent within the time period provided in Article 930.11, and such rulings have become final. Any language in a ruling on procedural objections raised by the respondent which purports to address the merits of the claim shall be deemed as null, void, and of no effect.

Acts 1990, No. 523, §1; Acts 2025, No. 393, §1.

Art. 930.2. Burden of proof

The petitioner in an application for post conviction relief shall have the burden of proving that relief should be granted. The state has no burden of proof in a post conviction relief proceeding.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2025, No. 393, §1.

Art. 930.3. Grounds

If the petitioner is in custody after sentence for conviction for an offense, relief shall be granted only on the following grounds:

(1) The conviction was obtained in violation of the constitution of the United States or the state of Louisiana.

(2) The court exceeded its jurisdiction.

(3) The conviction or sentence subjected him to double jeopardy.

(4) The limitations on the institution of prosecution had expired.

(5) The statute creating the offense for which he was convicted and sentenced is unconstitutional.

(6) The conviction or sentence constitute the ex post facto application of law in violation of the constitution of the United States or the state of Louisiana.

(7) The results of DNA testing performed pursuant to an application granted under Article 926.1 proves by clear and convincing evidence that the petitioner is factually innocent of the crime for which he was convicted.

(8) The petitioner is determined by clear and convincing evidence to be factually innocent under Article 926.2.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2001, No. 1020, §1; Acts 2021, No. 104, §1.

Art. 930.4. Jurisdictional bars to relief; repetitive applications

A. Any claim for relief which was fully litigated in an appeal from the proceedings leading to the judgment of conviction and sentence shall not be considered.

B. If the application alleges a claim of which the petitioner had knowledge and inexcusably failed to raise in the proceedings leading to conviction, the court shall deny relief.

C. If the application alleges a claim which the petitioner raised in the trial court and inexcusably failed to pursue on appeal, the court shall deny relief.

D. If the application alleges a claim seeking to apply a new rule of criminal procedure that has been held by the United States Supreme Court and the Louisiana Supreme Court to be nonretroactive, the court shall deny relief.

E. A successive application shall be dismissed if it fails to raise a new or different claim.

F. A successive application shall be dismissed if it raises a new or different claim that was inexcusably omitted from a prior application.

G. Any attempt or request by a petitioner to supplement or amend the application shall be subject to all of the limitations and restrictions set forth in this Article. In addition to serving the district attorney for the jurisdiction where the underlying conviction was obtained, any subsequent,

successive, amending, or supplemental application shall be served by the petitioner on the district attorney and the attorney general. If the court subsequently orders any hearing on the application, the court shall send notice to the district attorney and attorney general at least sixty days in advance of the hearing date.

H. The limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2013, No. 251, §1, eff. Aug. 1, 2014; Acts 2021, No. 104, §1; Acts 2024, 2nd Ex. Sess., No. 10, §1, eff. Aug. 1, 2024; Acts 2025, No. 393, §1.

Art. 930.5. Custody pending retrial; bail

A. If a court grants relief under an application for post conviction relief, the court shall order that the petitioner be held in custody pending a new trial.

B. In such a case, the petitioner shall be entitled to bail on the offense as though he has not been convicted of the offense.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 2025, No. 393, §1.

Art. 930.6. Review of trial court judgments

A. The petitioner may invoke the supervisory jurisdiction of the court of appeal if the trial court dismisses the application or otherwise denies relief on an application for post conviction relief. No appeal lies from a judgment dismissing an application or otherwise denying relief.

B. The district attorney and the attorney general shall have a right to suspensively appeal any order granting post conviction relief.

C. Repealed by Acts 2025, No. 393, §3.

Added by Acts 1980, No. 429, §1, eff. Jan. 1, 1981; Acts 1985, No. 233, §1; Acts 2025, No. 393, §§1, 3.

Art. 930.7. Right to counsel

A. If the petitioner is indigent and alleges a claim which, if established, would entitle him to relief, the court may appoint counsel.

B. The court may appoint counsel for an indigent petitioner when it orders an evidentiary hearing, authorizes the taking of depositions, or authorizes requests for admissions of fact or genuineness of documents, when such evidence is necessary for the disposition of procedural objections raised by the respondent.

