

# **LOUISIANA CLERKS OF COURT INSTITUTE**

**AUGUST 18, 2010**



# **CIVIL SUITS**



# ACT 55

## Relative to Service of Citation

- If service is not requested within 90 days of the commencement of action or filing of supplemental or amended petition
- which names the state, state agency, political subdivision or any officer or employee as a party,
- action shall be dismissed without prejudice, after contradictory motion
- as to state, state agency, or political subdivision, or any officer or employee, **who has not been served.**

# ACT 56

## Delay for Applying for New Trial

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- Amended from 3 days to 7 days, exclusive of legal holidays.

# **ACT 79**

## **Relative to Dedication of Cemetery Property**

- **Notice of judicial proceeding shall be given to Louisiana Division of Archaeology and attorney general**
- **in action to cause the cemetery's dedication protection to be removed.**
- **Copy of petition shall be served upon Louisiana Division of Archaeology and attorney general**

# ACT 185

## CLASS ACTIONS – CCP 596

- CCP 596 - clarifies that the period of suspension is subject to further suspension by the articles on appeal – **30 DAYS**
- **CCP 596B – The notice required by Sub Par 2 & 3 shall contain a statement of the delay periods provided herein.**

# ACT 185

## SUMMARY PROCEEDINGS – CCP 1293

- Broadens grounds on which a court may order service by a private person in a summary proceeding – **CHANGES CITATIONS TO NOTICES AND SUBPOENAS**

# ACT 185

## SUMMARY PROCEEDINGS – CCP 1313

- **New law changes "facsimile" to "electronic means"**
- Transmitting by electronic means to counsel of record, or if no counsel of record, to adverse party, at number or addresses expressly designated in a pleading or other writing for receipt of electronic service.

# ACT 185

## SUMMARY PROCEEDINGS – CCP 1313

- Service by electronic means is complete upon transmission but is not effective and shall not be certified if serving party learns transmission did not reach party to be served.

# ACT 185

## SUMMARY PROCEEDINGS – CCP 1313

- B. When service is made by mail, delivery, or electronic means,
- the party or counsel making the service shall file in the record a certificate of the manner in which service was made

# ACT 185

## DISCOVERY – CCP 1462

- (2) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost.
- On motion to compel discovery or for a protective order,
- party from whom discovery is sought shall show information is not reasonably accessible because of undue burden or cost.

# ACT 185

## DISCOVERY – CCP 1462

- If that showing is made, the court may order discovery from such sources if the requesting party shows good cause.
- The court may specify conditions for the discovery considering the criteria and limitations of Article 1426.

# ACT 185

## Service of Process R.S. 13:3471

- Subsequent to service of original petition in any civil action or proceeding,
- Service of pleadings, that may be served by mail or delivery on an attorney of record
- May also be made by transmitting a copy by electronic means at the number or addresses for receipt of electronic service expressly designated in a pleading or other writing for receipt of electronic service.

# ACT 185

## Service of Process R.S. 13:3471

- Service by electronic means is complete upon transmission
- But is not effective and shall not be certified if the serving party learns transmission did not reach attorney to be served.

# ACT 262

## Recusal of JUDGE - CCP 153

- Until a judge has recused himself, or a motion for his recusation has been filed, he has full power and authority to act in the cause.
- The judge to whom the motion to recuse is assigned shall have full power and authority to act in the cause pending the disposition of the motion to recuse

# ACT 262

## Recusal of Judge - CCRP 673

- A judge has full power and authority to act, even though a ground for recusation exists, until he is recused, or a motion for his recusation is filed.
- The judge to whom the motion to recuse is assigned shall have full power and authority to act in the cause pending the disposition of the motion to recuse

# ACT 266

## Voluntary Transfer of Custody

- ChC. 1517 A. Notice of proceedings, including, if applicable, parents' right to an attorney in accordance with Paragraph E of this Article, shall be served on any parent or legal custodian who has not joined in the petition.
- E. If Department of Social Services has Recommended that petition for voluntary transfer of custody be filed:
  - (1) It shall also be served with notice of the proceedings.

# ACT 266

## Voluntary Transfer of Custody

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- ChC. 1518 Upon request of an indigent parent, the court shall appoint counsel for the parent when the Department of Social Services has recommended that the petition for voluntary transfer be filed.

