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March 10, 2016

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: SR 111 of 2013

Dear Mr. President:

The Louisiana State Law Institute respectfully submits herewith its report to the legislature in response to 2013 Senate Resolution No. 111, relative to the modernization of Louisiana bail laws and procedures.

Sincerely,


William E. Crawford
Director

WEC/puc

Enclosure

cc: Senator Dan Claitor

email cc: David R. Poynter Legislative Research Library
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**LOUISIANA STATE LAW INSTITUTE
BAIL BOND PROCEDURE REVISION COMMITTEE**

**REPORT TO THE LEGISLATURE
IN RESPONSE TO SR 111 OF THE 2013 REGULAR SESSION**

Relative to the modernization of Louisiana bail laws and procedures

Prepared for the
Louisiana Legislature on
March 10, 2016

Baton Rouge, Louisiana

Judge Guy Holdridge, Reporter
Mallory Waller, Staff Attorney

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To: Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SR NO. 111 OF THE 2013 REGULAR SESSION**

Senate Resolution No. 111 of the 2013 Regular Session urges and requests the Louisiana State Law Institute “to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.” In fulfillment of this request, the Law Institute created a Bail Bond Procedure Revision Committee and placed it under the direction of Reporter Judge Guy Holdridge. The Committee is comprised of individuals who are involved in various aspects of bail bond procedure, including members of the judiciary, both at the trial and appellate level, academia, the prosecution and the defense bar, the bail bond industry, and the Department of Insurance.

According to the Resolution, “current laws providing bail and bail bond requirements, procedures, and references are scattered in numerous locations throughout Louisiana criminal and civil law”. As a result, “these criminal and civil laws should be comprehensively studied to determine the need for revisions that will produce best practices satisfying the constitutional requirements of Article I, Section 18, while enhancing legal and judicial economy, efficiency, fairness, and uniformity in the criminal justice system”.

At its initial meetings, the Committee considered research and identified issues and deficiencies under current law in order to prioritize the issues that it would need to consider. During this time, the Committee discussed the numerous and complex issues plaguing Louisiana bail laws and procedures and considered implementing all of the following improvements: having bond forfeiture procedures comply with civil procedure; simplifying those procedures and consolidating them in one place; delaying recordation of the judgment of bond forfeiture until after the forfeiture hearing, followed by a short period for suspensive appeal; eliminating unnecessary and premature bond forfeitures; authorizing each judicial district to set up, by local rule, a cash bond system; requiring an affidavit stating the reasons for surrendering the defendant; making it easier to determine whether a bench warrant for the defendant has been issued, and if so, when; authorizing the use of a split bond, permitting the defendant to satisfy the bail obligation by using a combination of commercial, personal, or property bond; authorizing the defendant to initially pay a certain amount of the bail upfront, then pay the remainder over a period of time; and assuring that the failure to meet deadlines in the bond forfeiture process will result in a meaningful consequence.

The Committee began its process of modernizing Louisiana bail laws and procedures by making extensive substantive revisions to the Code of Criminal Procedure articles in Title VIII on forfeiture as well as a few related provisions in the Revised Statutes. The Committee spent over a year studying these articles and statutes, identifying their numerous deficiencies, and submitting proposals to amend them in a way that would “produce best practices” in the criminal justice system. The Committee proposed various amendments to the forfeiture articles in Title

VIII as well as other related provisions, including substantive revisions with respect to definitions, failure to appear, the issuance and notice of a warrant for arrest, the period for filing a rule to show cause and the proof necessary for doing so, nonforfeiture situations, and the notice, recordation, and enforcement of judgments.

The Committee presented its proposal to revise the Code of Criminal Procedure articles in Title VIII on forfeiture and other related provisions to the Council at its May 2015 meeting. The Council largely adopted the Committee's proposals as presented, making technical amendments and clarifications to some of the revised articles as needed. However, the Council voted to recommit a few issues for further consideration by the Committee, including nonforfeiture situations, discharge of the bail bond obligation, enforcement of judgments, and the applicable effective dates. Nevertheless, the Committee's extensive revisions to the procedure for and collection of bond forfeitures were mostly approved and provide as follows.

Under current law, a warrant is issued and a bond is forfeited at the time the defendant fails to appear, but the judgment of bond forfeiture is not collectable until 180 days later. In other words, if the defendant appears or is surrendered within the 180-day time period, the judgment of bond forfeiture is set aside. Under this procedure, hundreds of judgments of bond forfeitures are rendered that will never be collectable because the defendant appears or is surrendered within the 180-day time frame. The Committee's proposed revision eliminates the rendering of these unnecessary judgments in that, at the time the defendant fails to appear, only a warrant will be issued, and if the defendant appears or is surrendered within 180 days, the warrant will be recalled. In other words, the Committee decided that a judgment of bond forfeiture should only be issued after the expiration of the 180-day time period, and the Committee determined that the rendering of this judgment can be accomplished through a rule to show cause. The Committee believes that its proposed revision will significantly reduce the paperwork and expense associated with forfeiting a bond and as a result, the Committee revised the articles on bond forfeiture and other related provisions to implement the new procedure.

However, Senate Resolution No. 111 of the 2013 Regular Session also provides that the Law Institute's study of Louisiana bail laws and procedures "should include all aspects of the bail and bail bond process set forth in both criminal and civil laws, including granting and fixing of bail for adult and juvenile offenders, types of bail, the sufficiency, types and financial solvency of surety, procedures, requirements and time periods applicable to the bail undertaking process, the ability to meet financial bail obligations, release on bail, bail hearings, conditions of bail, bail bonds, bail enforcement, surrender of the defendant and actions for violation of the bail order, revocation and forfeiture of bail, issuance of arrest warrants, bond forfeiture proceedings, judgments and appeals, and legal forms, documents, and notices utilized in the bail and bail bond process."

As a result, after its initial presentation to the Law Institute Council in May of 2015, the Committee reconvened to study not only those issues that had been recommitted by the Council, but also the remainder of the Articles in Title VIII of the Code of Criminal Procedure on bail. (The Committee determined that provisions on juvenile bail procedure would be referred to the Law Institute's Children's Code Committee following enactment of the revisions to adult bail procedure.) The Committee also concluded that in order to comply with its charge in 2013 SR

111 to modernize Louisiana bail laws and procedures in a way that would enhance legal and judicial economy, efficiency, fairness, and uniformity in the criminal justice system, the Code of Criminal Procedure articles on bail needed to be consolidated and reorganized. The Committee met numerous times over the course of the year to accomplish this goal, and it ultimately concluded that the 61 current Code of Criminal Procedure articles on bail should be consolidated into 32 articles. The Committee also received and considered several different reorganization proposals for the articles in Title VIII, and it eventually decided upon a proposal that first sets out the right to bail, the authority to fix bail, schedules of bail, and factors in fixing bail, followed by articles dealing with conditions of bail, types of bail and restrictions on bail, types of sureties, and the requirements of the bail undertaking, and finally provisions on failure to appear, nonforfeiture situations, notice, recordation, and enforcement of judgment, and appeals.

As these articles were reorganized, the Committee also made substantive amendments in addition to its proposed revisions with respect to bond forfeiture with a view toward modernizing Louisiana bail laws and procedures. In addition to determining the need for a definitions article, the Committee decided to treat misdemeanor bail schedules in the same manner as felony bail schedules. The Committee also amended the article concerning pretrial service providers to apply to all agencies providing pretrial services, rather than only to those that are nonprofits. With respect to the use of juvenile records, the Committee removed the provision allowing disciplinary action against the court and added a provision prohibiting communication between the defendant and the victim, as well as the victim's family, while the case is pending. The Committee also added language in the provision concerning declaration of residence to provide for those who do not speak English and for the use of electronic notice. With respect to the discharge of a bail obligation, the Committee determined that a surety may file an affidavit requesting to be relieved of the bail obligation after the defendant has failed to appear. The Committee also decided to add language to provide for a contradictory hearing to establish proof of death when a death certificate cannot be obtained.

A copy of 2013 SR 111, along with proposed legislation, is attached.

SENATE RESOLUTION NO. 111

BY SENATOR CLAITOR

A RESOLUTION

To urge and request the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

WHEREAS, Article I, Section 18, of the Louisiana Constitution provides for the right to bail and states:

"(A) Excessive bail shall not be required. Before and during a trial, a person shall be bailable by sufficient surety, except when he is charged with a capital offense and the proof is evident and the presumption of guilt is great. After conviction and before sentencing, a person shall be bailable if the maximum sentence which may be imposed is imprisonment for five years or less; and the judge may grant bail if the maximum sentence which may be imposed is imprisonment exceeding five years. After sentencing and until final judgment, a person shall be bailable if the sentence actually imposed is five years or less; and the judge may grant bail if the sentence actually imposed exceeds imprisonment for five years.

(B) However, a person charged with a crime of violence as defined by law or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law, and the proof is evident and the presumption of guilt is great, shall not be bailable if, after a contradictory hearing, the judge or magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community."; and

WHEREAS, Section 18 prohibits excessive bail and further mandates that before and during a trial a person shall generally be bailable by sufficient surety, except as otherwise provided in the Section; and

WHEREAS, current laws providing bail and bail bond requirements, procedures and references are scattered in numerous locations throughout Louisiana criminal and civil law, including the Louisiana Code of Criminal Procedure, Criminal Code, Children's Code, and Titles 13, 15, 22, 29, 32, 39, 46, and 56 of the Louisiana Revised Statutes of 1950; and

WHEREAS, these criminal and civil laws should be comprehensively studied to determine the need for revisions that will produce best practices satisfying the constitutional requirements of Article I, Section 18, while enhancing legal and judicial economy, efficiency, fairness and uniformity in the criminal justice system; and

WHEREAS, the study should further determine if revisions to these criminal and civil laws are necessary to eliminate inconsistencies and ambiguity in current wording in order to achieve such best practices and a consistent body of law; and

WHEREAS, such study should include all aspects of the bail and bail bond process set forth in both criminal and civil laws, including granting and fixing of bail for adult and juvenile offenders, types of bail, the sufficiency, types and financial solvency of surety, procedures, requirements and time periods applicable to the bail undertaking process, the ability to meet bail financial obligations, release on bail, bail hearings, conditions of bail, bail bonds, bail enforcement, surrender of the defendant and actions for violation of the bail order, revocation and forfeiture of bail, issuance of arrest warrants, bond forfeiture proceedings, judgments and appeals, and legal forms, documents and notices utilized in the bail and bail bond process.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

BE IT FURTHER RESOLVED that no later than February 1, 2014, the findings of such study to date shall be submitted in a report to the Senate together with any recommendations in the form of specific proposed legislation.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

Regular Session, 2016

SENATE BILL NO. _____

BY SENATOR CLAITOR

(On Recommendation of the Louisiana State Law Institute)

CRIMINAL/PROCEDURE: Provides for the revision and reorganization of the Code of Criminal Procedure Articles on bail

1 AN ACT

2 To amend and reenact Title VIII of the Code of Criminal Procedure, to be comprised of Articles
3 311 through 342, and R.S. 15:85 and 22:1441(A)(introductory paragraph) and (1) through
4 (5), (C)(2)(introductory paragraph) and (a) through (e), and (D), and to repeal Code of
5 Criminal Procedure Articles 327.1, 330.1, 330.2, 330.3, 334.1, 334.2, 334.3, 334.4,
6 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348, 349, 349.1, 349.2,
7 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9, relative to bail; to provide for the
8 revision and reorganization of the law of bail; to provide for definitions; to provide for
9 the right to bail; to provide for bail hearings and detention without bail; to provide the
10 authority to fix bail; to provide schedules of bail and factors in fixing bail; to provide for
11 modification of bail; to provide for conditions, types, and restrictions of bail; to provide
12 for bail with and without surety; to provide for cash deposits; to provide the requirements
13 of the bail undertaking; to provide for notice of required appearance; to provide for
14 discharge of the bail obligation; to provide for failure to appear and issuance and notice

1 of arrest warrant; to provide for the filing of a rule to show cause; to provide for
2 nonforfeiture situations; to provide for notice and recordation of judgment; to provide for
3 appeals; to provide for enforcement of judgment; to provide for failure to satisfy a
4 judgment of bond forfeiture or claim under a criminal bond contract; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Title VIII of the Code of Criminal Procedure, to be comprised of Articles 311
8 through 342, is hereby amended and reenacted to read as follows:

9 TITLE VIII. BAIL

10 Art. 311. ~~Bail defined~~ Definitions

11 For the purposes of this Title, the following definitions shall apply:

12 (1) Bail is the security given by a person to assure his a defendant's appearance
13 before the proper court whenever required. (Source: Art. 311)

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

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

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

22 (a) A warrant for arrest has been issued for the defendant in the jurisdiction in

1 which the bail obligation is in place.

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

5 (c) The surety has paid to the officer the reasonable costs of returning the
6 defendant to the jurisdiction where the warrant for arrest was issued.

