

Regular Session, 2010

HOUSE BILL NO. 740

BY REPRESENTATIVE LOPINTO

CRIMINAL/PROCEDURE: Provides relative to hearings of pretrial motions filed by the defendant

1 AN ACT

2 To enact Code of Criminal Procedure Article 523, relative to pretrial motions; to provide
3 relative to notice of pretrial motion hearings; to provide relative to the defendant's
4 appearance at pretrial motion hearings; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 523 is hereby enacted to read as
7 follows:

8 Art. 523. Notice for hearing of pretrial motions; dismissal

9 A. When the court sets a date for a contradictory hearing of any pretrial
10 motion filed by the defendant, in addition to any other method of service provided
11 for by law, notice of the date of such hearing may be served upon the defendant by
12 mailing notice to the counsel of record.

13 B. Failure of a defendant who is not incarcerated, or failure of his attorney,
14 to appear for the hearing of a pretrial motion filed by the defendant shall be grounds
15 for dismissal by the court.

16 C. On oral or written motion of the district attorney, the court shall dismiss
17 the defendant's pretrial motion upon either of the following:

18 (1) The second failure to appear by the defendant or his counsel, after actual
19 notice, for the hearing of a pretrial motion filed by the defendant, when the hearing

1 for such motion was previously reset due to the defendant's failure to appear on the
2 date that the hearing was originally set.

3 (2) The first failure to appear by the defendant or his counsel, after actual
4 notice, for the hearing of a pretrial motion filed by the defendant, when the defendant
5 has previously failed to appear in court for any other proceeding in the case.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto

HB No. 740

Abstract: Provides relative to a defendant's appearance at hearings for pretrial motions filed by the defendant.

Proposed law provides that a defendant may be given notice of any pretrial motion hearing date by mailing notice to the counsel of record.

Proposed law provides that failure of a defendant or the counsel to appear for the hearing of a pretrial motion shall be grounds for dismissal of the motion.

Proposed law provides that, by motion of the district attorney, a defendant's pretrial motion shall be dismissed when either of the following occur:

- (1) The second failure to appear by the defendant or his counsel, after actual notice, for the hearing of a pretrial motion filed by the defendant, when the hearing for such motion was previously reset due to defendant's failure to appear on the date that the hearing was originally set.
- (2) The first failure to appear by the defendant or his counsel, after actual notice, for the hearing of a pretrial motion filed by the defendant, when the defendant has previously failed to appear in court for any other proceeding in the case.

(Adds C.Cr.P. Art. 523)