

## Forfeiture Procedure

### §571.11. Dispositions of fines and forfeitures

A.(1)(a) All fines and forfeitures, except for forfeitures of criminal bail bonds posted by a commercial security imposed by district courts and district attorneys, conviction fees in criminal cases, and prosecutions for violations of state law or parish ordinances, upon collection by the sheriff or executive officer of the court, shall be paid into the treasury of the parish in which the court is situated and deposited in a special "Criminal Court Fund" account, which, on motion by the district attorney and approval order of the district judge, may be used or paid out in defraying the expenses of the criminal courts of the parish as provided in Ch.C. Articles 419 and 421 and R.S. 16:6, in defraying the expenses of those courts in recording and transcribing of testimony, statements, charges, and other proceedings in the trial of indigent persons charged with the commission of felonies, in defraying their expenses in the preparation of records in appeals in such cases, for all expenses and fees of the petit jury and grand jury, for witness fees, for attendance fees of the sheriff and clerk of court, for costs and expenses of a parish law library, and for other expenses related to the judges of the criminal courts and the office of the district attorney. In the Second Judicial District, the criminal court fund shall be used to defray the expenses of the criminal court system.

(b) The sheriffs throughout the state, the parish of Orleans excepted, shall retain twelve percent of the amount of fines collected to go into the sheriff's general fund in each parish and an additional twelve percent of the amount of fines collected shall be transmitted to the district attorney of the judicial district or be used by the district attorney in defraying such expenses of his office as in his discretion may be necessary.

(c) After compliance with this Section, the remainder of the fines collected for violations of parking restrictions established pursuant to R.S. 40:1742 and for false certification of mobility impairment by a physician as provided by R.S. 47:463.4(G)(4) shall be forwarded in accordance with the provisions of R.S. 46:2583(A).

(2) All fines and forfeitures, except for forfeitures of criminal bail bonds posted by a commercial surety imposed by district courts and collected by the sheriff or executive officer of the court for violations of municipal ordinances shall be disbursed as follows, except in the case of violations of any of the provisions of Title 32 of the Louisiana Revised Statutes of 1950, wherein such proceeds shall be distributed in accordance with Subparagraph A(1)(a) of this Section:

- (a) Twelve percent thereof shall be remitted to the office of the district attorney.
- (b) Twelve percent shall be remitted to the sheriff's general fund.
- (c) The remainder shall be transmitted to the municipality for deposit in its treasury.

B. Notwithstanding the provisions of R.S. 16:6 and the other provisions of this Section, a district judge of the state of Louisiana, except in the parishes of Calcasieu and Cameron, shall have the right to order the sheriff of the parish wherein his principal office is domiciled, to pay, on the voucher of that district judge alone, without the concurrence of the other judges of his district, and without motion of the district attorney, a salary for a secretary for that district judge's office, which amount shall be paid by the sheriff prior to depositing the fines and forfeitures into the treasury of the parish.

C.(1) One-half of any surplus remaining in the special account or fund on December 31 of each year shall be transferred to the parish general fund. No money shall be paid out of the

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special account except upon the order or warrant of the district judge and district attorney as above provided.

(2) Notwithstanding any other provision of the law to the contrary, the Criminal Court Fund for the Sixteenth Judicial District shall be operated as a single fund, and one-half of any surplus remaining in the single special account or fund on December 31 of each year shall be transferred to the general funds of the parishes of the district in the same proportion as the revenues in the fund were produced from the parishes.

(3) Notwithstanding any other provision of law to the contrary, the Criminal Court Fund accounts for the Second Judicial District shall be operated as a single account or fund. One-half of any surplus remaining in the single account or fund on December 31 of each year shall be transferred to the general funds of the parishes of the district in the same proportion as the revenues in the single account or fund were produced from the parishes.

(4)(a) Notwithstanding any other provision of law to the contrary, the criminal court fund for the Fifth Judicial District shall be operated as a single fund. Except as provided in this Paragraph, one-half of any surplus remaining in the single fund on December thirty-first of each year shall be transferred to the general fund of the parishes of the district in the same proportion as the revenues in the fund were produced from the parishes.

(b) Upon motion of the district attorney, with the concurrence of the chief judge of the Fifth Judicial District, a certain amount of the surplus monies remaining in the single fund on December thirty-first of each year shall be deposited into a special excessive costs account for the Fifth Judicial District. The total amount of monies deposited into the special excessive costs account, in any calendar year, shall not exceed fifty thousand dollars.