# ACT 407

## Divorce Proceedings

- Prior law (C.C.P. Art. 1201) provided that citation and service are required in all civil actions except summary and executory proceedings, actions for divorce in accordance with Civil Code Art. 102, and proceedings under the Children's Code.
- New law provides that when a 102 divorce petition is filed, service of the petition **shall be requested within 90 days.**

# ACT 407

## Divorce Proceedings

- New law - defendant may expressly waive service requirement unless he files a declinatory exception of insufficiency of service of process alleging failure to timely request service of petition for divorce.
- New law provides that an action for divorce **shall be dismissed if service is not timely requested and a declinatory exception of insufficiency of service is filed.**

# ACT 448

## Registry of Court R.S. 13:918

- After the clerk of court receives a copy of an order authorizing disbursement of funds located in the registry of the court,
- the clerk within 15 business days shall disburse the funds by check, payable to each entity or person entitled to the funds.

# ACT 448

## Registry of Court R.S. 13:918

- If the clerk of court fails to disburse the funds within the time period required under this Section,
- the entity or person entitled to the funds shall also be entitled to receive all interest earned on such funds while in the registry of the court.

# ACT 461

## E-FILING

- Prior law - provided that all pleadings or documents filed shall be delivered to the clerk of court for endorsement and retention for inclusion in the record.
- **New law** retains prior law and provides that all pleadings, documents, and exhibits may be transmitted electronically through a system established by the clerk of court.

# ACT 461

## E-FILING

- **New law** – requires clerk to adopt and implement procedures for electronic filing and provides that public access to electronically filed documents is the same as access to written filings.
- **New law** - provides that the electronic record is the official record, and all documents electronically filed are deemed filed on the date and time stated on the confirmation by the clerk of court.

# Act 466

## Service of Process

- Prior law - when sheriff had not made service within 5 days after receipt of the process or when a return had been made certifying that sheriff was unable to make service, the court was authorized to grant a motion by a party to appoint a private process server.
- **New law** - requires court to grant a motion by a party to appoint a private process server whom court deems to be qualified when sheriff has not made service within 10 days after receipt of process, or

# Act 466

## Service of Process

- When a return has been made certifying sheriff has been unable to make service, (**whichever is earlier.**)
- **New law** - provides that any person who is a Louisiana licensed private investigator shall be presumed qualified to perform the required duties to make service of process.
- **Effective upon signature of governor (June 22, 2010).**

# ACT 540

## Certification of Pleadings

- The pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase cost of litigation
- By signing pleading, the person is certifying each claim, defense, or other legal contention in pleading, is warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law

# ACT 540

## Certification of Pleadings

- Requires court, when imposing sanction, to describe the conduct that is in violation of proposed law and to explain basis for imposed sanction.

# ACT 541

## Seal on Documents

- CODE OF EVIDENCE 902 (1)
- Provides that electronically generated documents that are associated with electronically generated seals are included in the provision relative to domestic public documents under seal.

## Act 545

### Arbitration R.S. 9:4203 & 6

- **New law** - failure to pay within 10 business days required deposit, fee, or expense shall constitute default in arbitration proceeding &
- Party aggrieved by default shall be entitled to remove the matter under arbitration to a court and shall be entitled to attorney fees and costs in addition to other remedies.

# ACT 604

## Divorce – Time Periods – CC 103

- Retains existing law regarding contradictory hearing and additionally provides that time period shall be 180 days when, in accordance with a consent decree, a protective order or injunction has been issued.
- Provides that determination of whether there are minor children of marriage occurs at time rule to show cause is filed in accordance with C.C. Art. 102 or when the petition is filed in accordance with C.C. Art. 103.

# ACT 605

## Child Support

- Existing law provides that a representative of the child support collection agency may serve defendant a summons ordering him to appear.
- **New law** retains existing law, **but gives representative of child support collection agency authority to issue as well as serve summonses, and provides that appearance and rule to show cause shall be on a date specified by the court.**

# ACT 605

## Child Support

- Prior law provided that only the district attorney file with the court and serve in open court on the defendant a rule for contempt.
- New law allows DA or DSS to file with the court and serve in open court on the defendant any summons served and a rule for contempt

# ACT 682

## Interrogatories

- Existing law - provides each interrogatory, request for production of documents, and for admission
- Shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer.