7 (5) A personal surety ~~must be~~ is a natural person domiciled in ~~this state~~ the state

8 of Louisiana who owns property in this state that is subject to seizure and is of sufficient

9 value to satisfy, considering all his property, the amount specified in the bail ~~bond~~

10 undertaking. The value of the property ~~of the surety~~ shall exclude ~~property~~ the amount

11 exempt from execution, and shall be over and above all ~~his~~ other liabilities including the

12 amount of any other bail ~~bond~~ undertaking on which he may be principal or surety. ~~When~~

13 If there is more than one personal surety, then the requirements ~~of this Article~~ shall apply

14 to the aggregate value of their property. ~~No~~ A personal surety shall not charge a fee or

15 receive any compensation for posting a ~~personal surety bond~~ bail undertaking. (Source:

16 Art. 315) A bail undertaking of a personal surety may be unsecured or secured. (Source:

17 Art. 316)

18 Source: C.Cr.P. Arts. 311, 315, and 316

19 Art. 312. ~~Types and elections of bail~~ Right to bail before and after conviction

20 ~~A. The types of bail in Louisiana are:~~

21 ~~(1) Bail with a commercial surety.~~

22 ~~(2) Bail with a secured personal surety.~~

1 ~~(3) Bail with an unsecured personal surety.~~

2 ~~(4) Bail without surety, with or without security.~~

3 ~~(5) Bail with a cash deposit.~~

4 ~~B. Except as provided in Paragraphs C and D of this Article, all bail must be~~
5 ~~posted in the full amount fixed by the court.~~

6 ~~C. When the court fixes the amount of bail, a secured bail undertaking may be~~
7 ~~satisfied by a commercial surety, a cash deposit, or with the court's approval, by a~~
8 ~~secured personal surety or a bond secured by the property of the defendant, or by any~~
9 ~~combination thereof.~~

10 ~~D. When the court elects to release the defendant on an unsecured personal surety~~
11 ~~or a bail without surety, that election shall be expressed in the bail order.~~

12 A. Except as provided in this Article and Article 334 313, a person in custody
13 who is charged with the commission of an offense is entitled to ~~be admitted to~~ bail before
14 conviction unless the person is charged with a crime of violence as defined by law or
15 with production, manufacture, distribution, or dispensing or possession with intent to
16 produce, manufacture, distribute, or dispense a controlled dangerous substance as defined
17 by the Louisiana Controlled Dangerous Substances Law, and after a contradictory
18 hearing, conducted pursuant to the provisions of Article 330.1, the judge or magistrate
19 finds by clear and convincing evidence that the defendant may flee or poses an imminent
20 danger to any other person or the community. (Source: Art. 330)

21 B. A person released on a previously posted bail undertaking for (1) a crime of
22 violence as defined by R.S. 14:2(B) which carries a minimum mandatory sentence of

1 imprisonment upon conviction or (2) the production, manufacture, distribution, or
2 dispensing or possession with intent to produce, manufacture, distribute, or dispense a
3 controlled dangerous substance as defined by the Louisiana Controlled Dangerous
4 Substance Law, shall not be readmitted to bail when the person previously failed to
5 appear and a warrant for arrest was issued and not recalled or the previous bail
6 undertaking has been revoked or forfeited. If a person voluntarily appears without
7 confinement by a law enforcement officer or bail recovery agent following a motion to
8 revoke bail or issuance of an arrest warrant for failure to appear but prior to revocation or
9 forfeiture, then he may be released only under the following circumstances:

10 ~~(1) Notwithstanding the provisions of Subparagraphs (2) and (3) of this~~
11 ~~Paragraph, a~~ After a contradictory hearing, any a person who voluntarily surrenders
12 ~~following revocation or forfeiture of bail may be released on the forfeited or revoked~~
13 ~~previously posted bail undertaking provided the revocation or forfeiture of the bail if the~~
14 ~~motion to revoke bail is rescinded by the court or the arrest warrant is recalled and the~~
15 ~~surety is present or represented at the hearing and consents~~ gives written consent.
16 ~~Previous instances of revocation or and forfeiture of bail in unrelated cases is are~~
17 ~~admissible at that contradictory the hearing. The relief shall be available only at the first~~
18 ~~instance of revocation or forfeiture of that bail and within six months of the forfeiture of~~
19 ~~the bail. This relief is available only once.~~ (Source: Art. 334.3(A)(4))

20 ~~(2) Any person who voluntarily surrenders following revocation forfeiture of bail~~
21 A person may be released on a new bail undertaking without a contradictory hearing only
22 on bail with a commercial surety and in an amount higher than the original bail. (Source:

1 Art. 334.3(A)(2))

2 C. A defendant who has been surrendered ~~himself~~ under the provisions of Article
3 345 331, or has been rearrested under the provisions of Article 346 332, is entitled to bail
4 in accordance with this Code. (Source: Art. 347)

5 D. A convicted person shall be remanded to jail to await sentence unless any of
6 the following occur:

7 (1) He is allowed to remain free on a bail ~~obligation~~ undertaking posted prior to
8 conviction by operation of Article ~~326(B)~~ 331(G)(1), and the bail previously fixed is in
9 accordance with all of the applicable provisions of this Article.

10 (2) He is released by virtue of a bail ~~obligation~~ undertaking posted after
11 conviction, ~~which~~ and the bail was fixed in accordance with this Article. (Source: Art.
12 332(A))

13 E. After conviction and before sentence, bail shall be allowed if the maximum
14 sentence which may be imposed is imprisonment for five years or less. Bail may be
15 allowed pending sentence if the maximum sentence which may be imposed is
16 imprisonment exceeding five years, except when the court has reason to believe, based on
17 competent evidence, that the release of the person convicted will pose a danger to any
18 other person or the community, or that there is a substantial risk that the person convicted
19 might flee. (Source: Art. 332(B))

20 F. After sentence and until final judgment, bail shall be allowed if a sentence of
21 five years or less is actually imposed. Bail may be allowed after sentence and until final
22 judgment if the sentence actually imposed exceeds imprisonment for five years, except

1 when the court has reason to believe, based on competent evidence, that the release of the
2 person convicted will pose a danger to any other person or the community, or that there is
3 a substantial risk that the person convicted might flee. (Source: Art. 332(C))

4 G. After conviction of a capital offense, a defendant shall not be allowed bail.
5 (Source: Art. 332(E))

6 H. A person held without bail or unable to post bail may invoke the supervisory
7 jurisdiction of the court of appeal on a claim that the trial court has improperly refused
8 bail or a reduction of bail in aailable case. (Source: Art. 343)

9 Source: C.Cr.P. Arts. 330, 332, 334.3, 343, and 347

10 Art. 313. Surety Gwen's Law; bail hearings; detention without bail

11 ~~Surety as used in this Title is a legal suretyship pursuant to the provisions of the~~
12 ~~Louisiana Civil Code.~~

13 A. This ~~Article~~ Paragraph may be cited as and referred to as "Gwen's Law".
14 (Source: Art. 330.3(A))

15 (1) A contradictory bail hearing, as provided for in this ~~Article~~ Paragraph, may be
16 held prior to setting bail for a person in custody who is charged with domestic abuse
17 battery, violation of protective orders, stalking, or any felony offense involving the use or
18 threatened use of force or a deadly weapon upon the defendant's family member, as
19 defined in R.S. 46:2132 or upon the defendant's household member as defined in R.S.
20 14:35.3, or upon the defendant's dating partner, as defined in R.S. 46:2151. If the court
21 orders a contradictory hearing, the hearing shall be held within five days from the date of
22 determination of probable cause, exclusive of weekends and legal holidays. At the

1 contradictory hearing, the court shall determine the conditions of bail or whether the
2 defendant should be held without bail pending trial. If the court decides not to hold a
3 contradictory hearing, it shall notify the prosecuting attorney prior to setting bail.

4 (Source: Art. 330.3(B))

5 (2) In addition to the factors listed in Article ~~334~~ 316, in determining whether the
6 defendant should be admitted to bail pending trial, or in determining the conditions of
7 bail, the judge or magistrate shall consider the following:

8 (a) The criminal history of the defendant.

9 (b) The potential threat or danger the defendant poses to the victim, the family of
10 the victim, or to any member of the public, especially children.

11 (c) Documented history or records of any of the following: substance abuse by the
12 defendant; threats of suicide by the defendant; the defendant's use of force or threats of
13 use of force against any victim; strangulation, forced sex, or controlling the activities of
14 any victim by the defendant; or threats to kill. Documented history or records may
15 include but are not limited to sworn affidavits, police reports, and medical records.

16 (Source: Art. 330.3(C))

17 (3) Following the contradictory hearing and based upon the judge's or
18 magistrate's review of the factors set forth in Paragraph ~~€ (A)(2)~~ of this Article, the judge
19 or magistrate may order that the defendant not be admitted to bail, upon proof by clear
20 and convincing evidence either that the defendant might flee, or that the defendant poses
21 an imminent danger to any other person or the community. (Source: Art. 330.3(D))

22 (4) If bail is granted, with or without a contradictory hearing, the judge or

1 magistrate shall comply with the provisions of Article ~~335.1 or 335.2~~ 320, as applicable.
2 The judge or magistrate shall consider, as a condition of bail, a requirement that the
3 defendant wear an electronic monitoring device and be placed under active electronic
4 monitoring and house arrest. The conditions of the electronic monitoring and house arrest
5 shall be determined by the court and may include but are not limited to limitation of the
6 defendant's activities outside the home and a curfew. The defendant may be required to
7 pay a reasonable supervision fee to the supervising agency to defray the cost of the
8 required electronic monitoring and house arrest. A violation of the conditions of bail may
9 be punishable by revocation of the ~~bond~~ bail undertaking and the issuance of a bench
10 warrant for the defendant's arrest or remanding of the defendant to custody or a
11 modification of the terms of bail. (Source: Art. 330.3(E))

12 B. Upon motion of the ~~prosecutor~~ prosecuting attorney, the judge or magistrate
13 may order the temporary detention of ~~the defendant~~ a person in custody who is charged
14 with the commission of an offense, for a period of not more than five days, exclusive of
15 weekends and legal holidays, pending the conducting of a contradictory bail hearing.
16 Following the contradictory hearing, upon proof by clear and convincing evidence either
17 that there is a substantial risk that the defendant might flee or that the defendant poses an
18 imminent danger to any other person or the community, the judge or magistrate may
19 order the defendant held without bail pending trial. (Source: Art. 330.1)

20 C. A contradictory bail hearing, as provided for in this Article, shall be held prior
21 to setting bail for a person in custody who is charged with the commission of a sex
22 offense and who has been previously convicted of a sex offense. (Source: Art. 330.2(A))

1 (1) The court, after having been given notice of an applicable prior conviction as
2 described in ~~Paragraph F~~ Subparagraph (C)(4) of this Article, shall order a contradictory
3 hearing to be held within five days of receiving notice of the prior conviction, exclusive
4 of weekends and legal holidays. (Source: Art. 330.2(B))

5 (2) At the contradictory bail hearing the court, in addition to hearing whatever
6 evidence it finds relevant, shall, ~~with the consent~~ on motion of the prosecuting attorney,
7 perform an ~~ex parte~~ in camera examination of the evidence against the accused. (Source:
8 Art. 330.2(C))

9 (3) In addition to the factors listed in Article ~~316~~ 334 ~~of the Code of Criminal~~
10 ~~Procedure~~, the court shall take into consideration the previous criminal record of the
11 defendant; any potential threat or danger the defendant poses to the victim, the family of
12 the victim, or to any member of the public, especially children; and the court shall give
13 ample consideration to any statistical evidence prepared by the United States Department
14 of Justice relative to the likelihood of the defendant, or any person in general who has
15 been convicted of sexually inappropriate conduct with a prepubescent child under the age
16 of thirteen, to commit similar offenses against juvenile victims in the future. (Source: Art.
17 330.2(D))

18 (4) For purposes of this ~~Article~~ Paragraph, “sex offense” means any offense as
19 defined as a sex offense in R.S. 15:541~~(14.1)~~ when the victim is under the age of thirteen
20 at the time of commission of the offense and less than ten years have elapsed between the
21 date of the commission of the current offense and the expiration of the maximum
22 sentence of the previous conviction. (Source: Art. 330.2(F))

1 D. (1) A person charged with the commission of a capital offense shall not be
2 admitted to bail if the proof is evident and the presumption great that he is guilty of the
3 capital offense. When a person charged with the commission of a capital offense makes
4 an application for admission to bail, the judge shall hold a hearing contradictorily with
5 the state. (Source: Art. 331(A) and (B))

6 (2) The burden of proof at the contradictory bail hearing:

7 (a) Prior to indictment is on the state to show that the proof is evident and the
8 presumption great that the defendant is guilty of the capital offense.

9 (b) After indictment is on the defendant to show that the proof is not evident or
10 the presumption is not great that he is guilty of the capital offense. (Source: Art. 331(C))

11 Source: C.Cr.P. Arts. 330.1, 330.2, 330.3, and 331

12 Art. 314. ~~Commercial surety~~ Authority to fix bail; bail order

13 ~~A surety company authorized to do business in the state of Louisiana may become~~
14 ~~surety for the release of a person on bail. The sufficiency of security posted in the form~~
15 ~~of an appearance bond by a surety company, as required by the provisions of Title 22 of~~
16 ~~the Louisiana Revised Statutes of 1950, shall be determined solely by the commissioner~~
17 ~~of insurance.~~

18 A. The following magistrates, throughout their several territorial jurisdictions,
19 shall have authority to fix bail:

20 (1) District courts and their commissioners having criminal jurisdiction, in all
21 cases.

22 (2) City or parish courts and municipal and traffic courts of New Orleans having

1 criminal jurisdiction, in cases not capital.

2 (3) Mayor's courts and traffic courts in criminal cases within their trial
3 jurisdiction.

4 (4) Juvenile and family courts in criminal cases within their trial jurisdiction.

5 (5) Justices of the peace in cases not capital or necessarily punishable at hard
6 labor. (Source: Art. 333)

7 B. An order fixing bail shall be in writing, set the type and a single amount of bail
8 for each charge, designate the officer or officers authorized to accept the bail, and shall
9 be signed electronically or by any other means by the magistrate. An order fixing bail
10 may issue on request of the state or defendant, or on the initiative of the ~~judge or~~
11 magistrate. (Source: Art. 338)

12 Source: C.Cr.P. Arts. 333 and 338

13 Art. 315. ~~Personal surety~~ Schedules of bail

14 ~~A personal surety must be a natural person domiciled in this state who owns~~
15 ~~property in this state that is subject to seizure and is of sufficient value to satisfy,~~
16 ~~considering all his property, the amount specified in the bail bond. The value of the~~
17 ~~property of the surety shall exclude property exempt from execution, and shall be over~~
18 ~~and above all his other liabilities including the amount of any other bail bond on which he~~
19 ~~may be principal or surety. When there is more than one personal surety, the~~
20 ~~requirements of this Article shall apply to the aggregate value of their property. No~~
21 ~~personal surety shall charge a fee or receive any compensation for posting a personal~~
22 ~~surety bond.~~

1 A. Unless the bail is fixed by a schedule in accordance with ~~Paragraph B~~ this
2 Article, the amount of bail ~~in felony cases~~ shall be specifically fixed in each case. In
3 noncapital felony cases, a bail schedule according to the offense charged may be fixed by
4 a district court. In misdemeanor cases, a bail schedule according to the offense charged
5 may be fixed by a district, parish or city court for offenses committed within its trial
6 jurisdiction. (Source: Art. 340(A)) When more than one court has trial jurisdiction ~~over~~
7 ~~an offense~~, the applicable bail schedule shall be that of the court in which the case is to be
8 tried. (Source: Art. 341(A))

9 B. The court order setting the bail schedule shall fix the amount of bail for each
10 offense listed, designate the officer or officers authorized to accept the bail, and order that
11 bail be taken in conformity with the schedule. It may also contain a general provision
12 designating the amount of bail for any noncapital felony and misdemeanor offenses not
13 listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices,
14 and police stations within the judicial district, parish, or city, ~~respectively~~. A bail
15 schedule may be revised or rescinded at any time. (Source: Art. 341(B)) The type or form
16 of bail shall not be set in ~~the a~~ a bail schedule. (Source: Art. 341(A))

17 C. A person charged with the commission of ~~a felony~~ an offense for which bail is
18 fixed by a schedule may give bail according to the schedule or demand a special order
19 fixing bail. The bail amount fixed by schedule may be modified by the court in
20 accordance with Article 319. (Source: Art. 340(C))

21 Source: C.Cr.P. Arts. 340 and 341

22 Art. 316. ~~Types of personal surety~~ Factors in fixing amount of bail

1 ~~There are two types of personal surety in Louisiana: unsecured, and secured.~~

2 The amount of bail shall be ~~such that, in the judgment of the court, commissioner,~~
3 ~~or magistrate, it will insure~~ fixed in an amount that will ensure the presence of the
4 defendant, as required, and the safety of any other person and the community, having
5 regard to:

6 (1) The seriousness of the offense charged, including but not limited to whether
7 the offense is a crime of violence or involves a controlled dangerous substance.