(c) No money shall be paid out of the special excessive costs account except upon the order or warrant of the chief judge and district attorney of the Fifth Judicial District. Monies in the account shall only be used to defray excessive costs incurred in first degree murder cases or very serious felony trials wherein venue has been changed.

(5) Notwithstanding any other provision of law to the contrary, the Criminal Court Fund for the Twenty-First Judicial District shall be operated as a single account or fund, commencing on January 1, 2004. One-half of any surplus remaining in the single account or fund on December thirty-first of each year thereafter shall be transferred to the general funds of the parishes of the district in the same proportion as the revenues in the fund were produced from the parishes.

D. All fines and forfeitures, including forfeitures of criminal bail bonds, imposed in criminal cases and prosecutions by the courts of Orleans Parish and any payments ordered as a condition of probation under Code of Criminal Procedure Art. 895.1(B)(2) shall, upon collection, be paid to the criminal sheriff of Orleans Parish who shall deposit same in a special account, and shall thereafter be divided equally between the district attorney of Orleans Parish and the criminal district court of Orleans Parish in two special accounts, one account to be administered by the judges of the criminal district court of Orleans Parish, and the other account to be administered by the district attorney of Orleans Parish to be used in defraying the expenses of the criminal courts of the parish, extraditions, and such other expenses pertaining to the operation of the criminal court of Orleans Parish and the office of the district attorney of Orleans Parish.

Disbursements from the account to the criminal district court and district attorney shall be made on an equal basis. Said accounts shall be annually audited by the director of finance of the city of New Orleans.

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E. Notwithstanding any provision herein contained to the contrary, the fines and forfeitures, except for forfeitures of criminal bail bonds, collected by the district courts of the parishes of Iberia and Vermilion as a result of a conviction for a violation of R.S. 14:98 occurring within the territorial limits of a municipality shall be remitted to the city treasury of the municipality in accordance with the provisions of R.S. 13:1894.1.

F. Notwithstanding any other provision of law to the contrary, the governing authority of Grant Parish is hereby authorized to pay all or part of the expenses of the offices of judge; but not the salary of the judge, and district attorney for the Thirty-fifth Judicial District, and all or part of the salaries of the employees of those offices, including assistant district attorneys, from the Criminal Court Fund of the Thirty-fifth Judicial District.

G. Notwithstanding any other provision of the law to the contrary, the governing authorities of the parishes of Iberia, St. Martin, and St. Mary are hereby authorized to pay all or part of the salaries of those persons employed as law clerks by the Sixteenth Judicial District out of the Criminal Court Fund of the Sixteenth Judicial District. Those persons employed as law clerks shall be employed to perform general duties as such and shall not be limited to those duties connected with criminal cases.

H. Notwithstanding any other provision of law to the contrary, the governing authority of Red River Parish is hereby authorized to pay all or part of the expenses of the office of judge, but not the salary of the judge, and the expenses of office of district attorney for the judicial district in which Red River Parish is located, and also all or part of the salaries of the employees of those offices, including assistant district attorneys, from the Criminal Court Fund of the judicial district in which Red River Parish is located.

I. Notwithstanding any other provision of law to the contrary, the governing authorities of the parishes of Acadia, Lafayette, and Vermilion are hereby authorized to pay all or part of the salaries of those persons employed as law clerks by the Fifteenth Judicial District out of the Criminal Court Fund of the Fifteenth Judicial District. Those persons employed as law clerks shall be employed to perform general duties as such and shall not be limited to those duties connected with criminal cases.

J. In addition to the authority heretofore granted and authorized by any other provision, the Criminal Court Fund of the Seventeenth Judicial District, parish of Lafourche, may be used to pay for the office expenses, operating expenses, equipment costs, and salaries of juvenile officers, employees of the offices of the district judges, district attorney, indigent defender, and juvenile officers of the Seventeenth Judicial District, parish of Lafourche. The fund shall not be used to pay the salaries of the district judges. The fund may be used to pay the salaries of law clerks for the judicial district and to provide for transportation and the cost of maintaining and operating the transportation for the grand jury and petit juries of the judicial district. The fund may also be used to provide for planning, maintenance, and operating expenses for the juvenile justice facility for the parish of Lafourche.

K.(1) Notwithstanding any other provision of law to the contrary, the Ninth Judicial District Court and the office of the district attorney for the Ninth Judicial District shall cause to be prepared a comprehensive budget presenting their financial plan for expenditure of monies deposited to the Criminal Court Fund for the Ninth Judicial District for the ensuing fiscal year.

Such proposed budget shall be completed and submitted by the court and district attorney to the governing authority of Rapides Parish, hereinafter referred to as the governing authority, no later than thirty-five days prior to the beginning of each fiscal year.