# ACT 682

## Interrogatories

- **New law** requires written answer or reasons for objection shall immediately follow a restatement of each interrogatory, request for production of documents, or request for admission.
- **New law** provides that when interrogatories are served on a specific party, that party shall verify that he has read and confirmed the answers and objections.
- **Effective January 1, 2011**

# ACT 686

## Child Support

- When employer (payor) fails to withhold or pay over income pursuant to an income assignment order – fine that may be imposed increased from \$25 per day to \$50 per day

# ACT 689

## Child Support

- **New law** - a proceeding for modification of support maybe brought in parish where person awarded support is domiciled only
- if the support award has been registered in that parish in accordance with C.C.P. Art. 2785 et seq., regardless of the domicile requirements of 2786(A).

# ACT 689

## Child Support

- **New law** -it is unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in this state, if the obligation has remained unpaid for a period longer than six months or is greater than **\$2,500** ( old law \$5000)

# ACT 689

## Child Support

- **New law** - court may not suspend all or any portion of the imposition or execution of sentence for a second or subsequent offense.
- **Effective upon signature of governor (June 29, 2010).**

# ACT 690

## Motions for Summary Judgments

- Prior law provided 15 days in which motions for summary judgment, memos in support, and opposing affidavits must be served.
- **New law** requires all motions for summary judgment, memos in support, and opposing affidavits to comply with and be served within the **time limits in the district court rules**

# ACT 706

## Suits on Accidents

- Prior law - when suit had been filed for damages arising from an accident, the clerk of court had to submit information regarding suit, settlement or judgment to Insurance Commissioner - \$5 for clerk
- **New law** repeals prior law and provides that clerk shall submit information to judicial administrator of the supreme court.
- **Effective January 1, 2012.**

# ACT 738

## Intrafamily Adoption

- **New law** – provides procedure for opposing an intrafamily adoption by filing an answer and opposition within **15 days** of service; appointment of counsel for the child; a due process determination for parent regarding the appointment of counsel, and for notice to all parties.

## ACT 738

# Intrafamily Adoption

- **New law** adds to notice that if parent does not file a written answer and opposition to adoption within 15 days of receiving notice, he will lose the right to object to adoption.

# Act 738

## Intrafamily Adoption

- SEE – EXHIBIT A

# ACT 738

## Intrafamily Adoption

- **New law** requires the opposition to request the court to determine if he has the right to appointed counsel.

# ACT 739

## Military Parent & Child Custody Protection Act

- **New law** provides definitions of "deploying parent", "deployment", and "order".
- **New law** prohibits court from entering a final order modifying terms of an existing custody or visitation order until 90 days after termination of deployment of a parent, unless the matter was fully tried prior to deployment.
- **New law** provides that deployment alone shall not constitute a material change in circumstances for the permanent modification of a custody or visitation order.

# ACT 739

## Military Parent & Child Custody Protection Act

- **New law** provides that an existing order of custody or visitation maybe temporarily modified to make reasonable accommodations necessary for deployment, and
- It shall provide deploying parent with custody or visitation during periods of military leave, if court determines it is in the best interest of the child and if existing order granted custody or visitation

# ACT 739

## Military Parent & Child Custody Protection Act

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- **New law** requires the other parent to provide court and deploying parent with written notice 30 days prior to a change of address and telephone number
- New law authorizes the court to allow the presentation of testimony and evidence by affidavit or electronic means in certain circumstances

# ACT 913

## Child Support

- **ChC 313** New law retains existing law and provides when a motion is filed to change payee of child support order from DSS to an individual or caretaker, the juvenile court no longer has jurisdiction.
- **RS 42:236.2** New law retains existing law and provides that interested person may obtain, amended order requiring support payments to be made to individual to whom support is owed, instead of department

# ACT 913

## Child Support

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- R.S. 9:311(G) A modified order for support shall be retroactive to the filing date of the rule for modification.

# HCR 194

## UNIFORM JURISDICTIONAL AMOUNTS

- Authorizes and requests the Judicial Council of the Supreme Court of Louisiana to study the feasibility and necessity of statewide uniformity of jurisdictional amounts in city courts and to make recommendations to the Legislature of Louisiana prior to the 2012 Regular Session of the Legislature

# **CRIMINAL DEPARTMENT**



# ACT 58

## Electronic Signatures CCRP 731

- Present law - only Orleans Criminal Clerk and the 24th Judicial District Court are authorized to place their signatures by electronic means on all issued subpoenas.
- **New Law** authorizes that all courts and clerks of court to place their signatures by electronic means on all issued subpoenas.