8 (2) The weight of the evidence against the defendant.

9 (3) The previous criminal record of the defendant.

10 (4) The ability of the defendant to give bail.

11 (5) The nature and seriousness of the danger to any other person or the
12 community that would be posed by the defendant's release.

13 (6) The defendant's voluntary participation in a pretrial drug testing program.

14 (7) The absence or presence in the defendant of any controlled dangerous
15 substance ~~in the defendant's blood at the time of arrest.~~

16 (8) Whether the defendant is currently out on a ~~bond~~ bail undertaking on a
17 previous felony arrest for which he is awaiting institution of prosecution, arraignment,
18 trial, or sentencing.

19 (9) Any other circumstances affecting the probability of defendant's appearance.

20 (10) The type or form of bail.

21 Source: C.Cr.P. Art. 334

22 Art. 317. ~~Unsecured personal surety~~ Organization performing or providing pretrial

1 services

2 ~~A person in custody may be released by order of the court on an unsecured~~
3 ~~personal surety bond. An unsecured personal surety is a personal surety where the surety~~
4 ~~meets all the qualifications of law and lives and resides in the state of Louisiana without~~
5 ~~specifically mortgaging or giving a security interest in any property as security to~~
6 ~~guarantee the surety's performance.~~

7 Any ~~nonprofit~~ organization which is contracted, employed, or which receives
8 public funds to perform or provide pretrial services, such as screening of any defendant,
9 shall verify all background information provided by a defendant or otherwise obtained by
10 the organization regarding the defendant.

11 Source: C.Cr.P. Art. 334.6

12 Art. 318. ~~Secured personal surety~~ Juvenile records in fixing bail

13 ~~A secured personal surety is a personal surety who meets all the qualifications of~~
14 ~~law and specifically mortgages immovable property located in the state of Louisiana.~~

15 A. For the purpose of fixing bail, a ~~magistrate~~ court may make a written request
16 of any juvenile court for an abstract containing only the delinquent acts of a defendant
17 currently before the requesting ~~magistrate~~ court. The request shall be promptly complied
18 with; however, not more than forty-eight hours, exclusive of Saturdays, Sundays, and
19 legal holidays, shall lapse before the requested information is deposited in the mail,
20 addressed to the requesting court.

21 B. The requesting court shall not copy, duplicate, or otherwise reproduce such
22 juvenile records, and these shall be deposited in the mail and addressed to the issuing

1 juvenile court within seventy-two hours, exclusive of Saturdays, Sundays, and legal
2 holidays, after bail is determined.

3 ~~C. Failure to comply with the provisions of this Article shall subject the violating~~
4 ~~court to disciplinary action by the Supreme Court of Louisiana upon receipt by the~~
5 ~~judicial administrator of the supreme court of a written complaint, subsequently~~
6 ~~substantiated.~~

7 Source: C.Cr.P. Art. 337

8 Art. 319. Conditions for providing a property bond Modification of bail

9 ~~A. A defendant or a secured personal surety, pursuant to Article 312, may~~
10 ~~establish a legal mortgage over immovable property in favor of the state of Louisiana or~~
11 ~~the proper political subdivision to secure a bail obligation.~~

12 ~~B. The mortgage is established upon the recordation of a written mortgage, in~~
13 ~~authentic form satisfactory to the officer authorized to receive the bail, in the mortgage~~
14 ~~records of the parish where the immovable is located that:~~

15 ~~(1) Contains the name and signature of the person making the mortgage.~~

16 ~~(2) Describes the immovable and declares that a mortgage is given over it as~~
17 ~~security for the performance of the bail obligation.~~

18 ~~(3) Certifies that the person making the mortgage owns the immovable and states~~
19 ~~its value, in excess of the amount of all encumbrances against it.~~

20 ~~(4) Attaches to it a copy of the order fixing the bail obligation.~~

21 ~~C. The person providing the security shall deliver a certified copy of the recorded~~
22 ~~statement establishing the mortgage and a mortgage certificate to the officer authorized to~~

1 receive the bail. ~~The officer may require additional evidence of ownership and value of~~
2 ~~the mortgaged property including a copy of the current tax assessment.~~

3 D.(1) ~~The recorder shall cancel the mortgage from his records upon the order of~~
4 ~~the court.~~

5 (2) ~~In all other cases, the effect of its recordation shall cease ten years after its~~
6 ~~recordation unless it is reinscribed in the manner otherwise provided by law.~~

7 E. ~~Any materially false or incorrect statements made by a person who~~
8 ~~intentionally and knowingly gives a mortgage or security interest pursuant to this Article~~
9 ~~shall be prima facie proof of a violation of the provisions of R.S. 14:125, false swearing.~~

10 A. The court having trial jurisdiction over the offense charged, on its own motion
11 or on motion of the state prosecuting attorney or defendant, for good cause, may either
12 increase or reduce the amount of bail, or require new or additional security. For purposes
13 of this Article, good cause for increase of bail specifically includes but is not limited to
14 the rearrest of the defendant on offenses alleged to have been committed while out on
15 ~~bond~~ a bail undertaking. The modification of any bail order wherein a bail ~~bond~~
16 undertaking has been posted by a criminal defendant and his sureties shall upon said
17 modification terminate the liability of the defendant and his sureties under the previously
18 existing bail ~~contract~~ undertaking. A new bail undertaking must be posted in the amount
19 of the new bail order. (Source: Art. 342)

20 B. The defendant or his surety may, at any time before a breach of the bail
21 undertaking and with approval of the court in which the prosecution is pending, substitute
22 another form of security authorized by this Code. The original security, including a

1 surety, shall be released when the substitution of security is made. (Source: Art. 328)

2 Source: C.Cr.P. Arts. 328 and 342

3 Art. 320. ~~Those who may not be sureties~~ Conditions of bail undertaking

4 ~~A person shall not be released on bail for which an attorney at law, a judge, or~~
5 ~~ministerial officer of a court becomes a surety or provides money or property for bail; but~~
6 ~~the invalidity of such bail shall not be a defense to an action to forfeit and enforce the~~
7 ~~bail.~~

8 A. Definitions. For the purpose of this Article:

9 ~~(1) For the purpose of this Subsubparagraph, “firearm” means any pistol,~~
10 ~~revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault~~
11 ~~rifle that is designed to fire or is capable of firing fixed cartridge ammunition or from~~
12 ~~which a shot or projectile is discharged by an explosive. (Source: Art. 335.1(A)(1)(c))~~

13 ~~(2) “Global positioning monitoring system” means a system that electronically~~
14 ~~determines and reports the location of an individual by means of an ankle bracelet~~
15 ~~transmitter or similar device worn by the individual that transmits latitude and longitude~~
16 ~~data to monitoring authorities through global positioning satellite technology but does not~~
17 ~~contain or operate any global positioning system technology or radio frequency~~
18 ~~identification technology or similar technology that is implanted in or otherwise invades~~
19 ~~or violates the corporeal body of the individual. (Source: Art. 335.1(C)(1))~~

20 ~~(3) “Immediate family member” means the spouse, mother, father, aunt, uncle,~~
21 ~~sibling, or child of the victim, whether related by blood, marriage, or adoption.~~

22 ~~(4) “Informed consent” means that the victim was given information concerning~~

1 all of the following before consenting to participate in global positioning system
2 monitoring:

3 (a) The victim's right to refuse to participate in global positioning system
4 monitoring and the process for requesting the court to determine the victim's
5 participation after it has been ordered.

6 (b) The manner in which the global positioning monitoring system technology
7 functions and the risks and limitations of that technology, and the extent to which the
8 system will track and record the victim's location and movements.

9 (c) The boundaries imposed on the defendant during the global positioning
10 system monitoring.

11 (d) Sanctions that the court may impose on the defendant for violating an order
12 issued under this Article.

13 (e) The procedure that the victim is to follow if the defendant violates an order
14 issued under this Article or if global positioning monitoring system equipment fails.

15 (f) Identification of support services available to assist the victim to develop a
16 safety plan to use if the court's order issued under this Article is violated or if the global
17 positioning monitoring system equipment fails.

18 (g) Identification of community services available to assist the victim in
19 obtaining shelter, counseling, education, child care, legal representation, and other help in
20 addressing the consequences and effects of domestic violence or stalking.

21 (h) The nonconfidential nature of the victim's communications with the court
22 concerning global positioning system monitoring and the restrictions to be imposed upon

1 the defendant's movements. (Source: Art. 335.1(C)(2))

2 B. Conditions of bail generally. ~~Except as provided in Paragraph B,~~ The
3 conditions of the bail undertaking in district, juvenile, parish, and city courts shall be that
4 the defendant will appear at all stages of the proceedings to answer the charge before the
5 court in which he may be prosecuted, will submit himself to the orders and process of the
6 court, and will not leave the state without written permission of the court. (Source: Art.
7 326(A)) The court may impose any additional conditions of release that ~~is~~ are reasonably
8 related to assuring the appearance of the defendant before the court and guarding the
9 safety of any other individual or the community. (Source: Art. 335)

10 C. Operating a vehicle while intoxicated. The court shall require as a condition of
11 release on bail that any person who is charged with a second or subsequent violation of
12 R.S. 14:32.1, 39.1, 39.2, 98, 98.1, or a parish or municipal ordinance that prohibits the
13 operation of a motor vehicle while under the influence of alcohol or drugs to install an
14 ignition interlock device on any vehicle which he operates. The defendant shall have
15 fifteen days from the date that he is released on bail to comply with this requirement, and
16 the ignition interlock device shall remain on the vehicle or vehicles during the pendency
17 of the criminal proceedings. ~~Failure to comply with this condition of release shall result~~
18 ~~in the revocation of bail and reincarceration of the defendant.~~ Under exceptional
19 circumstances, the court may waive the provisions of this Article but shall indicate the
20 reasons therefor to the law enforcement agency who has custody of the alleged offender
21 documentation. (Source: Art. 336.2)

22 D. Drug offenses and crimes of violence. Every person arrested for a violation of

1 the Uniform Controlled Dangerous Substances Law or a crime of violence as provided in
2 R.S. 14:2(B) shall be required to submit to a pretrial drug test for the presence of
3 designated substances in accordance with the provisions of this Article and rules of court
4 governing such testing. (Source: Art. 336(A)(1)) Every person arrested for a any other
5 ~~felony, not otherwise required to submit to a pretrial drug test as provided for in~~
6 ~~Subparagraph (1) of this Paragraph,~~ may be required to submit to a pretrial drug test for
7 the presence of designated substances in accordance with the provisions of this Article
8 and rules of court governing such testing. (Source: Art. 336(A)(2)) Every person arrested
9 for a misdemeanor may be required to submit to a pretrial drug test for the presence of
10 designated substances in accordance with the provisions of this Article and rules of court
11 governing such testing. (Source: Art. 336(A)(3))

12 E. Pretrial drug testing program. The court may, ~~and in all municipalities with a~~
13 ~~population of three hundred thousand or more persons shall,~~ implement a pretrial drug
14 testing program. All persons released under the provisions of the pretrial drug testing
15 program must submit to continued random testing and refrain from the use or possession
16 of any controlled dangerous substance or any substance designated by the court. A
17 pretrial drug testing program which shall provide for the following: (Source: Art. 336(B))

18 (1) Mandatory participation for all persons arrested for violations of state law.
19 Additionally, all persons testing positive for the presence of one or more of the
20 designated substances set forth in Subparagraph (2) of this Paragraph, who are not
21 otherwise required to participate, shall submit to a pretrial drug testing program. (Source:
22 Art. 336(B)(1))

1 (2) Drug testing to determine the presence of ~~phencyclidine (PCP), opiates~~
2 ~~(heroin), cocaine, methadone, amphetamines, or marijuana,~~ any controlled dangerous
3 substance as defined in La. R.S. 40:960 prior to first court appearance and random testing
4 thereafter to verify that the person is drug free. (Source: Art. 336(B)(2))

5 (3) Restrictions on the use of any and all test results to ensure that they are used
6 only for the benefit of the court to determine appropriate conditions of release,
7 monitoring compliance with court orders, and assisting in determining appropriate
8 sentences. A form statement shall be signed by the law enforcement agency and the
9 person in custody stipulating that under no circumstances shall the information be used as
10 evidence or as the basis for additional charges. (Source: Art. 336(B)(3))

11 (4) Reasonable testing procedures to ensure the fair administration of the test and
12 protection for the chain of custody for any evidence obtained. (Source: Art. 336(B)(4))

13 F. Implementation of pretrial drug testing program. The implementation of any
14 pretrial drug testing program authorized pursuant to the provisions of this Article shall be
15 contingent upon receipt by the court requiring the test of sufficient federal or other
16 funding to conduct the testing program in accordance with the provisions of this Article
17 and any rules of court. No elected official who is in any way connected with the
18 administration of the pretrial drug testing program provided for in this Article, either
19 directly or indirectly, shall have any financial interest, either directly or indirectly, in any
20 drug testing company participating in such pretrial drug testing program. All contracts
21 awarded to any drug testing company authorized to conduct the pretrial drug testing
22 program provided for in this Article shall be awarded in accordance with the provisions

1 governing public bids, R.S. 38:2181 et seq. (Source: Art. 336(E)(F) and (G))

2 G. Domestic offenses, stalking, and sex offenses. In determining conditions of
3 release of a defendant who is alleged to have committed an offense against the
4 defendant's family or household member, as defined in R.S. 46:2132(4), or against the
5 defendant's dating partner, as defined in R.S. 46:2151, or who is alleged to have
6 committed the offense of domestic abuse battery under the provisions of R.S. 14:35.3, or
7 who is alleged to have committed the offense of stalking under the provisions of R.S.
8 14:40.2, or who is alleged to have committed a sexual assault as defined in R.S. 46:2184,
9 or who is alleged to have committed the offense of first degree rape under the provisions
10 of R.S. 14:42, the court shall consider the previous criminal history of the defendant and
11 whether the defendant poses a threat or danger to the victim. If the court determines that
12 the defendant poses such a threat or danger, it shall require as a condition of bail that the
13 defendant refrain from going to the residence or household of the victim, the victim's
14 school, and the victim's place of employment or otherwise contacting the victim in any
15 manner whatsoever, and shall refrain from having any further contact with the victim.
16 (Source: Art. 335.1(A)(1)(a)) ~~In making a determination relative to the granting of release~~
17 ~~or the conditions of such release of a defendant who is alleged to have committed the~~
18 ~~offense of aggravated or first degree rape as provided in R.S. 14:42(A)(4), the court shall~~
19 ~~take into consideration the previous criminal record of the defendant; any potential threat~~
20 ~~or danger the defendant poses to the victim, the family of the victim, or to any member of~~
21 ~~the public, especially children; and~~ The court shall also consider any statistical evidence
22 prepared by the United States Department of Justice relative to the likelihood of such