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(2) No later than fifteen days prior to the beginning of each fiscal year, the governing authority shall cause a notice to be published in the official journal of Rapides Parish stating that the proposed budget of the court and district attorney is available for public inspection at the office of the governing authority. The notice shall also state that a public hearing on the proposed budget shall be held, with the date, time, and place of the hearing specified in the notice. At least one public hearing shall be conducted on the proposal.

(3) The governing authority of the parish shall monitor the expenditures from the budget on a quarterly basis during the year.

L. All judgments of bond forfeiture rendered after June 22, 1993, resulting from the posting of a commercial surety bond in a criminal proceeding in the state of Louisiana upon collection by the prosecuting attorney for the jurisdiction in which the bond was posted shall be paid to the prosecuting attorney who shall, as attorney of record in the proceeding, distribute the funds as follows:

(1) District courts. (a) In all judicial district courts of the state of Louisiana, except in the parishes of Orleans, Iberia, and St. Martin, where the district attorney collects on a judgment of bond forfeiture, the proceeds shall be distributed as follows:

(i) Thirty percent of all funds collected by the district attorney shall be paid to the general operating account of the district attorney for the parish where the bond was posted.

(ii) Twenty-five percent of all funds collected by the district attorney shall be paid to the criminal court fund of the parish where the bond was posted.

(iii) Twenty-five percent of all funds collected by the district attorney shall be paid to the operating fund of the sheriff of the parish where the bond was posted.

(iv) Twenty percent of all funds collected by the district attorney shall be paid to the Indigent Defenders Program for the parish where the bond was posted.

(b) In the district court for the parish of St. Martin, where the district attorney collects on a judgment of bond forfeiture, the proceeds shall be distributed as follows:

(i) Twenty-seven percent of all funds collected by the district attorney shall be paid to the general operating account of the district attorney for the parish where the bond was posted.

(ii) Twenty-two and one half percent of all funds collected by the district attorney shall be paid to the criminal court fund of the parish where the bond was posted.

(iii) Twenty-two and one-half percent of all funds collected by the district attorney shall be paid to the operating fund of the sheriff of the parish where the bond was posted.

(iv) Eighteen percent of all funds collected by the district attorney shall be paid to the Indigent Defenders Program for the parish where the bond was posted.

(v) Ten percent of all funds collected by the district attorney shall be paid to the clerk of court of the parish where the bond was posted.

(c) In the district court for the parish of Iberia, where the district attorney collects on a judgment of bond forfeiture, the proceeds shall be distributed as follows:

(i) Twenty-seven percent of all funds collected by the district attorney shall be paid to the general operating account of the district attorney for the parish where the bond was posted.

(ii) Twenty-two and one-half percent of all funds collected by the district attorney shall be paid to the criminal court fund of the parish where the bond was posted.

(iii) Twenty percent of all funds collected by the district attorney shall be paid to the operating fund of the sheriff of the parish where the bond was posted.

(iv) Eighteen percent of all funds collected by the district attorney shall be paid to the Indigent Defenders Program for the parish where the bond was posted.

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(v) Twelve and one-half percent of all funds collected by the district attorney shall be paid to the clerk of court of the parish where the bond was posted.

(d) In cases of violation of the provisions of Title 32 of the Louisiana Revised Statutes of 1950, the proceeds shall be distributed in accordance with Paragraph (A)(1) of this Section.

(2) Parish courts. (a) In all parish courts throughout the state of Louisiana, where the prosecuting attorney collects on a judgment of bond forfeiture, the proceeds shall be deposited into the parish general fund.

(b) In cases of violation of the provisions of Title 32 of the Louisiana Revised Statutes of 1950, the proceeds shall be distributed in accordance with Paragraph (A)(1) of this Section.

(3) City and municipal courts. In all city and municipal courts throughout the state of Louisiana, except in municipal and traffic courts in the city of New Orleans, where the prosecuting attorney collects on a judgment of bond forfeiture, the proceeds shall be distributed as follows:

(a) Twenty-five percent of all funds collected by the prosecuting attorney shall be paid to the general operating account of the prosecuting attorney for the political subdivision where the bond was posted.

(b) Twenty-five percent of all funds collected by the prosecuting attorney shall be paid to the judicial court fund of the court issuing the judgment of bond forfeiture.

(c) Twenty-five percent of all funds collected by the prosecuting attorney shall be paid to the law enforcement agency of the political subdivision responsible for executing orders of the court where the judgment was rendered.