# ACT 141

## Unsecured Bonds

- **New law** provides that an affected court conducting emergency sessions of court outside of its parish may release a defendant on bail through an unsecured personal surety without proof of a security interest.....
- Court shall require unsecured surety be converted to commercial surety or secured personal surety as soon as proof of security interest can be obtained, or within 30 days of issuance of the unsecured bail, whichever occurs earlier.

# ACT 141

## Unsecured Bonds

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- If proof of a security interest cannot be obtained due to an emergency or disaster,
- Court may extend the period to obtain proof of the security interest for additional 30-day increments as determined as necessary by the court

# ACT 176

## Confidentiality of Minors

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- Present law - provides for protection of identity and for the safety and welfare of crime victims who are minors under 18 years and victims of sex offenses,

# ACT 176

## Confidentiality of Minors

- Prohibits all public officials, officers, public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, the Crime Victims Reparations Board, and the Department of Social Services from disclosing the name, address, or identity of such crime victims

# ACT 176

## Confidentiality of Minors

- **New Law** - no attorney shall publicly disclose name, address, or identity of crime victims who are minors at the time of commission of offense or victims of sex offenses. Provides exception for disclosure during trial.
- If name, etc must be disclosed in motion or pleading, that document **shall be filed with the court under seal.**
- Provides that persons failing to comply shall be punished for the offense of contempt of court.

# ACT 347

## Grand Jury

- New law changes prior law to allow for the drawing of a sufficient number of not less than 50 persons from which to empanel a grand jury
- New law provides for no fewer than 2 nor more than 4 alternates – alternates are selected in the order they are selected.

# ACT 347

## Grand Jury

- If the foreman of the grand jury is, for any reason, unable to act, the court shall
- Cause a random selection to be made of one person from the remaining members of the impaneled grand jury to serve as acting foreman or to serve as foreman of the grand jury

# ACT 348

## Expungements

- Prior law provided that an applicant for expungement does not have to pay any fees if a certification obtained from the DA is presented to the clerk which verifies the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

# ACT 348

## Expungements

- (1) Applicant was acquitted, **after trial**, of all charges derived from the arrest, including any lesser and included offense.
- (2) The applicant was arrested and was never prosecuted within the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and did not participate in a pretrial diversion program.

# ACT 348

## Expungements

- New law retains provisions of prior law and adds an additional exemption when the following apply:
  - (1) DA consents;
  - (2) Case against applicant was dismissed or DA declined to prosecute case prior to time limitations; and
  - (3) the applicant did not participate in a pretrial diversion program.

# ACT 352

## Probation Violation

- Requires court to determine within 10 days of arrest, if there is probable cause to detain offender pending a final violation hearing.
- The court shall also consider whether to allow bail pending the final hearing.
- Determination of probable cause may be made without a formal hearing and may be conducted through the use of affidavits

# ACT 352

## Probation Violation

- New law increases the time period in which a probation hearing shall be held from 10 to 30 days
- for those defendants remaining in custody and
- provides that if a summons is issued, or if the defendant has been admitted to bail,
- The court shall set the matter for a violation hearing within a reasonable time.

# ACT 438

## Juror Qualifications

- Not under indictment for a felony nor have been convicted of a felony for which he has not been pardoned by the governor.

# ACT 513

## Fingerprints – Domestic Violence

- Sheriff shall cause to be attached to the bill of information or indictment the fingerprints of the defendant who has been convicted of
- first or second offense domestic abuse battery, a first offense failure to pay child support, and a conviction for violation of protective orders to the list of misdemeanors

# ACT 587

## EXPUNGEMENTS

- Requires the La. State Law Institute (LSLI) to develop a uniform expungement form, without the necessity of employing counsel.
- Provides that the LSLI shall develop a uniform order of expungement.

# ACT 587

## EXPUNGEMENTS

- Order shall provide for any information deemed appropriate by LSLI, including following:
- (1) Signatures of judge, DA, and any other parties required by law.
- (2) Statutory authority for granting or denying the expungement.
- (3) A place for the court to provide written reasons when the expungement is denied.