C. The court shall appoint counsel for an indigent petitioner when it orders an evidentiary hearing on the merits of a claim, or authorizes the taking of depositions or requests for admissions of fact or genuineness of documents for use as evidence in ruling upon the merits of the claim.

Acts 1990, No. 523, §1.

Art. 930.8. Time limitations; exceptions; prejudicial delay

A. No application for post conviction relief, including applications which seek an out-of-time appeal, shall be considered if it is filed more than two years after the judgment of conviction and sentence has become final under the provisions of Article 914 or 922, unless any of the following apply:

(1) The application alleges, and the petitioner proves or the state admits, that the facts upon which the claim is predicated were not known to the petitioner or his prior attorneys. Further, the petitioner shall prove that he exercised diligence in attempting to discover any post conviction claims that may exist. "Diligence" for the purposes of this Article is a subjective inquiry that shall take into account the circumstances of the petitioner. Those circumstances shall include but are not limited to the educational background of the petitioner, the petitioner's access to formally trained inmate counsel, the financial resources of the petitioner, the age of the petitioner, the mental abilities of the petitioner, or whether the interests of justice will be served by the consideration of new evidence. New facts discovered pursuant to this exception shall be submitted to the court within two years of discovery. If the petitioner pled guilty or nolo contendere to the offense of conviction and is seeking relief pursuant to Article 926.2 and five years or more have elapsed since the petitioner pled guilty or nolo contendere to the offense of conviction, the petitioner shall not be eligible for the exception provided for by this Subparagraph.

(2)(a) Facts that were known to any attorney for the petitioner shall be presumed to have been known by the petitioner unless the petitioner rebuts this presumption by clear and convincing evidence. Facts that were contained in the record of the court proceedings concerning the conviction challenged in the application shall be deemed to have been known by the petitioner. The provisions of this Subparagraph are applicable if the petitioner proves both of the following:

(i) That the petitioner exercised due diligence in attempting to discover any post conviction claims or facts upon which any claims may be based.

(ii) That exceptional circumstances exist, the interest of justice will be served by consideration of the claim based upon the previously unknown facts, and the newly discovered facts in support of the claim are sufficiently compelling that manifest injustice will result if the claim is not considered.

(b) The petitioner shall have the burden of proving the provisions of this Subsubparagraph by clear and convincing evidence.

(3) The claim asserted in the petition is based upon a final ruling of an appellate court establishing a theretofore unknown interpretation of constitutional law and petitioner establishes that this interpretation is retroactively applicable to his case, and the petition is filed within one year of the finality of such ruling.

(4) The application would already be barred by the provisions of this Article, but the application is filed on or before August 1, 2027, and the date on which the application was filed is within two years after the judgment of conviction and sentence has become final.

(5) The petitioner qualifies for the exception to timeliness in Article 926.1.

(6) The petitioner qualifies for the exception to timeliness in Article 926.2.

B.(1) When the petitioner has been sentenced to death, all appellate review of post-conviction relief applications, including supervisory review of post-conviction relief applications, shall be filed directly with the Louisiana Supreme Court.

(2) When an execution warrant has been issued, any application for post-conviction relief that contains a new claim, pleading, or other legal matter shall be filed no later than forty-five days

prior to the execution date of the petitioner. A ruling on such application shall be issued no later than twenty-one days prior to the execution date of the petitioner. The exclusive means of review shall be a writ application filed directly with the Louisiana Supreme Court within seven days of the ruling on the application.

C. An application for post conviction relief which is timely filed, or which is allowed under an exception to the time limitation as set forth in Paragraph A of this Article, shall be dismissed upon a showing by the state of prejudice to its ability to respond to, negate, or rebut the allegations of the petition caused by events not under the control of the state which have transpired since the date of original conviction, if the court finds, after a hearing limited to that issue, that the state's ability to respond to, negate, or rebut such allegations has been materially prejudiced thereby. When the petitioner fails to timely seek a hearing that is allowed by law or fails to pursue claims for a period of two years after filing an application, the delay caused by inaction shall be presumed as prejudicial. The petitioner shall bear the burden of rebutting the presumption of prejudice. A final judgment dismissing an application based upon prejudice shall be a final adjudication of state post conviction claims in the application for purposes of exhaustion of state court remedies and federal habeas corpus proceedings.