1 defendant or any person in general who has raped or molested victims under the age of
2 thirteen years to commit sexual offenses against a victim under the age of thirteen in the
3 future. (Source: Art. 336.1(A))

4 H. Uniform Abuse Prevention Order. (1) If, as part of a bail restriction, an order is
5 issued ~~pursuant to the provisions of this Paragraph for the purpose of preventing violent~~
6 ~~or threatening acts or harassment against, or contact or communication with or physical~~
7 ~~proximity to, another person for the purpose of preventing domestic abuse, stalking,~~
8 ~~dating violence, or sexual assault,~~ the judge shall cause to have prepared a Uniform
9 Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and
10 shall immediately forward it to the clerk of court for filing by the end of the next business
11 day after the order is issued. The clerk of the issuing court shall transmit the Uniform
12 Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court,
13 for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A),
14 by facsimile transmission or direct electronic input as expeditiously as possible, but no
15 later than the end of the next business day after the order is filed with the clerk of court.
16 The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention
17 Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law
18 enforcement officer of the parish where the person or persons protected by the order
19 reside by facsimile transmission or direct electronic input as expeditiously as possible,
20 but no later than the end of the next business day after the order is filed with the clerk of
21 court. A copy of the Uniform Abuse Prevention Order shall be retained on file in the
22 office of the chief law enforcement officer until otherwise directed by the court. (Source:

1 Art. 335.1(A)(1)(b))

2 ~~(2) Except as provided in Subsubparagraph (d) of this Subparagraph, if~~, as part of
3 a bail restriction, an order is issued pursuant to the provisions of this Paragraph, the court
4 shall also order that the defendant be prohibited from possessing a firearm for the
5 duration of the Uniform Abuse Prevention Order. (Source: Art. 335.1(A)(1)(c))

6 I. Global positioning monitoring. (1) In addition, the court ~~may~~ shall order ~~the a~~
7 defendant who is alleged to have committed the offense of first degree rape under the
8 provisions of R.S. 14:42 and may order a defendant who is alleged to have committed an
9 offense against the defendant's family or household member, as defined in R.S.
10 46:2132(4), or against the defendant's dating partner, as defined in R.S. 46:2151, or who
11 is alleged to have committed the offense of domestic abuse battery under the provisions
12 of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under the
13 provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault as
14 defined in R.S. 46:2184 to be equipped with a global positioning monitoring system as a
15 condition of release on bail ~~pursuant to Paragraph B of this Article.~~ (Source: Art.
16 335.1(A)(2)(a))

17 (a) In determining whether to order a defendant, as a condition of release on bail,
18 to participate in global positioning system monitoring, the court shall consider the
19 likelihood that the defendant's participation in global positioning system monitoring will
20 deter the defendant from seeking to harm, injure, or otherwise threaten the victim prior to
21 trial. (Source: Art. 335.1(A)(2)(b))

22 (b) The defendant shall be released on bail pursuant to the provisions of this

1 Article only if he agrees to pay the cost of the global positioning monitoring system and
2 monitoring fees associated with the device, or agrees to perform community service in
3 lieu of paying such costs. (Source: Art. 335.2(A)(2)(c))

4 (2) If the court orders the defendant to be equipped with a global positioning
5 monitoring system as a condition of release on bail, the court may order the defendant,
6 with the informed consent of the victim, to provide the victim of the charged crime with
7 an electronic receptor device which is capable of receiving the global positioning system
8 information and which notifies the victim if the defendant is located within an established
9 proximity to the victim. The court, in consultation with the victim, shall determine which
10 areas the defendant shall be prohibited from accessing and shall establish the proximity to
11 the victim within which a defendant shall be excluded. In making this determination, the
12 court shall consider a list, provided by the victim, which includes those areas from which
13 the victim desires the defendant to be excluded. (Source: Art. 335.2(B)(1))

14 (3) The victim shall be furnished with telephone contact information for the local
15 law enforcement agency in order to request immediate assistance if the defendant is
16 located within that proximity to the victim. The court shall order the global positioning
17 monitoring system provider to program the system to notify local law enforcement if the
18 defendant violates the order. The victim, at any time, may request that the court terminate
19 the victim's participation in the global positioning monitoring system of the defendant.
20 The court shall not impose sanctions on the victim for refusing to participate in global
21 positioning system monitoring provided for in this Paragraph. (Source: Art.
22 335.2(B)(2),(3),(4), and (5))

1 (4) In addition to electronic monitoring, the court shall consider house arrest. The
2 conditions of the electronic monitoring and house arrest shall be determined by the court,
3 and may include but are ~~not be~~ limited to limitation of the defendant's activities outside
4 ~~of~~ the home and a curfew. (Source: Art. 336.1(B))

5 J. Crimes of violence. If the defendant has been charged with a crime of violence
6 as defined in R.S. 14:2(B), the court shall require as a condition of bail that the defendant
7 be prohibited from communicating, by electronic communication, in writing, or orally,
8 with a victim of the offense, or with any of the victim's immediate family members while
9 the case is pending. This condition does not apply if the victim consents in person or
10 through a communication through the local prosecuting agency. If an immediate family
11 member of the victim consents in person or through a communication through the local
12 prosecuting agency, then the defendant may contact that person.

13 K. Violations. Violation of ~~such~~ any condition by the defendant shall be
14 considered as a constructive contempt of court, and shall ~~be grounds for~~ result in the
15 revocation of bail, but does not give rise to a forfeiture and issuance of a bench warrant
16 for the defendant's arrest or remanding the defendant to custody. The court may also
17 modify bail by either increasing the amount of bail or adding additional conditions of
18 bail. (Source: Art. 335)

19 Source: C.Cr.P. Arts. 326, 335, 335.1, 335.2, 336, 336.1, and 336.2

20 Art. 321. ~~Affidavit of surety~~ Types of bail; restrictions

21 ~~A personal surety shall execute an affidavit that he possesses the sufficiency and~~
22 ~~qualifications prescribed by Article 315 and that he is not disqualified from becoming a~~

1 ~~surety by Article 320. The affidavit shall list the number and amount of undischarged~~
2 ~~bail bonds, if any, entered into by the surety. The officer accepting the bail may require~~
3 ~~the surety to state in his affidavit the nature and value of his property not exempt from~~
4 ~~execution, and the amount of his liabilities. An officer authorized to accept the bail shall~~
5 ~~have authority to administer any affidavit required of the person signing a bail bond.~~

6 A. The types of bail in Louisiana are:

7 (1) Bail with a commercial surety.

8 (2) Bail with a secured personal surety.

9 (3) Bail with an unsecured personal surety.

10 (4) Bail without surety, ~~with or without security.~~

11 (5) Bail with a cash deposit. (Source: Art. 312(A))

12 B. ~~Except as provided in Paragraphs C and D of this Article, a~~ All bail must be
13 posted in the full amount fixed by the court. When the court fixes the amount of bail, a
14 secured bail undertaking may be satisfied by a commercial surety, a cash deposit, or with
15 the court's approval, by a secured personal surety or a ~~bond~~ bail undertaking secured by
16 the property of the defendant, or by any combination thereof. When the court elects to
17 release the defendant on an unsecured personal surety or a bail without surety, that
18 election shall be expressed in the bail order. (Source: Art. 312(B),(C), and (D))

19 C. ~~Notwithstanding any other provision of law to the contrary, a~~ Any defendant
20 who has been arrested for any of the following ~~crimes~~ offenses shall not be released by
21 ~~the court on the defendant's own recognizance or on the signature of any other person on~~
22 his personal undertaking or with an unsecured personal surety: (Source: Art. 334.4(A))

1 (1) A crime of violence as defined by R.S. 14:2(B). (Source: Art. 334.2(5))

2 ~~(2) The court shall not release any defendant who has been arrested for a A felony~~
3 offense, an element of which is the discharge, use, or possession of a firearm ~~on his~~
4 ~~personal undertaking without security or with an unsecured personal surety.~~ (Source: Art.
5 334.1)

6 (3) A sex offense as defined by R.S. 15:541 when the victim is under the age of
7 thirteen at the time of commission of the offense and less than ten years have elapsed
8 between the date of the commission of the current offense and the expiration of the
9 maximum sentence of the previous conviction. (Source: Art. 330.2(F))

10 (4) R.S.14:32.1 (vehicular homicide). (Source: Art. 334.4(A)(1))

11 (5) R.S. 14:35.3 (domestic abuse battery). (Source: Art. 334.2(1))

12 (6) R.S. 14:37.7 (domestic abuse aggravated assault). (Source: Art. 334.2(2))

13 (7) R.S.14:40.3 (cyberstalking), if the person has two prior convictions for the
14 same offense. (Source: Art. 334.4(A)(2))

15 (8) R.S.14:44.2 (aggravated kidnapping of a child). (Source: Art. 334.4(A)(3))

16 (9) R.S. 14:46 (false imprisonment). (Source: Art. 334.2(3))

17 (10) R.S. 14:46.1 (false imprisonment while the offender is armed with a
18 dangerous weapon). (Source: Art. 334.2(4))

19 (11) R.S.14:87.1 (killing a child during delivery). (Source: Art. 334.4(A)(5))

20 (12) R.S.14:87.2 (human experimentation). (Source: Art. 334.4(A)(6))

21 (13) R.S. 14:93.3 (cruelty to persons with infirmities), if the person has a prior
22 conviction for the same offense. (Source: Art. 334.4(A)(7))

1 (14) R.S.14:98 (operating a vehicle while intoxicated), if the person has a prior
2 conviction for the same offense. (Source: Art. 334.4(A)(8))

3 (15) R.S.14:102.1(B) (aggravated cruelty to animals). (Source: Art. 334.4(A)(9))

4 (16) R.S.14:102.8 (injuring or killing of a police animal). (Source: Art.
5 334.4(A)(10))

6 (17) R.S. 14:110.1 (jumping bail).

7 (18) R.S. 14:110.1.1 (out-of-state bail jumping).

8 (19) Violation of an order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S.
9 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq., Code of Civil
10 Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320,
11 and 871.1. (Source: Art. 334.2(6))

12 (20) The production, manufacturing, distribution, or dispensing or the possession
13 with the intent to produce, manufacture, distribute or dispense a controlled dangerous
14 substance in violation of R.S. 40:966(B), 967(B), 968(B), 969(B), or 970(B) of the
15 Uniform Controlled Dangerous Substances Law. (Source: Art. 334.4(A)(11))

16 D. There shall be a presumption that any defendant who has either been arrested
17 for a new felony offense or has at any time failed to appear in court on the underlying
18 felony offense after having been notified in open court shall not be released on his own
19 recognizance or on the signature of any other person. This presumption may be overcome
20 after contradictory hearing in open court only if the judge determines by clear and
21 convincing evidence that the relevant factors warrant this type of release. (Source: Art.
22 334.4(B))

1 Source: C.Cr.P. Arts. 312, 330.2, 334.1, 334.2, and 334.4

2 Art. 322. ~~Declaration of residence by defendant and surety; social security number;~~
3 ~~waiver of notice~~ Commercial surety

4 ~~A. The defendant and personal surety signing a bail bond shall write the address~~
5 ~~at which each can be served under their respective signatures and the last four digits of~~
6 ~~their social security number. The defendant and his counsel may, by joint affidavit filed~~
7 ~~of record in the proceeding in which the bond was given, appoint his counsel as his agent~~
8 ~~for service of notice to appear. The appointment shall be conclusively presumed to~~
9 ~~continue until the defendant files of record an affidavit revoking or changing the~~
10 ~~appointment. The affidavit shall include the address at which to serve his counsel. A~~
11 ~~commercial surety shall inscribe its proper mailing address on the face of the power of~~
12 ~~attorney used to execute the bond. The agent or bondsman posting the bond shall write~~
13 ~~his proper mailing address under his signature. A bail bond shall not be set aside because~~
14 ~~of the invalidity of the information required by this Article or for the failure to include the~~
15 ~~information required by the provisions of this Article.~~

16 ~~B. Each address provided pursuant to Paragraph A of this Article shall be~~
17 ~~conclusively presumed to continue for all proceedings on the bond until the party~~
18 ~~providing the address changes it by filing a written declaration in the proceeding for~~
19 ~~which the bond was filed.~~

20 ~~C. By signing the bail bond, the defendant and his surety waive any right to~~
21 ~~notice, except that provided for in Articles 344 and 349.3.~~

22 ~~D. Repealed by Acts 2010, No. 914, §5.~~

1 ~~E. Repealed by Acts 2010, No. 914, §5.~~

2 A surety company authorized to do business in the state of Louisiana may become
3 surety for the release of a person on a bail undertaking. The sufficiency of security posted
4 in the form of an appearance bond by a surety company, as required by the provisions of
5 Title 22 of the Louisiana Revised Statutes of 1950, shall be determined solely by the
6 commissioner of insurance. (Source: Art. 314) A contract to indemnify a surety company
7 against loss on a ~~bail bond~~ undertaking is valid and enforceable. (Source: Art. 329)

8 Source: C.Cr.P. Arts. 314 and 329

9 Art. 323. ~~Signature or declaration of person unable to write~~ Secured personal surety

10 ~~When a person who is required to sign his name or to make a declaration in~~
11 ~~writing under the provisions of this Code swears that he cannot sign or write, the officer~~
12 ~~authorized to receive the signature or declaration in writing may, at the request of the~~
13 ~~person, sign for him or make for him the declaration in writing, with the same binding~~
14 ~~effect as if the person had himself signed or himself made the declaration in writing;~~
15 ~~provided that the declaration and signature shall be witnessed and signed by at least two~~
16 ~~competent witnesses.~~

17 A. A secured personal surety is a personal surety who ~~meets all the qualifications~~
18 ~~of law~~ satisfies all the requirements of Article 311 and specifically mortgages immovable
19 property located in the state of Louisiana. (Source: Art. 318)

20 B. Bail without surety may be secured by a mortgage on the property of the
21 defendant pursuant to this Article or unsecured. A ~~defendant or a~~ secured personal surety,
22 ~~pursuant to Article 312,~~ may establish a legal mortgage over immovable property in favor

1 of the state of Louisiana or the proper political subdivision to secure a bail ~~obligation~~
2 undertaking. (Source: Art. 319(A))

3 C. The mortgage is established upon the recordation of a written mortgage, in
4 authentic form satisfactory to the officer authorized to receive the bail, in the mortgage
5 records of the parish where the immovable is located that:

6 (1) Contains the name and signature of the person making the mortgage.