# ACT 587

## EXPUNGEMENTS

- Provides that after development of forms, LSLI shall make forms available to the Judicial Council for distribution to appropriate courts throughout the state.
- Requires the clerks of court in all parishes to make the forms available to the public upon request

# ACT 593

## Juvenile Proceedings

- ChC 321 D. Upon determining expenses incurred, court may hold person liable to public defender or other appointed counsel for reimbursement of all or part of those expenses.
- A judgment for the amount owed may be recorded in the mortgage records and may be enforced as provided by law.

# Act 593

## Juvenile Proceeding

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- ChC 809 E. The clerk of court shall promptly send notice of appointment to any attorney appointed in accordance with this Article.

# ACT 594

## Juvenile Proceedings

- ChC 841 D. If any medical, mental health, sensory, or special competency evaluation is performed during the period of an informal adjustment agreement, the report shall not include any incriminating statement made by the child.
- The examination shall not occur until 5 days after the clerk of court has given notice to all parties of the examination order.

# ACT 594

## Juvenile Proceedings

- ChC 860 A. On its own motion or on the motion of the child or district attorney, the court may order any child subject to a motion to transfer to be examined by a physician, optometrist, audiologist, psychologist, or psychiatrist.
- Unless waived by the child, the examination shall not occur until 5 days after the clerk of court has notified all parties of the examination order.

# ACT 594

## Juvenile Proceedings

- ChC 867 A. On its own motion or on the motion of the child or district attorney, the court may order any child to be examined by a physician, optometrist, or audiologist.
- Unless waived by the child, the examination shall not occur until five days after the clerk of court notified all parties of the examination order.

# ACT 594

## Juvenile Proceedings

- ChC 884.1 Art. 884.1. Informing the child of sex offender registration and notification requirements;
- A. When the child has admitted the allegations of the petition or when adjudicated delinquent for any of the following offenses, the court shall provide him with written notice of the requirements for registration as a sex offender:
- B. FORM – (How will your parish handle?)

# ACT 609

## Expungements

### R.S. 44:9A(5)a

- Adds **traffic violations may be expunged** – if 5 or more years has elapsed between date of motion and successful completion of sentence, deferred adjudication or probation.
- Notwithstanding the provisions of CCRP 892.1 or 894, or any other provision of law to the contrary regarding the set aside of a conviction or the dismissal of prosecution,
- An expungement shall occur only **once** with respect to any person during a **5-year period**, except in the case of a misdemeanor offense of operating a vehicle while intoxicated which may occur only once with respect to any person during a **10 year period**

# Act 663

## Grand Jury

- The grand jury shall inquire into all capital offenses, and offenses punishable by life imprisonment triable within the parish.

# ACT 710

## BAIL BOND – SOCIAL SECURITY NO.

- Defendant should include last four digits of his social security number (bail not set aside if not)
- Personal Surety should include last four digits of social security number
- Judgment of bond forfeiture should include address, and last four digits of SS number of defendant

# ACT 710

## BAIL BOND – SOCIAL SECURITY NO.

- Prior to recordation, the DA shall verify the inclusion of information on the judgment
- Any judgment of bond forfeiture containing inaccurate information required by the provisions of this Section shall be deemed ineffective as a judicial mortgage to third parties who rely upon that information
- Judgment shall not be set aside because of the invalidity of the information or the failure to include the information.

# ACT 713

## PRE-TRIAL MOTIONS

- Provides that defendant may be given notice of any pretrial motion hearing date by mailing notice to the counsel of record.
- Provides that failure of defendant or counsel to appear for hearing of pretrial motion shall be grounds for dismissal of the motion.

# ACT 733 CRIMINAL FEES

- [Criminal Fee Schedule Act 733.pdf](#)

# **ACT 801**

## **DWI – FORFEITURE OF VEHICLE**

- **3<sup>rd</sup> & 4th Offense DWI - If the DA elects to forfeit the vehicle, he shall file a written motion at least 5 days prior to sentencing stating his intention to forfeit the vehicle.**
- **When the district attorney elects to forfeit the vehicle, the court shall order it**

# ACT 801

## DWI – FORFEITURE OF VEHICLE

- (d) The proceeds of the sale **shall first be used to pay court costs** and towing and storage costs, and the remainder shall be allocated as follows:
  - 60% to the arresting agency,
  - 20% to the prosecuting district attorney, and
  - 20% to Louisiana Property and Casualty Insurance Commission

# ACT 812

## HOME INCARCERATION

- E. Within 30 days of issuing the order sentencing the defendant to home incarceration,
- The court shall cause written notice to be sent by the clerk of court to the sheriff of the parish or chief law enforcement officer of a municipality where the defendant is sentenced to home incarceration

