

2015 Regular Session

HOUSE BILL NO. 728

BY REPRESENTATIVE GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COURTS/JUSTICE OF PEACE: Provides relative to justice of the peace courts

1 AN ACT

2 To amend and reenact Code of Civil Procedure Articles 4919(A)(introductory paragraph)
3 and (5), 4922, and 4925(A) and to enact Code of Civil Procedure Articles 4921.1(C)
4 and 4921.2, relative to justice of the peace courts; to provide relative to the service
5 of citations; to provide relative to trial procedures; to provide relative to notice of
6 judgment; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Articles 4919(A)(introductory paragraph) and
9 (5), 4922, and 4925(A) are hereby amended and reenacted and Code of Civil Procedure
10 Articles 4921.1(C) and 4921.2 are hereby enacted to read as follows:

11 Art. 4919. Citation; service of citation; justice of the peace courts; district courts
12 with concurrent jurisdiction

13 A. The citation must be signed by the justice of the peace or the clerk of
14 court issuing it, with an expression of his official capacity and under the seal of his
15 office, must be accompanied by a certified copy of any petition, which has been
16 filed, exclusive of exhibits, even if made a part thereof, and must contain the
17 following:

18 * * *

1 (5)(a) A statement that the person cited must either comply with the demand
 2 contained of the plaintiff against him or make an appearance, either by filing a
 3 pleading or otherwise, in the court issuing the citation within the delay provided
 4 under Article 4920 under penalty of default.

5 (b) If the matter is set for hearing pursuant to Article 4921.1(C), the citation
 6 must contain a statement that the person cited must either comply with the demand
 7 of the plaintiff against him or appear in the court issuing the citation at the time and
 8 date provided and that if he fails to appear, judgment may be entered against him.

9 * * *

10 Art. 4921.1. Demand for trial; abandonment; applicability

11 * * *

12 C. Notwithstanding the provisions of Paragraph A, the justice of peace or
 13 clerk may set the matter for trial upon filing of a petition. The date, time, and
 14 location of the trial shall be contained in the citation. The first scheduled trial date
 15 shall be not more than forty-five days from the service of the citation. If the
 16 defendant appears, he need not file an answer unless ordered to do so by the court.
 17 If a defendant who has been served with citation fails to appear at the time and place
 18 specified in the citation, the judge may enter a default judgment for the plaintiff in
 19 the amount proved to be due. If the plaintiff does not appear, the judge may enter
 20 an order dismissing the action without prejudice.

21 Art. 4921.2. Duties of the justice of the peace; trial procedure; rules of evidence;
 22 depositions

23 A. At trial, it is the duty of the justice of the peace to conduct an informal
 24 hearing and to develop all of the facts necessary and relevant to an impartial
 25 determination of the case. The judge may take testimony, summon any party to
 26 appear as a witness in the suit upon his own motion, and do other acts which in his
 27 discretion appear necessary to effect a correct judgment and speedy disposition of
 28 the case. He may attempt to mediate disputes and encourage fair settlements among
 29 the parties.

1 B. The technical rules of evidence are relaxed, and all relevant evidence is
2 admissible, including hearsay, provided the justice of the peace satisfies himself of
3 its general reliability, and further provided that the judgment is founded upon
4 competent evidence.

5 C. No depositions shall be taken and no interrogatories or other discovery
6 proceedings shall be used except upon approval of the court. The court should grant
7 discovery only upon notice and good cause shown and should limit such action to the
8 necessities of the case.

9 Art. 4922. Notice of judgment; justice of the peace courts; district courts with
10 concurrent jurisdiction

11 Notice of the signing of any final judgment shall be given as required by
12 Article 1913, except that if the party is personally served with the judgment in open
13 court, no further notice shall be required.

14 * * *

15 Art. 4925. Delay for appeal; justice of the peace courts; district courts with
16 concurrent jurisdiction

17 A. The appellant from a judgment rendered by a justice of the peace court
18 or the clerk of court shall file suit for a trial de novo in the district court or the parish
19 court within fifteen days from the date of the judgment or from the service of notice
20 of judgment, when such notice is necessary. A copy of the suit for trial de novo must
21 be provided to all parties or their attorneys of record and the justice of the peace
22 court whose judgment is being appealed. The rules of the district court or parish
23 court shall thereafter apply.

24 * * *

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)]

HB 728 Engrossed

2015 Regular Session

Garofalo

Abstract: Provides relative to trial procedures, evidence, and citation and service procedures for justice of the peace courts.

Present law provides general provisions for trial.

Proposed law retains present law but provides the following:

- (1) Provides for requirements relative to the citation.
- (2) Authorizes the justice of the peace or clerk of court to set matters for trial within certain time delays.
- (3) Provides for duties of the justice of the peace as it relates to trial procedures.
- (4) Provides relative to notice of judgment and procedures for appeal.

(Amends C.C.P. Arts. 4919(A)(intro. para.) and (5), 4922, and 4925(A); Adds C.C.P. Arts. 4921.1(C) and 4921.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Remove the requirements that all pleadings shall be in writing and filed with the justice of the peace or clerk of court.
2. Remove all proposed law provisions relative to the form of pleadings, signing of the pleadings, and form of the petition.
3. Change the requirement that the first scheduled trial date be not more than 45 days from the issuance of the citation to the service of the citation and removes requirement that the setting of the trial date is contingent upon service occurring not less than ten days before the time set for trial.
4. Remove authority for a justice of the peace to raise defenses or claims of which the parties may be unaware.