D. At the time of sentencing, the trial court shall inform the defendant of the prescriptive period for post-conviction relief either verbally or in writing. If a written waiver of rights form is used during the acceptance of a guilty plea, the notice required by this Paragraph may be included in the written waiver of rights.

E. Any attempt or request by a petitioner to supplement or amend the application shall be subject to all of the limitations and restrictions as set forth in this Article.

F. All of the limitations set forth in this Article shall be jurisdictional and shall not be waived or excused by the court or the district attorney.

Acts 1990, No. 1023, §1, eff. Oct. 1, 1990; Acts 1999, No. 1262, §1; Acts 2004, No. 401, §1; Acts 2013, No. 251, §1, eff. Aug. 1, 2014; Acts 2021, No. 104, §1; Acts 2024, 2nd Ex. Sess., No. 10, §1, eff. Aug. 1, 2024; Acts 2025, No. 393, §1.

Art. 930.10. Repealed by Acts 2025, No. 393, §3.

Art. 930.11. Time delays applicable to this Title; writ of mandamus

A. The court of appropriate jurisdiction shall adhere to the following time periods in post conviction proceedings:

(1) The court shall conduct the preliminary review provided in Article 927 within thirty days of the filing of application.

(2) When ruling on procedural objections that have been filed pursuant to Article 927, the court shall issue its ruling within thirty days of receipt of such objections.

(3) If the court determines that no evidentiary hearing is necessary, it shall issue its ruling on the merits of any remaining claim alleged in the application within thirty days of the state's answer on the merits.

(4) When the court determines that there are questions of fact which cannot properly be resolved pursuant to Article 929, it shall conduct an evidentiary hearing provided in Article 930

within one hundred eighty days of such determination and issue a ruling on the merits of any remaining claim within thirty days following the conclusion of such hearing.

B. The district attorney and the attorney general shall adhere to the following time periods in post conviction proceedings:

(1) The district attorney shall have sixty days to file procedural objections pursuant to Article 927.

(2) If an answer is required, the district attorney shall have sixty days from the court's ruling on procedural objections to file an answer on the merits pursuant to Article 927.

(3) The attorney general shall have thirty days to file procedural objections pursuant to Article 927 if the district attorney waives such objections.

C. A petitioner who has been sentenced to death shall only seek supervisory review directly from the Louisiana Supreme Court.

D. If a petitioner invokes the supervisory jurisdiction of the Louisiana Supreme Court, the supreme court shall rule on an application for a writ of review within one hundred eighty days of receipt. If there is an active death warrant, the court shall issue a ruling prior to the effective date of that warrant.

E. The state or petitioner shall have the right to seek a writ of mandamus to compel a court to issue a requested ruling within a specified period not to exceed thirty days if that court has not issued a ruling within the deadlines provided in this Title. The reviewing court may order the lower court to submit a per curiam opinion to the reviewing court with an explanation regarding why the lower court has not issued a ruling within the deadlines provided in this Title.

F.(1) Upon the motion of either party, any deadline set forth in this Title, except for the deadline for filing applications for post-conviction relief set forth in Article 930.8, may be extended by the court subject to the requirements of this Article.

(2) Any motion for an extension of time filed by either party shall be filed not later than seven days prior to the deadline sought to be extended and shall be served on all parties and the court by any method allowed by law.

(3) Any motion for an extension of time granted by the court pursuant to this Article shall not exceed sixty days in length, and in no case shall either party be allowed more than three extensions of time.

(4) Each party's first motion for an extension of time may be granted by the court without a contradictory hearing.

(5) After a party's first motion for an extension of time has been granted, any subsequent motion for an additional extension of time by the same mover shall require a contradictory hearing. Following the contradictory hearing, the court may only grant the motion upon a showing by the mover that extraordinary circumstances outside of the control of the moving party exist that necessitate the requested extension of time.

Acts 2025, No. 393, §1.