# ACT 835

## Confidentiality of Minors

- **New Law** - provides that no attorney shall publicly disclose the name, address, or identity of crime victims who are minors at the time of the commission of the offense or victims of sex offenses. Provides an exception for disclosure during trial.
- If name, etc must be disclosed in a motion or pleading, that document **shall be filed with the court under seal.**

# ACT 835

## Confidentiality of Minors

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- Provides that persons failing to comply shall be punished for the offense of contempt of court.
- Effective August 15, 2010.
- Same as ACT 176

# ACT 856

## Sentencing Commission

- Adds the President of the Louisiana Clerks of Court Association or his designee as a member of the Commission

# **ACT 892 BOND FORFEITURES**

- TO BE DISCUSSED BY ADA ON THURSDAY

# ACT 976

## Disposal of Non-contraband Property

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- Any non-contraband unclaimed property seized in connection with any criminal investigation under jurisdiction of DA, or state investigative agency shall, if unclaimed for more than 1 year after its seizure and is not needed in any proceeding, be disposed of in the following manner:

# ACT 976

## Disposal of Non-contraband Property

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- (1) After the lapse of 1 year, DA of the parish in which property is located is authorized to petition any court in that parish having proper jurisdiction for the disposal of the property in any lawful manner. **AT NO COST.**

# ACT 976

## Disposal of Non-contraband Property

- DA advertises 10 days before filing petition and mail notice to owner,
- Petition for disposal shall include
  - a brief description of property to be disposed of,
- the court in which the proceedings will be filed,
  - title of the proceedings,
  - and method or methods of intended disposal.

# ACT 976

## Disposal of Non-contraband Property

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- (b) DA shall have a duty to determine if any of the property is subject to a prior recorded mortgage, lien or security interest held by a federally insured financial institution defined herein as an “interest holder”

# ACT 976

## Disposal of Non-contraband Property

- (6) If the manner of disposal ordered by court generates any direct revenue, the proceeds shall be distributed in the following order of priority:
  - (a) Satisfaction of the costs of the proceedings
  - (b) 30% to the DA to defer the expenses of bringing action

# ACT 976

## Disposal of Non-contraband Property

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- (c) Remaining funds to the investigative agency that stored, maintained, insured, or bore the administrative costs as is related to maintaining the property seized in criminal investigations

# ACT 1053

## WAIVER OF JURY TRIAL

- Present constitution permits criminal defendant, except in capital cases, to knowingly and intelligently waive his right to a trial by jury.
- Proposed constitutional amendment retains present constitution but requires the defendant to waive no later than 45 days prior to the trial date and provides that the waiver shall be irrevocable.

# ACT 1053

## WAIVER OF JURY TRIAL

- Proposed constitutional amendment, if approved by a majority of voting electors, shall become effective 20 days after proclamation by the governor that the amendment has been adopted.
- Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.



# RECORDING

# ACT 279

## Liens & Privileges- Parishes & Muni's

- Existing law requires certain instruments affecting the rights in immovable property to be recorded in the mortgage or conveyance records in order to have effect as to third parties.
- **New law** - provides that liens and privileges against property granted in favor of parishes or municipalities for assessments for public improvements

## ACT 279

### Liens & Privileges- Parishes & Muni's

- or for certain statutorily authorized charges imposed on property are not effective against third parties until filed in the mortgage records.
- **New law** - provides that if liens or privileges are placed on the ad valorem property tax bill, the sheriff shall remove them upon request of an interested party whose interest in the property was acquired prior to the recording of the lien in the mortgage records.

# ACT 281

## Redemption of Adjudicated Property

- Redemptions shall be made through the tax collector of the appropriate political subdivision, or in the case of properties adjudicated to the state for tax years 1880 through 1973, redemptions shall be made through the register of the state land office.

# ACT 281

## Redemption of Adjudicated Property

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- Upon payment of the redemption costs, the tax collector shall issue a redemption certificate in the name of the tax debtor and file the redemption certificate in the appropriate conveyance records.

# ACT 281

## Redemption of Adjudicated Property

- When a redemption certificate is issued by the register of the state land office pursuant to this Subpart, the person redeeming the property shall file the redemption certificate in the appropriate conveyance records of the parish wherein the property is located.