7 (2) Describes the immovable and declares that a mortgage is given over it as
8 security for the performance of the bail obligation.

9 (3) Certifies that the person making the mortgage owns the immovable and states
10 its value, in excess of the amount of all encumbrances against it.

11 (4) Attaches to it a copy of the order fixing ~~the bail obligation~~. (Source: Art.
12 319(B))

13 D. The person providing the security shall deliver a certified copy of the recorded
14 statement establishing the mortgage and a mortgage certificate to the officer authorized to
15 receive the bail. The officer may require additional evidence of ownership and value of
16 the mortgaged property including a copy of the current tax assessment. (Source: Art.
17 319(C))

18 E. (1) The recorder shall cancel the mortgage from his records upon the order of
19 the court. (Source: Art. 319(D)(1))

20 (2) In all other cases, the effect of its recordation shall cease ten years after its
21 recordation unless it is reinscribed in the manner otherwise provided by law. (Source:
22 Art. 319(D)(2))

1 E. Any materially false or incorrect statements made by a person who
2 intentionally and knowingly gives a mortgage or security interest pursuant to this Article
3 shall be prima facie proof of a violation of the provisions of R.S. 14:125, false swearing.

4 (Source: Art. 319(E))

5 Source: C.Cr.P. Arts. 318 and 319

6 Art. 324. ~~Cash deposits~~ Unsecured personal surety

7 ~~A.(1) In lieu of a surety the defendant may furnish his personal undertaking,~~
8 ~~secured by a deposit with an officer authorized to accept the bail.~~

9 ~~(2) The deposit shall consist of any of the following which are equal to the~~
10 ~~amount of the bail:~~

11 ~~(a) Cash.~~

12 ~~(b) A certified or cashier's check on any state or national bank.~~

13 ~~(c) Bonds of the United States government negotiable by delivery.~~

14 ~~(d) Bonds of the state of Louisiana or any political subdivision thereof negotiable~~
15 ~~by delivery.~~

16 ~~(e) United States postal money orders or money orders issued by any state or~~
17 ~~national bank.~~

18 ~~(3) The court in the parishes of St. John the Baptist and St. Charles, by written~~
19 ~~rule, may alter the percentage amount of bail to be deposited with the officer authorized~~
20 ~~to accept the bond and authorize the officer to charge an administrative fee, not to exceed~~
21 ~~fifteen dollars, for processing the bond.~~

22 ~~B. Upon final disposition of all cases in which a deposit of money, checks,~~

1 ~~bonds, or money orders has been made pursuant to this Article, and said deposits have~~
2 ~~remained unclaimed for a period of one year from the date of the final disposition, the~~
3 ~~officer authorized to accept said bail shall apply and use one half of such funds for the~~
4 ~~operation and maintenance of the office of the clerk of court, or the office of the clerk of~~
5 ~~the criminal district court, or the office of the clerk of the criminal district court in~~
6 ~~Orleans Parish, and one half to the local governing authority after advertising his~~
7 ~~intention to so utilize the funds by publication in the official parish journal of a notice to~~
8 ~~the public containing an itemized list of all of such funds on deposit, containing the~~
9 ~~names and last known addresses of defendants and the docket numbers of the cases~~
10 ~~involved. The publication shall be made once within thirty days after the final~~
11 ~~disposition of the case as aforesaid. The clerk shall also send a notice by certified mail to~~
12 ~~each of such defendants at the last known address of the defendant. Any interest earned~~
13 ~~on the funds deposited for bail shall be disbursed as provided in Paragraph E of this~~
14 ~~Article.~~

15 ~~C. After the publication and mailing of the notice by certified mail, the clerk of~~
16 ~~court, or the clerk of the criminal district court in Orleans Parish shall petition the court~~
17 ~~of proper jurisdiction for permission to utilize the funds for the use, operation, and~~
18 ~~maintenance of the office of the clerk of court or the clerk of criminal district court in~~
19 ~~Orleans Parish.~~

20 ~~D. When bail has been given in conformity with this Article, the money, check,~~
21 ~~bond, or money order shall not be subject to garnishment, attachment, or seizure under~~
22 ~~any legal process. An assignment or sale thereof by the owner, to be valid, must be in the~~

1 form of an authentic act and filed in the proceedings in the court having jurisdiction to
2 discharge the bail. The property shall remain on deposit and the assignment or sale shall
3 be contingent upon the nonforfeiture of the bail.

4 ~~E. When money, checks, or money orders have been given for bail in conformity~~
5 ~~with this Article, those funds may be deposited by the officer authorized to accept bail~~
6 ~~into an interest bearing account established exclusively for the deposit of such funds.~~
7 ~~Interest earned on the deposits in the account shall be used solely for the operation and~~
8 ~~maintenance of the office of the clerk of court.~~

9 A. A person in custody may be released by order of the court on an unsecured
10 personal surety ~~and~~ bail undertaking. An unsecured personal surety is a personal surety
11 where the surety ~~meets all the qualifications of law~~ satisfies all the requirements of
12 Article 311(5) and lives and resides in the state of Louisiana without specifically
13 mortgaging or giving a security interest in any property as security to guarantee the
14 surety's performance. (Source: Art. 317)

15 B. A personal surety shall execute an affidavit that he possesses the sufficiency
16 and qualifications ~~prescribed by Article 315~~ of a personal surety and that he is not
17 disqualified from becoming a surety by Article ~~320~~ 327. The affidavit shall list the
18 number and amount of undischarged bail ~~bonds~~ undertakings, if any, entered into by the
19 personal surety. The officer accepting the bail may require the personal surety to state in
20 his affidavit the nature and value of his property not exempt from execution, and the
21 amount of his liabilities. An officer authorized to accept the bail shall have authority to
22 administer any affidavit required of the person signing a bail ~~bond~~ undertaking. (Source:

1 Art. 321)

2 Source: C.Cr.P. Arts. 317 and 321

3 Art. 325. Bail without surety

4 A person in custody may be released by order of the court on his personal bail
5 undertaking pursuant to Article 329 without the necessity of furnishing a surety, unless
6 otherwise provided in this Title.

7 Art. 326. ~~Condition of the bail undertaking~~ Cash deposits

8 ~~A. Except as provided in Paragraph B, the condition of the bail undertaking in~~
9 ~~district, juvenile, parish, and city courts shall be that the defendant will appear at all~~
10 ~~stages of the proceedings to answer the charge before the court in which he may be~~
11 ~~prosecuted, will submit himself to the orders and process of the court, and will not leave~~
12 ~~the state without written permission of the court. The bail obligation shall run, subject to~~
13 ~~the provisions of Article 626, in favor of the state of Louisiana, or the city or parish~~
14 ~~whose ordinance is charged to have been violated, with the proceeds to be disposed of~~
15 ~~according to law. No error, inaccuracy, or omission in naming the obligee on the bond is~~
16 ~~a defense to an action thereon.~~

17 ~~B.(1) Upon conviction and imposition of sentence or the pronouncement of~~
18 ~~sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the bail~~
19 ~~undertaking shall cease and the surety shall be relieved of all obligations under the bond.~~

20 ~~(2) Upon conviction in any felony case, the bail undertaking shall cease and the~~
21 ~~surety shall be relieved of all obligations under the bond.~~

22 ~~(3) In all cases, if necessary to assure the presence of the defendant at all future~~

1 ~~stages of the proceedings, the court may in its discretion, in accordance with Article 332~~
2 ~~require the defendant to post another bond or other acceptable security, or may release~~
3 ~~the defendant on bail without surety as provided for in Article 325. The court may~~
4 ~~continue the existing bail undertaking with the written approval of the surety on the bond.~~
5 ~~Such approval must be obtained from the surety after conviction.~~

6 A. (1) In lieu of a surety the defendant may furnish ~~his personal~~ a bail
7 undertaking, secured by a deposit with an officer authorized to accept the bail. The
8 deposit shall consist of any of the following which are equal to the amount of the bail:

9 (a) Cash.

10 (b) A certified or cashier's check on any state or national bank.

11 (c) Bonds of the United States government negotiable by delivery.

12 (d) Bonds of the state of Louisiana or any political subdivision thereof negotiable
13 by delivery.

14 (e) United States postal money orders or money orders issued by any state or
15 national bank.

16 (2) The court in the parishes of St. John the Baptist and St. Charles, by written
17 rule, may alter the percentage amount of bail to be deposited with the officer authorized
18 to accept the ~~bond~~ bail undertaking and authorize the officer to charge an administrative
19 fee, not to exceed fifteen dollars, for processing the ~~bond~~ bail undertaking.

20 B. Upon final disposition of all cases in which a deposit of money, checks, bonds,
21 or money orders has been made pursuant to this Article, and said deposits have remained
22 unclaimed for a period of one year from the date of the final disposition, the officer

1 authorized to accept said bail shall apply and use one-half of such funds for the operation
2 and maintenance of the office of the clerk of court, or the office of the clerk of the
3 criminal district court, or the office of the clerk of the criminal district court in Orleans
4 Parish, and one-half to the local governing authority after advertising his intention to so
5 utilize the funds by publication in the official parish journal of a notice to the public
6 containing an itemized list of all of such funds on deposit, containing the names and last
7 known addresses of defendants and the docket numbers of the cases involved. The
8 publication shall be made once within thirty days after the final disposition of the case as
9 aforesaid. The clerk shall also send a notice by certified mail to each of such defendants
10 at the last known address of the defendant. Any interest earned on the funds deposited for
11 bail shall be disbursed as provided in Paragraph E of this Article.

12 C. After the publication and mailing of the notice by certified mail, the clerk of
13 court, or the clerk of the criminal district court in Orleans Parish shall petition the court
14 of proper jurisdiction for permission to utilize the funds for the use, operation, and
15 maintenance of the office of the clerk of court or the clerk of criminal district court in
16 Orleans Parish.

17 D. When bail has been given in conformity with this Article, the money, check,
18 bond, or money order shall not be subject to garnishment, attachment, or seizure under
19 any legal process. An assignment or sale thereof by the owner, to be valid, must be in the
20 form of an authentic act and filed in the proceedings in the court having jurisdiction to
21 discharge the bail. The property shall remain on deposit and the assignment or sale shall
22 be contingent upon the nonforfeiture of the bail.

1 E. When money, checks, or money orders have been given for bail in conformity
2 with this Article, those funds may be deposited by the officer authorized to accept bail
3 into an interest-bearing account established exclusively for the deposit of such funds.
4 Interest earned on the deposits in the account shall be used solely for the operation and
5 maintenance of the office of the clerk of court.

6 Source: C.Cr.P. Art. 324

7 Art. 327. ~~Requisites of the bail undertaking~~ Those who may not be sureties

8 ~~A. The bail undertaking shall:~~

9 ~~(1) Be in writing.~~

10 ~~(2) State the court before which the defendant is bound to appear.~~

11 ~~(3) Be entered into before an officer who is authorized to take it.~~

12 ~~(4) State a single amount of bail for each charge.~~

13 ~~B. The bail undertaking shall be enforceable if the above requirements are met,~~
14 ~~and no officer may refuse to accept the posting of a bail bond and releasing a defendant~~
15 ~~on bail if the provisions of Code of Criminal Procedure Article 314 and the conditions set~~
16 ~~by this Article are met. A person shall not be discharged from his bail undertaking, nor~~
17 ~~shall a judgment of forfeiture be stayed, set aside, or reversed, nor the collection of any~~
18 ~~such judgment be barred or defeated by reason of any defect of form, omission of a~~
19 ~~recital, or of a condition of the undertaking, by reason of a failure to note or record the~~
20 ~~default of any defendant or surety, or because of any other irregularity.~~

21 A person shall not be released on bail for which an attorney at law, a judge, or
22 ministerial officer of a court becomes a surety or provides money or property for bail; but

1 the invalidity of such bail shall not be a defense to an action to forfeit and enforce the
2 bail.

3 Source: C.Cr.P. Art. 320

4 Art. 328. ~~Substitution of security~~ Bail undertaking

5 ~~The defendant or his surety may, at any time before a breach of the bail~~
6 ~~undertaking and with approval of the court in which the prosecution is pending, substitute~~
7 ~~another form of security authorized by this Code. The original security, including a~~
8 ~~surety, shall be released when the substitution of security is made.~~

9 A. The bail undertaking shall:

10 (1) Be in writing.

11 (2) State the court before which the defendant is bound to appear.

12 (3) Be entered into before an officer who is authorized to take it.

13 (4) State a single amount of bail for each charge. (Source: Art. 327(A))

14 B. The bail undertaking shall be enforceable if the above requirements are met;
15 and no officer may refuse to accept the posting of a bail ~~bond~~ undertaking and releasing a
16 defendant on bail if ~~the provisions of Code of Criminal Procedure Article 314 and the~~
17 conditions set by this ~~Article~~ Title are met. A person shall not be discharged from his bail
18 undertaking, nor shall a judgment of forfeiture be stayed, set aside, or reversed, nor the
19 collection of any such judgment be barred or defeated by reason of any defect of form,
20 omission of a recital, or of a condition of the undertaking, by reason of a failure to note or
21 record the default of any defendant or surety, or because of any other irregularity.
22 (Source: Art. 327(B)) The bail ~~obligation~~ undertaking shall run, subject to the provisions

1 of Article 626, in favor of the state of Louisiana, or the city or parish whose ordinance is
2 charged to have been violated, with the proceeds to be disposed of according to law. No
3 error, inaccuracy, or omission in naming the obligee on the ~~bond~~ bail undertaking is a
4 defense to an action thereon. (Source: Art. 326(A))

5 Source: C.Cr.P. Arts. 326 and 327

6 Art. 329. ~~Contract to indemnify surety~~ Declaration of residence; waiver of notice

7 ~~A contract to indemnify a surety against loss on a bail bond is valid and~~
8 ~~enforceable.~~

9 A. The defendant and personal surety signing a bail ~~bond~~ undertaking shall write
10 the address at which each can be served and mailing address, if different, under their
11 respective signatures and the last four digits of their social security number. The
12 defendant and his counsel may, with the Court's approval, by joint affidavit filed of
13 record in the ~~proceeding~~ matter in which the ~~bond~~ bail undertaking was given, appoint his
14 counsel as his agent ~~for service of~~ to whom notice to appear can be sent. The appointment
15 shall be conclusively presumed to continue until the defendant, with court approval, files
16 of record an affidavit revoking or changing the appointment. The affidavit shall include
17 the address ~~at which to serve his counsel~~ to which notice to appear can be sent. A
18 commercial surety shall ~~inscribe~~ place its proper mailing address and electronic address
19 on the face of the power of attorney used to execute the ~~bond~~ bail undertaking. The agent
20 or bondsman posting the ~~bond~~ bail undertaking shall ~~write~~ place his proper mailing
21 address under his signature. A ~~bail bond~~ forfeiture judgment shall not be denied or set
22 aside because of the invalidity of the information required by this Article or for the

1 failure to include the information required by the provisions of this Article. (Source: Art.
2 322(A))

3 B. When a person who is required to sign his name or to make a declaration in
4 writing under the provisions of this ~~Code~~ Title swears that he cannot sign or write, the
5 officer authorized to receive the signature or declaration in writing may, at the request of
6 the person, sign for him or make for him the declaration in writing, with the same binding
7 effect as if the person had himself signed or himself made the declaration in writing;
8 provided that the declaration and signature shall be witnessed and signed by at least two
9 competent witnesses. (Source: Art. 323)

10 C. When a person who is required to sign his name or to make a declaration in
11 writing under the provisions of this Title indicates that he cannot speak or write the
12 English language, the officer authorized to receive the signature or declaration in writing
13 may provide either an interpreter or a written form in the person's native language,
14 enabling him to sign his name or make a declaration in writing.