(d) Twenty-five percent of all funds collected by the prosecuting attorney shall be paid to the Indigent Defenders Program of the court where the judgment was rendered. In the event the political subdivision does not have an Indigent Defenders Program, the funds shall be paid to the Indigent Defenders Program of the parish in which the bond was posted.

(4) Municipal and traffic courts for the city of New Orleans. Where the prosecuting attorney for municipal and traffic courts for the city of New Orleans collects on a judgment of bond forfeiture the proceeds shall be distributed in accordance with city ordinance.

M. In all cases where the attorney general collects on judgments of bond forfeiture, fifty percent of the funds collected shall be turned over to the attorney general for deposit in his operating account, and the remaining fifty percent of the funds collected shall be distributed as follows:

(1) Ten percent of all funds collected by the attorney general shall be paid to the court fund of the parish where the bond was posted, as determined by the local rules of court.

(2) Ten percent of all funds collected by the attorney general shall be paid to the operating fund of the sheriff of the parish where the bond was posted.

(3) Thirty percent of all funds collected by the attorney general shall be paid to the Indigent Defenders Program for the parish where the bond was posted.

N.(1) In the Twenty-Fourth Judicial District Court, the judges en banc of the court may provide that various operational funds related to the proper administration or function of the court be deposited in one or more accounts in the parish treasury to be managed and administered by the parish treasurer in accordance with an annual budget submitted by the judges and approved by the parish governing authority. Notwithstanding any other provision of law to the contrary, the fines and forfeitures comprising the Criminal Court Fund, except as provided in Paragraph (A)(2) and Subsection L of this Section, shall be operated as part of the court's annual budget in the parish treasury.

(2) Notwithstanding any general or specific law to the contrary, in appeals by an indigent in felony criminal cases in the Twenty-Fourth Judicial District Court, the court reporter shall transcribe the testimony after the order of appeal is granted. Upon completion of the transcription, the court reporter shall file the transcript with the clerk of court, together with a statement of the fees due in connection therewith, which shall be paid in accordance with general or specific laws applicable to the Twenty-Fourth Judicial District Court.

O. Sheriffs and executive officers of any court in the state may accept payment for all fines, forfeitures, penalties, and costs by means of credit card, electronic fund transfer, money order, bank check, teller's check, cashier's check, traveler's check, electronic fund transfer terminal, electronic financial terminal, automated banking device, or similar device or terminal. Any sheriff or executive officer of the court who accepts payments by credit card shall collect a fee for processing the payments in an amount that is reasonably related to the expense incurred in processing the payment by credit card as provided by this Subsection, not to exceed five percent of the amount of taxes and any penalties or interest being paid. The fee shall be in addition to the amount of fines, forfeitures, penalties, or costs imposed.

**§85. Failure to satisfy judgment of bond forfeiture**

A. If a judgment of bond forfeiture rendered after June 22, 1993, against a commercial surety company has not been satisfied within two hundred ten days after the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value under fifty thousand dollars, or within four hundred days from mailing the notice of the signing of the judgment of bond forfeiture for bonds which have a face value of fifty thousand dollars or more, nor has a suspensive appeal or other proceeding challenging the bond forfeiture been timely filed, the prosecuting attorney may file with the district court, in the parish where the bond is forfeited, a rule to show cause why that commercial surety company should not be prohibited from executing criminal bail bonds before the court issuing the judgment of bond forfeiture.

B. At the rule to show cause, the court may consider only issues which would interrupt the enforceability of the judgment. The court may issue an order enjoining the commercial surety company from posting criminal bail bonds before the court issuing the judgment of bond forfeiture if the judgment is not satisfied within ten days and if the court finds all of the following:

- (1) A judgment of bond forfeiture has been rendered, after June 22, 1993, against the commercial surety.
- (2) Proper notice pursuant to Code of Criminal Procedure Article 349.3 has been mailed.
- (3) No suspensive appeal has been taken.
- (4) The defendant has neither been surrendered nor appeared within one hundred eighty days of the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value of fifty thousand dollars or more, and the defendant has not been surrendered together with ten percent of the total amount of the bond more than one hundred eighty days but within two hundred seventy days after the date of mailing the notice of the signing of the judgment of bond forfeiture.
- (5) Two hundred ten days have passed since the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value under fifty thousand dollars, or four hundred days have passed since the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value of fifty thousand dollars or more.

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(6) The judgment of bond forfeiture has not been satisfied by payment of the full amount for bonds that have a face value under fifty thousand dollars, or has not been satisfied by the surrender or the appearance of the defendant together with payment in cash of ten percent of the total bond amount for bonds that have a face value of fifty thousand dollars or more, if applicable.

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