# ACT 284

## CANCELLATIONS

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- Re-designation of Title 44 to Title 9 by the Law Institute
- The re-designation of statute shall not invalidate a reference to the former citation.

# ACT 385

## Mortgages Securing Future Obligations

- Existing law provides that the mortgage continues until it is terminated by the mortgagor or his successor in the manner provided in existing law or until the mortgage is extinguished
- Existing law (C.C. Art. 3357) provides for a 10-year prescriptive period for recordation of an instrument creating a mortgage or evidencing a privilege.

# ACT 385

## Mortgages Securing Future Obligations

- Existing law (C.C. Art. 3358) provides that the effect of recordation ceases six years from the latest maturity date described in an instrument creating certain mortgages or evidencing certain privileges.
- **New law** - provides that the effect of recordation of a mortgage to secure future obligations is governed by **Civil Code Arts. 3357 and 3358.**

## HSR 2

# SOCIAL SECURITY NUMBERS

- Requests the House Committee on Civil Law and Procedure to study the redaction of social security numbers from recorded documents and to report its findings prior to the convening of the 2011

# HCSR 12

## PUBLIC RECORDS

- Requests the House and Senate governmental affairs committees to meet to study issues related to public records, including the fees charged for obtaining copies or reproductions of public records; the impact of such fees on the financing and funding of certain public entities, particularly certain local public officials and bodies;

# HCSR 12

## PUBLIC RECORDS

- the access to and reproduction of public records in various computerized and electronic formats; and voluminous public records requests and
- to make recommendations regarding
- those issues no later than 30 days prior to the 2011 R.S.



# **ELECTIONS**

To be discussed by  
Angie LaPlace on  
Thursday



# RETIREMENT

# ACT 101

## New Hires After January 1, 2011

- REQUIREMENTS TO RETIRE:
- 12 Years of Service
- 60 Years of age
- 3% Accrual Rate
- Current Law – any one hired after 7-1-06 is already at 60 months FAC

# ACT 101

## Post DROP Final Average Compensation (FAC)

- If additional service is less than 36 months –
- FAC used to calculate additional benefit shall be computed as:
  - Total salary during time of additional service
  - divided by number of months of service
  - OR original FAC – **WHICH EVER IS LESS**

# ACT 273

## ACTIVE MEMBERS

- Final Average Compensation (FAC) changes from 36 months to 60 months for all members
- To be phased in over the next 2 years – 1 month at a time
- Effective Date January 1, 2011

# ACT 273

## ACTIVE MEMBERS

- Members retiring after January 2, 2011, and before December 31, 2012
- The period used to calculate FAC shall be
  - 36 months **PLUS** the number of **WHOLE** months since January 1, 2011 – i.e.
    - January 2011- 36 months
    - February 2011 – 37 months
    - March 2011 – 38 months

# Act 273

## ACTIVE MEMBERS

- Effective January 1, 2013 – all members' FAC will be based on 60 months
- AT NO TIME will your FAC be less than it is on December 31, 2010

# Act 273

## ACTIVE MEMBERS – POST DROP

- POST DROP – calculations will be phased in the same way
  - 1-1-11 work 36 months before new FAC calculated
  - 2-1-11 work 37 months before new FAC calculated
  - 3-1-11 work 38 months before new FAC calculated
  - 1-1-12 work 48 months before new FAC calculated

# Act 273

## ACTIVE MEMBERS – POST DROP

- EFFECTIVE January 1 2013, all members must work 60 months post DROP before new FAC calculated



# **LOCAL BILLS**

# LOCAL BILLS

- **ACT 180** – Increases jurisdictional amount of Crowley City Court and Rayne City Court to \$30,000
- Increases Baker City Court and Zachary City Court to \$35,000
- **ACT 219** – Slidell City Court- Eviction limit same as JP courts

# LOCAL BILLS

- **ACT 220** – 27<sup>th</sup> JDC – any document filed by electronic means shall be treated the same as receiving a paper copy and the same shall also apply
- **ACT 228** – Increases jurisdiction amount for Jeanerette City Court and Iberia City Court to \$30,000

# LOCAL BILLS

- **ACT 754** – Amended Family Court of EBR
- **ACT 900** – **Subject to the approval of the Judicial Council of the Supreme Court**  
Authorizes additional court cost and recording fees for the Civil District Court of Orleans in order to build a new courthouse.



**FINALLY**

**THE END!**