15 D. Each address provided pursuant to Paragraph A of this Article shall be
16 conclusively presumed to continue for all proceedings ~~on the bond~~ until the party
17 providing the address changes it by filing a written declaration in the ~~proceeding~~ matter
18 for which the ~~bond~~ bail undertaking was filed. (Source: Art. 322(B))

19 E. Except for the notice required by Article 330, B by signing the bail bond
20 undertaking, the defendant and his surety waive any right to of notice to appear, except
21 that provided for in Articles 344 and 349.3 including actual notice. (Source: Art. 322(C))

22 Source: C.Cr.P. Arts. 322 and 323

1 Art. 330. ~~Bail before conviction~~ Notice of defendant's required appearance

2 ~~Except as provided in Article 331, a person in custody charged with the~~
3 ~~commission of an offense is entitled to be admitted to bail before conviction unless the~~
4 ~~person is charged with a crime of violence as defined by law or with production,~~
5 ~~manufacture, distribution, or dispensing or possession with intent to produce,~~
6 ~~manufacture, distribute, or dispense a controlled dangerous substance as defined by the~~
7 ~~Louisiana Controlled Dangerous Substances Law, and after a contradictory hearing,~~
8 ~~conducted pursuant to the provisions of Article 330.1, the judge or magistrate finds by~~
9 ~~clear and convincing evidence that the defendant may flee or poses an imminent danger~~
10 ~~to any other person or the community.~~

11 A. When a bail ~~bond~~ undertaking fixes an appearance date, the defendant appears
12 as ordered, and notice of the next appearance date is given to the defendant, no additional
13 notice of that appearance date is required to be given to the defendant or the personal
14 surety or the commercial surety or the agent or bondsman who posted the ~~bond~~ bail
15 undertaking for the commercial surety.

16 B. When a bail ~~bond~~ undertaking does not fix the appearance date, written notice
17 of the time, date, and place the defendant is first ordered by the court to appear shall be
18 given to the defendant or his duly appointed agent and his personal surety or the
19 commercial surety or the agent or bondsman who posted the ~~bond~~ bail undertaking for
20 the commercial surety.

21 C. If the defendant appears as ordered and the proceeding is continued to a
22 specific date, the defendant and the personal surety or the commercial surety or the agent

1 or bondsman who posted the ~~bond~~ bail undertaking for the commercial surety and who
2 has been given initial notice pursuant to Paragraph A or B of this Article, need not be
3 given notice of the new appearance date. If the defendant fails to appear as ordered, or the
4 proceeding is not continued to a specific date, the defendant or his duly appointed agent,
5 the personal surety or the agent or bondsman who posted the ~~bond~~ bail undertaking for
6 the commercial surety shall be given notice of the new appearance date.

7 D. Notice required pursuant to the provisions of this Article to the defendant and
8 the personal surety or the commercial surety or the agent or bondsman who posted the
9 ~~bond~~ bail undertaking for the commercial surety shall be made to the address provided
10 pursuant to Article ~~322~~ 329. Notice may be:

11 (1) Delivered by an officer designated by the court at least two days prior to the
12 appearance date.

13 (2) Mailed by United States first class mail or by electronic means in accordance
14 with Article 329 at least five days prior to the appearance date.

15 E. Failure to give the notice required by this Article relieves the surety from
16 liability on a judgment of bond forfeiture for the nonappearance of the defendant on that
17 particular date.

18 Source: C.Cr.P. Art. 344

19 Art. 331. ~~Capital offenses~~ Discharge of bail obligation

20 ~~A. A person charged with the commission of a capital offense shall not be~~
21 ~~admitted to bail if the proof is evident and the presumption great that he is guilty of the~~
22 ~~capital offense.~~

1 ~~B. When a person charged with the commission of a capital offense makes an~~
2 ~~application for admission to bail, the judge shall hold a hearing contradictorily with the~~
3 ~~state.~~

4 ~~C. The burden of proof:~~

5 ~~(1) Prior to indictment is on the state to show that the proof is evident and the~~
6 ~~presumption great that the defendant is guilty of the capital offense.~~

7 ~~(2) After indictment is on the defendant to show that the proof is not evident or~~
8 ~~the presumption is not great that he is guilty of the capital offense.~~

9 A. (1) Upon conviction and imposition of sentence or the pronouncement of
10 sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the bail
11 undertaking shall cease and the surety shall be relieved of all obligations under the ~~bond~~
12 bail undertaking. (Source: Art. 326(B)(1))

13 (2) Upon conviction in any felony case, the bail undertaking shall cease and the
14 surety shall be relieved of all obligations under the ~~bond~~ bail undertaking. (Source: Art.
15 326(B)(2))

16 (3) In all cases, if necessary to assure the presence of the defendant at all future
17 stages of the proceedings, the court may in its discretion, in accordance with Article 312
18 require the defendant to post another ~~bond~~ bail undertaking or other acceptable security,
19 or may release the defendant on bail without surety as provided for in Article 325. The
20 court may continue the existing bail undertaking with the written approval of the surety
21 on the ~~bond~~ bail undertaking. Such approval must be obtained from the surety after
22 conviction. (Source: Art. 326(B)(3))

1 B. When the district attorney dismisses an indictment or information and institutes
2 a subsequent indictment or information for the same offense or for a lesser offense based
3 on the same facts, the court shall reinstate any bail discharged when the district attorney
4 dismissed the initial indictment or information if the surety consents to the reinstatement
5 expressly and in writing. Orleans Parish district judges with criminal jurisdiction sitting
6 en banc may adopt rules effectuating telephonic communication and verification of ~~bonds~~
7 bail undertakings and releases. (Source: Art. 334.5(A) and (B))

8 C. (1) A surety may surrender the defendant ~~or the defendant may surrender~~
9 ~~himself, in open court or to the officer charged with his detention,~~ at any time ~~prior to~~
10 ~~forfeiture or within the time allowed by law for setting aside a judgment of forfeiture of~~
11 ~~the bail bond.~~ For the purpose of surrendering the defendant, the surety may arrest him.
12 The surety shall pay a fee of twenty-five dollars to the officer charged with the
13 defendant's detention for accepting the surrender, processing the paperwork, and giving
14 the surety a certificate of surrender. Upon the surrender of the defendant, the officer shall
15 ~~detain the defendant in his custody as upon the original commitment and shall~~
16 ~~acknowledge the surrender by a certificate signed by him and delivered to the surety. The~~
17 ~~officer shall~~ retain a copy and forward a copy of the certificate of surrender to the clerk of
18 court and the prosecuting attorney.

19 (2) ~~After compliance with the provisions of Paragraph F of this Article~~ Upon
20 surrender of the defendant at any time prior to the expiration of one hundred eighty days
21 after the notice of warrant for arrest was sent, the surety shall be fully and finally
22 discharged and relieved, ~~as provided for in Paragraphs C and D of this Article,~~ of all

1 obligations under the ~~bond~~ bail undertaking by operation of law, without the need to file a
2 motion or other pleading. (Source: Art. 345(A))

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

8 E. At any time prior to ~~forfeiture or within the time allowed by law for setting~~
9 ~~aside a judgment for forfeiture of the bail bond~~ the defendant's failure to appear or within
10 one hundred eighty days after the notice of warrant for arrest is sent, the surety may file
11 with the clerk of court and present to the court a certificate of death naming the defendant
12 as the deceased party. The certificate shall be under seal of the authority confirming the
13 defendant's death. Upon proof that the surety is unable to obtain a certificate of death, the
14 surety or the court may invoke a contradictory hearing in order to establish proof of death
15 by clear and convincing evidence. If the court determines that the defendant is deceased
16 ~~¶~~thereafter, the surety shall be fully and finally discharged and relieved of any and all
17 obligations ~~under the bond~~ bail undertaking. (Source: Art. 345(E))

18 F.(1) Forty-five days after the defendant's failure to appear and while there is still
19 an active arrest warrant in the proceeding for which the bond was posted, the surety or
20 bail bond producer who posted the bond may file with the clerk of court where the
21 charges are pending an affidavit requesting the defendant be remanded and surrendered
22 upon his appearance before the court. The clerk of court shall forward a copy of the

1 affidavit to the court before which the charges are pending. The affidavit must meet all
2 the requirements set forth in R.S. 22:1585 and be filed before the court where the charges
3 are pending. A copy of the affidavit must be provided to the prosecuting attorney.

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

10 G. ~~During the period provided for surrendering the defendant~~ Any time after the
11 defendant's failure to appear and the issuance of the warrant of arrest, the surety may
12 request that the officer originally charged with the detention of a ~~felony~~ defendant place
13 the name of the ~~felony~~ defendant into the National Crime Information Center registry.
14 The officer shall determine if the placement of the name is authorized by the rules
15 governing National Crime Information Center registry within thirty days of the request. If
16 not authorized, the officer shall provide notice to the surety of the reason for non-
17 placement. If placement is authorized, ~~the~~ the surety shall pay to that officer a fee of
18 twenty-five dollars for processing the placement. If, authorized and after payment of the
19 twenty-five-dollar fee, the name of the defendant is removed from the National Crime
20 Information Center registry without cause during the period provided for surrendering the
21 defendant, ~~the surety shall be relieved of all obligations under the bond~~ the period for
22 filing a rule to show cause under Article 349.2 shall be suspended until the name of the

1 defendant is placed back in the registry. (Source: Art. 345(G))

2 H. In the case of any fee required under the provisions of this Article, the officer
3 charged with the defendant's detention shall provide the surety with a receipt indicating
4 the amount of the fee collected, the name of the defendant, the purpose of the fee
5 collected, ~~the date and time the defendant was surrendered,~~ the name of the person from
6 whom the fee was collected, and information sufficient to identify any applicable bond
7 bail undertaking, and the date and time the defendant was surrendered. (Source: Art.
8 345(H))

9 I. The court shall order the bail ~~bond~~ obligation canceled when there is no further
10 liability thereon. (Source: Art. 348)

11 Source: C.Cr.P. Arts. 326, 334.5, 345, and 348

12 Art. 332. ~~Bail after conviction~~ Court order for arrest of defendant

13 ~~A. A convicted person shall be remanded to jail to await sentence unless any of~~
14 ~~the following occur:~~

15 ~~(1) He is allowed to remain free on a bail obligation posted prior to conviction by~~
16 ~~operation of Article 326(B), and the bail previously fixed is in accordance with all of the~~
17 ~~applicable provisions of this Article.~~

18 ~~(2) He is released by virtue of a bail obligation posted after conviction, which~~
19 ~~bail was fixed in accordance with this Article.~~

20 ~~B. After conviction and before sentence, bail shall be allowed if the maximum~~
21 ~~sentence which may be imposed is imprisonment for five years or less. Bail may be~~
22 ~~allowed pending sentence if the maximum sentence which may be imposed is~~

1 ~~imprisonment exceeding five years, except when the court has reason to believe, based on~~
2 ~~competent evidence, that the release of the person convicted will pose a danger to any~~
3 ~~other person or the community, or that there is a substantial risk that the person convicted~~
4 ~~might flee.~~

5 ~~C. After sentence and until final judgment, bail shall be allowed if a sentence of~~
6 ~~five years or less is actually imposed. Bail may be allowed after sentence and until final~~
7 ~~judgment if the sentence actually imposed exceeds imprisonment for five years, except~~
8 ~~when the court has reason to believe, based on competent evidence, that the release of the~~
9 ~~person convicted will pose a danger to any other person or the community, or that there is~~
10 ~~a substantial risk that the person convicted might flee.~~

11 ~~D. In those instances above in which bail shall be allowed, the court shall~~
12 ~~consider whether the release of the person convicted or sentenced will pose a danger to~~
13 ~~any other person or the community in determining the amount of bail.~~

14 ~~E. After conviction of a capital offense, a defendant shall not be allowed bail.~~

15 The court in which the defendant is held to answer may issue a warrant for the
16 arrest and commitment of the defendant who is at large on bail when any of the following
17 are true:

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

19 (2) It appears that a surety has become insufficient, is dead, cannot be found, or
20 has ceased to meet the qualifications of law or does not own adequate immovable
21 property within the state.

22 (3) The court is satisfied that the bail should be increased or new or additional

1 security required.

2 Source: C.Cr.P. Art. 346

3 Art. 333. ~~Authority to fix bail~~ Failure to appear; issuance of arrest warrant

4 ~~The following magistrates, throughout their several territorial jurisdictions, shall~~
5 ~~have authority to fix bail:~~

6 ~~(1) District courts having criminal jurisdiction, in all cases.~~

7 ~~(2) City or parish courts and municipal and traffic courts of New Orleans having~~
8 ~~criminal jurisdiction, in cases not capital.~~

9 ~~(3) Mayor's courts and traffic courts in criminal cases within their trial~~
10 ~~jurisdiction.~~

11 ~~(4) Juvenile and family courts in criminal cases within their trial jurisdiction.~~

12 ~~(5) Justices of the peace in cases not capital or necessarily punishable at hard~~
13 ~~labor.~~

14 If at the time fixed for appearance the defendant, who was properly noticed, fails
15 to appear as required by the court, the ~~judge may~~ court shall, on its own motion or ~~shall~~
16 on motion of the prosecuting attorney, immediately issue a warrant for the arrest of the
17 defendant.

