Regular Session, 2012

SENATE BILL NO. 292

BY SENATOR MURRAY

CRIMINAL PROCEDURE. Provides relative to surrender of the defendant. (gov sig)

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Art. 345(G) and (I)(introductory
3	paragraph), relative to surrender of the defendant; to provide with respect to the
4	defendant's extradition; to provide relative to entering the defendant's name into the
5	National Crime Information Center registry; to provide with respect to an extension
6	of time to surrender a defendant; to provide for an effective date; and to provide for
7	related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Code of Criminal Procedure Art. 345(G) and (I)(introductory paragraph)
10	are hereby amended and reenacted to read as follows:
11	Art. 345. Surrender of defendant
12	* * *
13	G. During the period provided for surrendering the defendant, the surety may
14	request that the officer originally charged with the detention of a felony defendant
15	place the name of the felony defendant into the National Crime Information Center
16	registry. The surety shall pay to that officer a fee of twenty-five dollars for
17	processing the placement. If, after payment of the twenty-five-dollar fee, **the**

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

1   **defendant's extradition is refused by the Office of the District Attorney, or** the

2   name of the defendant is **either not entered into or is** removed from the National

3   Crime Information Center registry without cause during the period provided for

4   surrendering the defendant, the surety shall be relieved of all obligations under the

5   bond.

6   *   *   *

7   I. In addition to and notwithstanding any other provision of law, a surety may

8   seek an extension of time to surrender a defendant, or have the judgment of bond

9   forfeiture set aside by filing a motion in the criminal court of record and after

10   contradictory hearing with the district attorney and with proof satisfactory to the

11   court that **such an extension of time or set aside is justified under the facts of the**

12   **case.** ~~a fortuitous event has occurred and that the event has made it impossible to~~

13   ~~perform as required under the contract. A motion seeking relief pursuant to this~~

14   ~~Paragraph must be filed within three hundred sixty-six days from the date of the~~

15   ~~fortuitous event, excluding legal delays.~~ The court in its discretion may do any of the

16   following:

17   *   *   *

18   Section 2. This Act shall become effective upon signature by the governor or, if not

19   signed by the governor, upon expiration of the time for bills to become law without signature

20   by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

21   vetoed by the governor and subsequently approved by the legislature, this Act shall become

22   effective on the day following such approval.

DIGEST

Present law provides that during the period provided for surrendering the defendant, the
surety may request that the officer originally charged with the detention of a felony
defendant place the name of the felony defendant into the National Crime Information
Center registry.

Present law provides that the surety shall pay to that officer a fee of $25 for processing the
placement. If, after payment of the $25 fee, the name of the defendant is removed from the
NCIC registry without cause during the period provided for surrendering the defendant, the

surety shall be relieved of all obligations under the bond.

Proposed law provides that the surety shall pay to the officer a fee of $25 for processing the placement. If, after payment of the $25 fee, the defendant's extradition is refused by the Office of the District Attorney, or the name of the defendant is either not entered into or is removed from the NCIC registry without cause during the period provided for surrendering the defendant, the surety shall be relieved of all obligations under the bond.

Present law provides that in addition to and notwithstanding any other provision of law, a surety may seek an extension of time to surrender a defendant, or have the judgment of bond forfeiture set aside by filing a motion in the criminal court of record and after contradictory hearing with the district attorney and with proof satisfactory to the court that a fortuitous event has occurred and that the event has made it impossible to perform as required under the contract.

Present law provides that a motion seeking relief pursuant to present law must be filed within 365 days from the date of the fortuitous event, excluding legal delays.

Present law provides that the court in its discretion may do any of the following:

1.   Set aside the forfeiture or grant the nullity.

2.   Grant an extension of up to 366 days from the expiration of the initial time period allowed for the surrender of the defendant from the date of the mailing of proper notice of bond forfeiture. If the court grants that extension, judicial interest shall be suspended during that additional time period.

3.   Deny the relief.

Proposed law retains present law but provides that in addition to and notwithstanding any other provision of law, a surety may seek an extension of time to surrender a defendant, or have the judgment of bond forfeiture set aside by filing a motion in the criminal court of record and after contradictory hearing with the district attorney and with proof satisfactory to the court that such an extension of time or set aside is justified under the facts of the case.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Art 345(G) and (I)(intro para))

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