18 Source: C.Cr.P. Art. 349.1

19 Art. 334. ~~Factors in determining amount of bail~~ Notice of warrant of arrest

20 ~~The amount of bail shall be such that, in the judgment of the court, commissioner,~~
21 ~~or magistrate, it will insure the presence of the defendant, as required, and the safety of~~
22 ~~any other person and the community, having regard to:~~

1 ~~(1) The seriousness of the offense charged, including but not limited to whether~~
2 ~~the offense is a crime of violence or involves a controlled dangerous substance.~~

3 ~~(2) The weight of the evidence against the defendant.~~

4 ~~(3) The previous criminal record of the defendant.~~

5 ~~(4) The ability of the defendant to give bail.~~

6 ~~(5) The nature and seriousness of the danger to any other person or the~~
7 ~~community that would be posed by the defendant's release.~~

8 ~~(6) The defendant's voluntary participation in a pretrial drug testing program.~~

9 ~~(7) The absence or presence of any controlled dangerous substance in the~~
10 ~~defendant's blood at the time of arrest.~~

11 ~~(8) Whether the defendant is currently out on bond on a previous felony arrest for~~
12 ~~which he is awaiting institution of prosecution, arraignment, trial, or sentencing.~~

13 ~~(9) Any other circumstances affecting the probability of defendant's appearance.~~

14 ~~(10) The type or form of bail.~~

15 ~~After entering the fact of the signing of the judgment of bond forfeiture in the~~
16 ~~court minutes, the clerk of court shall promptly mail notice of the signing of the judgment~~
17 ~~of bond forfeiture. After a warrant for arrest is issued, the clerk of court shall, within~~
18 ~~sixty days, send a notice of warrant for arrest to the prosecuting attorney. The notice of~~
19 ~~the signing of the judgment shall also be mailed sent by United States certified mail with~~
20 ~~return receipt affixed thereto or electronic means to the defendant, the bail agent or~~
21 ~~bondsman, if any, and the personal surety, the agent, or bondsman who posted the bond~~
22 ~~for the commercial surety, and the commercial surety at the addresses designated in~~

1 ~~Article 322 or an address registered with the Louisiana Department of Insurance. Notice~~
2 ~~shall be sent by electronic means or certified mail to the commercial surety. All notices~~
3 ~~shall be sent to the addresses provided pursuant to Article 329 or an address registered~~
4 ~~with the Louisiana Department of Insurance. The N~~notice to the commercial surety shall
5 include the power of attorney number used to execute the bail undertaking ~~bond without~~
6 ~~which the bond obligation of the commercial surety shall be suspended until the power of~~
7 ~~attorney number is supplied, provided the commercial surety provides notice to the clerk~~
8 ~~of court who mailed the notice to the surety of the failure to include such number in the~~
9 ~~notice by certified mail not later than thirty days following receipt of notice of the~~
10 ~~judgment. If the power of attorney number is not provided to the commercial surety~~
11 ~~within thirty days after the date of receipt by the clerk of court of the notice that it was~~
12 ~~not included in the notice of the judgment, the commercial surety shall be released from~~
13 ~~the bond obligation. Failure to include the power of attorney number shall not affect the~~
14 ~~validity or enforcement of a resulting judgment. (Source: Art. 349.3(A)(1)) After mailing~~
15 ~~sending the notice of the signing of the judgment of bond forfeiture~~ warrant for arrest, the
16 clerk of court shall execute ~~an affidavit of the mailing~~ a certificate that notice was sent
17 and place the ~~affidavit and the return receipts~~ certificate in the record. (Source: Art.
18 349.3(B)) Failure to ~~mail~~ send notice of the signing of the judgment to the commercial
19 surety within sixty days ~~after the defendant fails to appear~~ shall release the ~~sureties~~ surety
20 of all obligations under the ~~bond~~ bail undertaking. (Source: Art. 349.3(C))

21 Source: C.Cr.P. Art. 349.3

22 Art. 335. ~~Other conditions related to the appearance of the defendant~~ Period for filing a

1 rule to show cause

2 ~~The court may impose any additional condition of release that is reasonably~~
3 ~~related to assuring the appearance of the defendant before the court. Violation of such~~
4 ~~condition by the defendant shall be considered as a constructive contempt of court, and~~
5 ~~shall be grounds for revocation of bail, but does not give rise to a forfeiture.~~

6 If the defendant fails to make an appearance and has not been surrendered or
7 constructively surrendered within one hundred eighty days of the execution of the
8 certificate that notice of warrant for arrest was sent, the prosecuting attorney may file a
9 rule to show cause requesting that a bond forfeiture judgment be rendered. The rule to
10 show cause shall be mailed to the defendant and served on all other parties against whom
11 a judgment is sought. The rule to show cause shall be set for a contradictory hearing.
12 The time period for filing a rule to show cause to obtain a judgment of bond forfeiture
13 does not begin until after the notice of warrant for arrest is sent.

14 ~~Art. 336. Release conditioned on participation in pretrial drug testing program~~ Proof
15 necessary at rule to show cause

16 ~~A.(1) Every person arrested for a violation of the Uniform Controlled Dangerous~~
17 ~~Substances Law or a crime of violence as provided in R.S. 14:2(B) shall be required to~~
18 ~~submit to a pretrial drug test for the presence of designated substances in accordance with~~
19 ~~the provisions of this Article and rules of court governing such testing. A person arrested~~
20 ~~for the above referenced crimes, who tests positive for the presence of one or more of the~~
21 ~~designated substances set forth in Subparagraph (2) of Paragraph B of this Article or any~~
22 ~~person arrested for a violation of R.S. 40:961 through 1036, if released by order of court~~

1 on his personal surety, shall meet the requirements of Article 315 for a personal surety
2 and shall, as a condition of bail, be required to participate in a pretrial drug testing
3 program.

4 (2) ~~Every person arrested for a felony, not otherwise required to submit to a~~
5 ~~pretrial drug test as provided for in Subparagraph (1) of this Paragraph, may be required~~
6 ~~to submit to a pretrial drug test for the presence of designated substances in accordance~~
7 ~~with the provisions of this Article and rules of court governing such testing. A person~~
8 ~~arrested for a felony who tests positive for the presence of one or more of the designated~~
9 ~~substances set forth in Subparagraph (2) of Paragraph B of this Article or any person~~
10 ~~arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his~~
11 ~~personal surety, shall meet the requirements of Article 315 for a personal surety and may,~~
12 ~~as a condition of bail, be required to participate in a pretrial drug testing program.~~

13 (3) ~~Every person arrested for a misdemeanor may be required to submit to a~~
14 ~~pretrial drug test for the presence of designated substances in accordance with the~~
15 ~~provisions of this Article and rules of court governing such testing. A person arrested for~~
16 ~~a misdemeanor who tests positive for the presence of one or more of the designated~~
17 ~~substances set forth in Subparagraph (2) of Paragraph B of this Article or any person~~
18 ~~arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his~~
19 ~~personal surety, shall meet the requirements of Article 315 for a personal surety and may,~~
20 ~~as a condition of bail, be required to participate in a pretrial drug testing program.~~

21 (4) ~~The provisions of this Paragraph requiring mandatory pretrial drug testing~~
22 ~~shall be contingent upon receipt of adequate funding to cover the costs of such testing, as~~

1 provided in Paragraph E of this Article.

2 ~~B. The court may, and in all municipalities with a population of three hundred~~
3 ~~thousand or more persons shall, implement a pretrial drug testing program which shall~~
4 ~~provide for the following:~~

5 (1) ~~Mandatory participation for all persons arrested for violations of state law.~~

6 (2) ~~Drug testing to determine the presence of phenethylidine (PCP), opiates~~
7 ~~(heroin), cocaine, methadone, amphetamines, or marijuana, prior to first court appearance~~
8 ~~and random testing thereafter to verify that the person is drug free.~~

9 (3) ~~Restrictions on the use of any and all test results to ensure that they are used~~
10 ~~only for the benefit of the court to determine appropriate conditions of release,~~
11 ~~monitoring compliance with court orders, and assisting in determining appropriate~~
12 ~~sentences. A form statement shall be signed by the law enforcement agency and the~~
13 ~~person in custody stipulating that under no circumstances shall the information be used as~~
14 ~~evidence or as the basis for additional charges.~~

15 (4) ~~Reasonable testing procedures to ensure the fair administration of the test and~~
16 ~~protection for the chain of custody for any evidence obtained.~~

17 ~~C. If the person fails to comply with the pretrial drug testing program rules, the~~
18 ~~court may hold him in contempt and impose sanctions the court deems appropriate,~~
19 ~~including the posting of additional bail.~~

20 ~~D. No person shall be released under the provisions of the pretrial drug testing~~
21 ~~program unless he agrees to do the following:~~

22 (1) ~~Submit to continued random testing to verify that he is drug free.~~

1 ~~(2) Refrain from the use or possession of any controlled dangerous substance or~~
2 ~~any substance designated by the court.~~

3 ~~E. The implementation of any pretrial drug testing program authorized pursuant~~
4 ~~to the provisions of this Article shall be contingent upon receipt by the court requiring the~~
5 ~~test of sufficient federal or other funding to conduct the testing program in accordance~~
6 ~~with the provisions of this Article and any rules of court.~~

7 ~~F. No elected official who is in any way connected with the administration of the~~
8 ~~pretrial drug testing program provided for in this Article, either directly or indirectly,~~
9 ~~shall have any financial interest, either directly or indirectly, in any drug testing company~~
10 ~~participating in such pretrial drug testing program.~~

11 ~~G. All contracts awarded to any drug testing company authorized to conduct the~~
12 ~~pretrial drug testing program provided for in this Article shall be awarded in accordance~~
13 ~~with the provisions governing public bids, R.S. 38:2181 et seq.~~

14 A. The court at a contradictory hearing shall forfeit the bail undertaking and sign
15 a judgment of bond forfeiture upon proof of all of the following:

16 (1) The bail undertaking.

17 (2) The power of attorney if any.

18 (3) Notice to the defendant and the surety as required by Article 334.

19 (4) Proof that more than one hundred eighty days have elapsed since the notice of
20 warrant for arrest was sent. (Source: Art. 349.2(A))

21 ~~B. The court shall immediately issue a warrant for the arrest of the person failing~~
22 ~~to appear and order a judgment decreeing the forfeiture of the bond and The judgment of~~

1 bond forfeiture shall be issued against the defendant and his sureties in solido for the full
2 amount of the ~~bond~~ bail. A bail agent who represents the surety as an insurance agent
3 shall not be solidarily liable for the judgment of bond forfeiture ~~of a bond~~ against the
4 defendant and his sureties. In the event that a bail agent who represents the surety as an
5 insurance agent is held solidarily liable, then that bail agent may request to be released
6 from the judgment, ~~and~~ However the release of the bail agent shall have no effect on the
7 judgment decreeing the forfeiture of the ~~bond~~ bail undertaking against the defendant and
8 his sureties. (Source: Art. 349(B) and (C))

9 C. The judgment shall include the address and the last four digits of the social
10 security number for the defendant and ~~his~~ the personal sureties. A judgment of bond
11 forfeiture shall not be set aside because of the invalidity of the information required by
12 the provisions of this Article or for the failure to include the information required by this
13 Article. (Source: Art. 349.2(B))

14 Source: C.Cr.P. Arts. 349 and 349.2

15 Art. 337. ~~Juvenile records to determine bail~~ Interruption of the period for obtaining a
16 bond forfeiture judgment

17 ~~A. For the purpose of fixing bail, a magistrate may make a written request of any~~
18 ~~juvenile court for an abstract containing only the delinquent acts of a defendant currently~~
19 ~~before the requesting magistrate. The request shall be promptly complied with; however,~~
20 ~~not more than forty eight hours, exclusive of Saturdays, Sundays, and legal holidays,~~
21 ~~shall lapse before the requested information is deposited in the mail, addressed to the~~
22 ~~requesting court.~~

1 ~~B. The requesting court shall not copy, duplicate, or otherwise reproduce such~~
2 ~~juvenile records, and these shall be deposited in the mail and addressed to the issuing~~
3 ~~juvenile court within seventy-two hours, exclusive of Saturdays, Sundays, and legal~~
4 ~~holidays, after bail is determined.~~

5 ~~C. Failure to comply with the provisions of this Article shall subject the violating~~
6 ~~court to disciplinary action by the Supreme Court of Louisiana upon receipt by the~~
7 ~~judicial administrator of the supreme court of a written complaint, subsequently~~
8 ~~substantiated.~~

9 An appearance by the defendant shall interrupt the period for obtaining a bond
10 forfeiture judgment. An appearance by the defendant does not relieve the surety of its bail
11 undertaking obligations.

12 Art. 338. ~~Form and contents of bail order~~ Nonforfeiture situations

13 ~~An order fixing bail shall be in writing, set the type and a single amount of bail~~
14 ~~for each charge, designate the officer or officers authorized to accept the bail, and shall~~
15 ~~be signed by the magistrate. An order fixing bail may issue on request of the state or~~
16 ~~defendant, or on the initiative of the judge or magistrate.~~

17 A. A judgment decreeing the forfeiture of an appearance bond a bail undertaking
18 shall not be rendered if it is shown to the satisfaction of the court proven, at or prior to the
19 hearing on a rule to show cause, that the defendant, principal in on the bond bail
20 undertaking, is prevented from attending failed to appear in court because of any of the
21 following: (Source: Art. 349.9(A))

22 (1) ~~He is~~ The defendant was serving in the armed forces of the United States.

1 (Source: Art. 349.9(A)(3))

2 ~~(2) He is~~ The defendant was a member of the Louisiana National Guard called to
3 duty pursuant to R.S. 29:7. ~~This provision does not apply to appearances in a state~~
4 ~~military court.~~ (Source: Art. 349.9(A)(4))

5 (3) The defendant was prevented from appearing due to a state of emergency
6 declared by the Governor.

7 B. There shall be a rebuttable presumption that the calling of the defendant to
8 duty pursuant to R.S. 29:7 prevented the defendant, principal on the bail undertaking,
9 from attending court.

10 Comments – 2016

11 (a) The term “serving in the armed forces of the United States” refers to service
12 within (1) the armed forces on active duty, (2) the National Guard while on full-time
13 National Guard Duty, or (3) a Reserve Component while performing inactive-duty
14 training. See 10 U.S.C. § 976(a)(1) (2015); see also 10 U.S.C. § 101(d) (2015) (defining
15 the terms “active duty,” “full-time National Guard duty,” and “inactive-duty training”).
16

17 (b) Note that federal law currently provides that “[a] court may not enforce a bail
18 undertaking during the period of military service of the principal on the bond when
19 military service prevents the surety from obtaining the attendance of the principal. The
20 court may discharge the surety and exonerate the bail, in accordance with principles of
21 equity and justice, during or after the period of military service of the principal.” 50 App.
22 U.S.C. § 513(c) (2015); see also 50 App. U.S.C. § 511 (2015) (defining the terms
23 “military service” and “period of military service”).

24 Source: C.Cr.P. Art. 349.9

25 Art. 339. Notice of judgment

26 A. Notice of the signing of judgment of bond forfeiture shall be mailed by the
27 clerk of court to the counsel of record for each party, and to each party not represented by
28 counsel pursuant to Code of Civil Procedure Article 1913.

1 B. The clerk shall file a certificate in the record showing the date on which the
2 notice of the signing of the judgment was mailed.

3 ~~Art. 340. Amount of bail in felony cases; schedules of bail in noncapital cases~~

4 Recordation of judgment

5 ~~A. Unless the bail is fixed by a schedule in accordance with Paragraph B, the~~
6 ~~amount of bail in felony cases shall be specifically fixed in each case. A person shall not~~
7 ~~be released on bail pursuant to a general order which authorizes the sheriff, or other~~
8 ~~officers, to take bail and fixes the amount thereof at a certain sum for particular felonies.~~

9 ~~B. A schedule of bail according to the offense charged in noncapital felony cases~~
10 ~~may be fixed by a district court. The court order setting the bail schedule shall fix the~~
11 ~~amount of bail for each offense listed, designate the officer or officers authorized to~~
12 ~~accept the bail, and order that bail be taken in conformity with the schedule. It may also~~
13 ~~contain a general provision designating the amount of bail for any noncapital felony not~~
14 ~~listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices,~~
15 ~~and police stations within the judicial district. A bail schedule may be revised or~~
16 ~~reseinded at any time.~~

17 ~~C. A person charged with the commission of a felony for which bail is fixed by a~~
18 ~~schedule may give bail according to the schedule or demand a special order fixing bail.~~

19 ~~D. Bail herein may be set above the scheduled amount if the court deems it~~
20 ~~appropriate or the district attorney moves for good cause to have the bail set above the~~
21 ~~scheduled amount and the court finds it appropriate.~~

22 ~~E. Repealed by Acts 2010, No. 914, §5.~~

1 ~~A. After mailing notice of the signing of the judgment of bond forfeiture,~~ The
2 district attorney ~~shall~~ may cause the judgment to be recorded in every parish in which the
3 recordation may be proper. Every such recordation shall be without cost, pursuant to R.S.
4 13:4521, and shall operate as a judicial mortgage against the defendant and all his
5 sureties.

6 B. Prior to recordation, the district attorney shall verify the inclusion of
7 information on the judgment, namely, the address and the last four digits of the social
8 security number for the defendant and his the personal sureties. Third parties may rely
9 upon the accuracy of the information required by the provisions of this Article for
10 purposes of distinguishing the identity of the defendant and his sureties. Any judgment of
11 bond forfeiture containing inaccurate information required by the provisions of this
12 Article shall be deemed ineffective as a judicial mortgage to third parties who rely upon
13 that information.

14 Source: C.Cr.P. Art. 349.4

15 Art. 341. ~~Schedules of bail in misdemeanor cases~~ Appeals

16 ~~A. Schedules of bail according to the offense charged in misdemeanor cases may~~
17 ~~be fixed by district, parish, and city courts for offenses within their respective trial~~
18 ~~jurisdictions. The type or form of bail shall not be set in the bail schedule. When more~~
19 ~~than one court has trial jurisdiction over an offense, the applicable bail schedule shall be~~
20 ~~that of the court in which the case is to be tried.~~

21 ~~B. The court order setting the bail schedule shall fix the amount of bail for each~~
22 ~~offense listed, designate the officer or officers authorized to accept the bail, and order that~~

1 ~~bail be taken in conformity with the schedule. It may also contain a general provision~~
2 ~~designating the amount of bail for any misdemeanor not listed in the schedule. A copy of~~
3 ~~the schedule shall be sent to all jails, sheriff's offices, and police stations within the~~
4 ~~judicial district, parish, or city, respectively. A bail schedule may be revised or rescinded~~
5 ~~at any time.~~

6 ~~C. If a bail schedule has been set up and bail has not previously been specially~~
7 ~~fixed, a person charged with the commission of a misdemeanor has the right either to~~
8 ~~give bail according to the bail schedule, or to demand a special order fixing type or form~~
9 ~~of bail and amount of bail.~~

10 The rights of appeal of a bail undertaking forfeiture judgment shall be governed
11 by the Code of Civil Procedure Article 2081 et seq

12 Source: Art. 349.6

13 Art. 342. ~~Increase or reduction of bail; sufficiency of security~~ Enforcement of judgment

14 ~~The court having trial jurisdiction over the offense charged, on its own motion or~~
15 ~~on motion of the state or defendant, for good cause, may either increase or reduce the~~
16 ~~amount of bail, or require new or additional security. For purposes of this Article, good~~
17 ~~cause for increase of bail specifically includes but is not limited to the rearrest of the~~
18 ~~defendant on offenses alleged to have been committed while out on bond. The~~
19 ~~modification of any bail order wherein a bail bond has been posted by a criminal~~
20 ~~defendant and his sureties shall upon said modification terminate the liability of the~~
21 ~~defendant and his sureties under the previously existing bail contract. A new bail must be~~
22 ~~posted in the amount of the new bail order.~~

1 After the delay for filing a suspensive appeal has elapsed or when a judgment
2 becomes final and definitive, the prosecuting attorney may file a rule to show cause in
3 accordance with R.S. 22:1441 or collect the judgment in the same manner as a civil
4 judgment.

5 Source: C.Cr.P. Art. 349.7

6 Section 2. R.S. 15:85 is hereby amended and reenacted to read as follows:

7 § 85. Failure to satisfy judgment of bond forfeiture

8 A. If a defendant fails to appear after January 1, 2017, and a judgment of bond
9 forfeiture rendered ~~after June 22, 1993,~~ against a commercial surety company has not
10 been satisfied ~~within two hundred ten days after the date of mailing the notice of the~~
11 ~~signing of the judgment of bond forfeiture for bonds that have a face value under fifty~~
12 ~~thousand dollars, or within four hundred days from mailing the notice of the signing of~~
13 ~~the judgment of bond forfeiture for bonds which have a face value of fifty thousand~~
14 ~~dollars or more, nor has a suspensive appeal or other proceeding challenging the bond~~
15 ~~forfeiture been timely filed~~ perfected, the prosecuting attorney may file with the ~~district~~
16 court, in the parish where the ~~bond~~ bail undertaking is forfeited, a rule to show cause why
17 that commercial surety company should not be prohibited from executing criminal bail
18 bonds undertakings before the court issuing the judgment of bond forfeiture.

19 B. At the rule to show cause, the court may consider only issues which would
20 interrupt the enforceability of the judgment. The court may issue an order enjoining the
21 commercial surety company from posting criminal bail bonds undertakings before the
22 court issuing the judgment of bond forfeiture if the judgment ~~is not~~ has not been satisfied

1 ~~within ten days~~ and if the court finds all of the following:

2 (1) A defendant failed to appear after January 1, 2017 and a judgment of bond
3 forfeiture has been rendered, after June 22, 1993, against the commercial surety.

4 (2) Proper notice pursuant to Code of Criminal Procedure Article ~~349.3~~ 339 has
5 been mailed.

6 ~~(4)(3)~~ The defendant has ~~neither~~ not been surrendered, constructively surrendered,
7 nor appeared within one hundred eighty days of ~~the date of mailing the notice of the~~
8 ~~signing of the judgment of bond forfeiture for bonds that have a face value of fifty~~
9 ~~thousand dollars or more, and the defendant has not been surrendered together with ten~~
10 ~~percent of the total amount of the bond more than one hundred eighty days but within two~~
11 ~~hundred seventy days after the date of mailing the notice of the signing of the judgment~~
12 ~~of bond forfeiture~~ the execution of the certificate that notice of warrant for arrest was
13 sent.

14 ~~(3)(4)~~ The time delays for taking a suspensive appeal, as set forth in Code of Civil
15 Procedure Article 2123, have run and Nno suspensive appeal has been taken.

16 (5) ~~Two hundred ten days have passed since the date of mailing the notice of the~~
17 ~~signing of the judgment of bond forfeiture for bonds that have a face value under fifty~~
18 ~~thousand dollars, or four hundred days have passed since the date of mailing the notice of~~
19 ~~the signing of the judgment of bond forfeiture for bonds that have a face value of fifty~~
20 ~~thousand dollars or more.~~

21 (6) The judgment of bond forfeiture has not been satisfied by payment ~~of the full~~
22 ~~amount for bonds that have a face value under fifty thousand dollars, or has not been~~

1 satisfied by the surrender or the appearance of the defendant together with payment in
2 cash of ten percent of the total bond amount for bonds that have a face value of fifty
3 thousand dollars or more, if applicable.

4 C. The burden of proof at the hearing shall be upon the commercial surety by a
5 preponderance of evidence and shall be limited to documents contained in the official
6 court record where the judgment was rendered. The surety company may use evidence
7 not contained in the record to show that it did not receive ~~post forfeiture~~ notice of the
8 signing of the judgment of bond forfeiture ~~or the post forfeiture notice was not properly~~
9 ~~mailed.~~

10 Section 3. R.S. 22:1441(A)(introductory paragraph) and (1) through (5),
11 (C)(2)(introductory paragraph) and (a) through (e), and (D) are hereby amended and reenacted to
12 read as follows:

13 § 1441. Failure to timely satisfy claim under criminal bond contract

14 A. ~~Any~~ A prosecuting attorney may file with the office of the commissioner of
15 insurance's ~~office~~ a rule to show cause if all the following are true:

16 (1) A defendant failed to appear after January 1, 2017 and a judgment of bond
17 forfeiture has been rendered after June 22, 1993, against the commercial surety
18 underwriter.

19 (2) Notice pursuant to Code of Criminal Procedure Article ~~349.3~~ 339 has been
20 mailed.

21 (3) All time delays for taking a suspensive appeal, as set forth in Code of Civil
22 Procedure Article 2123, have run and No suspensive appeal has been taken.

1 (4) The defendant has neither been surrendered, constructively surrendered, nor
2 appeared within one hundred eighty days of ~~mailing of the notice of the signing of the~~
3 ~~judgment of bond forfeiture~~ the execution of the certificate that notice of warrant for
4 arrest was sent.

5 (5) More than one hundred eighty days ~~has~~ have lapsed ~~from the mailing of the~~
6 ~~notice of the signing of the judgment of bond forfeiture~~ since the execution of the
7 certificate that notice of warrant for arrest was sent.

8 (6) The judgment of bond forfeiture has not been satisfied by payment.

9 B. The prosecuting attorney shall attach adequate documentation to support his
10 affidavit and submit it to the commissioner of insurance.

11 C. (1) Within thirty days of the filing of a rule to show cause by the prosecuting
12 attorney with the commissioner of insurance, the commissioner of insurance shall notify
13 the insurance company, the commercial surety, or Lloyd's Association, in writing, at the
14 address of the home office of that organization by certified mail, setting a time, place, and
15 date of the hearing, which shall not be more than sixty days from the date of receipt of
16 notice from the prosecuting attorney. If after the hearing, the hearing officer finds that
17 there is no just cause or legal reason for the surety's nonpayment, the commissioner shall
18 take any action deemed necessary for collection of the amount owed, including
19 suspension of the surety from doing business in the state of Louisiana.

20 (2) The commissioner shall order the commercial surety underwriter to ~~pay~~
21 immediately pay the judgment of bond forfeiture, if the commissioner finds that all of the
22 following are true:

1 (a) A defendant failed to appear after January 1, 2017 and a judgment of bond
2 forfeiture has been rendered ~~after June 22, 1993,~~ against the commercial surety
3 underwriter.

4 (b) Notice pursuant to Code of Criminal Procedure Article ~~349.3~~ 339 has been
5 mailed.

6 (c) All time delays for taking a suspensive appeal, as set forth in Code of Civil
7 Procedure Article 2123, have run and ~~No~~ suspensive appeal has been taken.

8 (d) The defendant has neither been surrendered, constructively surrendered, nor
9 appeared within one hundred eighty days of ~~mailing of the notice of the signing of the~~
10 ~~judgment of bond forfeiture~~ the execution of the certificate that notice of warrant for
11 arrest was sent.

12 (e) More than one hundred eighty days has have ~~lapsed from the mailing of the~~
13 ~~notice of the signing of the judgment of bond forfeiture~~ since the execution of the
14 certificate that notice of warrant for arrest was sent.

15 (f) The judgment of bond forfeiture has not been satisfied by payment.

16 D. The burden of proof at the hearing shall be upon the commercial surety by a
17 preponderance of evidence and shall be limited to documents contained in the official
18 court record where the judgment was rendered. The surety company may use evidence
19 not contained in the record to show that it did not receive ~~post forfeiture~~ notice of the
20 signing of the judgment of bond forfeiture ~~or the post forfeiture notice required pursuant~~
21 ~~to Code of Criminal Procedure Article 349.3 was not properly mailed.~~

22 E. A commercial surety shall pay an administrative fine of five hundred dollars to

1 the Department of Insurance for each hearing to show cause in which the commercial
2 surety is a named party when the judgment has been paid after the issuance of a rule to
3 show cause that meets the requirements of Subsection A of this Section.

4 Section 4. Code of Criminal Procedure Articles 327.1, 330.1, 330.2, 330.3, 334.1, 334.2,
5 334.3, 334.4, 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348, 349, 349.1,
6 349.2, 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9 are hereby repealed in their entirety.

7 Section 5. The provisions of this Act shall become effective on January 1, 2017.

DIGEST

The digest printed below was prepared by the Louisiana State Law Institute. 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)]

Sen. _____ SB _____

Abstract: Provides for the revision and reorganization of the Code of Criminal Procedure Articles on bail.

Present law (C.Cr.P. Arts. 311 through 349.9) provides for Title VIII of the Code of Criminal Procedure with respect to bail.

Proposed law (C.Cr.P. Arts. 311 through 342) provides for a revision and reorganization of present law.

Present law (R.S. 15:85) provides for the failure to satisfy a judgment of bond forfeiture.

Proposed law provides for revisions with respect to failure to appear, surrender of the defendant, and the time delays for taking a suspensive appeal, as well as technical corrections to present law based on the reorganization of Title VIII of the Code of Criminal Procedure.

Present law (R.S. 22:1441) provides for the failure to timely satisfy a claim under a criminal bond contract.

Proposed law provides for revisions with respect to failure to appear, the time delays for taking a suspensive appeal, and surrender of the defendant, as well as technical corrections to present law based on the reorganization of Title VIII of the Code of Criminal Procedure.

Effective Jan. 1, 2017.

(Amends C.Cr.P. Arts. 311 through 342 and R.S. 15:85 and 22:1441 (A)(introductory paragraph) and (1) through (5), (C)(2)(introductory paragraph) and (a) through (e), and (D)); Repeals C.Cr.P. Arts. 327.1, 330.1, 330.2, 330.3, 334.1, 334.2, 334.3, 334.4, 334.5, 334.6, 335.1, 335.2, 336.1, 336.2, 343, 344, 345, 346, 347, 348, 349, 349.1, 349.2, 349.3, 349.4, 349.5, 349.6, 349.7, 349.8, and 349.9)