

BY SENATOR MOUNT AND REPRESENTATIVE BRUNEAU AND COAUTHORED BY SENATORS SCHEDLER, DARDENNE, MICHOT AND THEUNISSEN AND REPRESENTATIVES SALTER, SCHNEIDER, BURNS, TOOMY, ALEXANDER, BEARD, BOWLER, CRANE, CROWE, DANIEL, DOVE, DOWNS, GEYMANN, GREENE, JOHNS, KATZ, KENNARD, KLECKLEY, LABRUZZO, LAMBERT, LANCASTER, MCVEA, MORRISH, PITRE, M. POWELL, T. POWELL, SCALISE, SMILEY, JANE SMITH, STRAIN, TRAHAN, TUCKER, WADDELL, WALSWORTH AND WINSTON

1 AN ACT  
2 To amend and reenact R.S. 13:1, 471, 474, 477(introductory paragraph), 691(A), 759,  
3 842(A), 846(A)(introductory paragraph), and 901, R.S. 18:402(D), and R.S. 44:71;  
4 to enact R.S. 13:474.1, 477(41), 621.41, 621.42, 621.43, 621.44 through 621.46,  
5 714.1, 714.2, 751.1, 751.2, 751.3, 751.4, 751.5, 841.3, 983, 996.62 through 996.64,  
6 R.S. 33:1500, and Chapter 2-A of Title 44 of the Louisiana Revised Statutes of 1950,  
7 to be comprised of R.S. 44:181 through 185; and to repeal R.S. 9:2745, R.S. 13:1031  
8 through 1147, 1211 through 1212.1, 1271 through 1312, 1335 through 1347, 1371  
9 through 1372, 1377, 1381, and 1381.1 through 1400, R.S. 18:514(B), R.S. 33:1501.1  
10 and 1519.1, and Part III of Chapter 5 of Title 35 of the Louisiana Revised Statutes  
11 of 1950, comprised of R.S. 35:321 through 338, and Chapter 3 of Title 44 of the  
12 Louisiana Revised Statutes of 1950, comprised of R.S. 44:201 through 268, relative  
13 to the reorganization and consolidation of the civil and criminal district courts and  
14 juvenile court, clerk of the civil and criminal district courts, and civil and criminal  
15 sheriffs in and for the parish of Orleans; to provide relative to the register of  
16 conveyances and recordation for the parish of Orleans; to provide, delineate, and

1 otherwise designate the powers, authority, duties, functions, compensation, fees, and  
2 related matters concerning the civil and criminal district courts, clerks of the civil  
3 and criminal courts, the civil and criminal sheriffs, the office and custodian of  
4 notarial records, the office of the register of conveyances, the office of the recorder  
5 of mortgages, and other judicial officers and officials for the parish of Orleans; to  
6 create the Forty-First Judicial District, its subsequent divisions, sections, magistrate,  
7 and commissioners; to abolish the Orleans Parish Juvenile Court and transfer its  
8 jurisdiction; to extend the terms of office of the judges of the juvenile court now in  
9 office; to transfer the jurisdiction of the juvenile court to the Forty-First Judicial  
10 District Court; to provide for the juvenile section of the Forty-First Judicial District  
11 Court; to create the Consolidated Judicial Expense Fund for certain courts; to provide  
12 for the consolidation of certain offices and judicial expense funds; to provide for the  
13 election of a single sheriff and clerk of court for the parish of Orleans commencing  
14 with the next election for parochial and municipal officers in Orleans Parish; to  
15 provide for the abolition of the separate offices of the civil and criminal sheriff; to  
16 provide for effective dates; to abolish the office of the register of conveyances, the  
17 office of the recorder of mortgages, and the office and custodian of notarial records;  
18 to provide transitional provisions; to provide for continuation of retirement system  
19 coverage; to provide for the reduction by attrition of judges upon retirement pursuant  
20 to recommendations of the Judicial Council; to direct the Louisiana State Law  
21 Institute to change statutory references necessitated by this Act and to make  
22 recommendations it deems necessary to clarify or modify its provisions, including  
23 the elimination of antiquated provisions; to provide for effective dates; and to  
24 provide for related matters.

25 Be it enacted by the Legislature of Louisiana:

26 Section 1.(A) Legislative intent and authority. The legislature recognizes that there  
27 should be effective, efficient, and economic administration of governmental services at all  
28 levels. It is the intent of the legislature that the public interest is best served by the  
29 elimination, to the fullest extent practicable, of the duplication of effort within local  
30 government in order to expend public funds more efficiently and wisely and to meet more

1 effectively and conveniently the needs of the people who provide the revenues for its  
2 operations, particularly in the wake of devastation wrought by hurricanes Katrina and Rita.  
3 It is the public policy of this state to ensure that all courts, officials, and offices enumerated  
4 in Article V of the Louisiana Constitution of 1974 are structured in a manner which is  
5 responsive to the needs of the people, operated efficiently, and consistent with the funds  
6 available. The state, as well as the city of New Orleans and its citizens, now have limited  
7 resources with which to support the number of judges and judicial offices it did prior to the  
8 hurricanes. While the legislature recognizes that many cities and parishes throughout the  
9 coastal areas of the state were devastated by hurricanes Katrina and Rita and their recovery  
10 should be addressed, this Act is intended to address the consolidation of some of the judicial  
11 offices of the city of New Orleans. The legislature finds that the structure of the judiciary  
12 in Orleans Parish is fragmented and inefficient and must be fundamentally changed if the  
13 city/ Orleans Parish is to flourish in the post-Katrina/Rita world. The costs of operating one  
14 district court, one clerk of the district court, and one sheriff will inherently be less due to  
15 economies of scale. The legislature recognizes that the city of New Orleans is of economic,  
16 historical, and cultural significance to this state and to this nation and that efficiency of its  
17 judiciary and offices comprising the judiciary is fundamental and that the legislature should  
18 provide the best framework for its future recovery. The consolidation of the courts and  
19 officers covered by this Act is critical to the future financial stability of the city and will  
20 ultimately lessen the financial burden to the citizens of the city of New Orleans and this  
21 state. The legislature recognizes that a judicial system founded 200 years ago is unrealistic  
22 and not viable in the 21st century. The legislature does hereby enact these provisions in  
23 accordance with the authority granted in Sections 16, 18, and 32 of Article V of the  
24 Louisiana Constitution of 1974.

25 (B) One district court. It is the intent of the legislature that there be one district court  
26 for the parish of Orleans - the Forty-First Judicial District Court. The consolidation of the  
27 civil, criminal, and juvenile courts of the parish of Orleans into one Forty-First Judicial  
28 District Court is required for judicial efficiency and the timely administration of justice and  
29 will ultimately provide financial stability for all of the courts.

30 (C) One clerk of court. The legislature finds that there should be one clerk of the

1 Forty-First Judicial District Court. In all parishes of the state, except Orleans Parish, there  
2 is one clerk of court in which all instruments and acts are filed for record. In Orleans Parish,  
3 all notarial acts are required to be filed and deposited in the office of the custodian of  
4 notarial records, all conveyances and leases of immovables are required to be recorded in  
5 the office of the register of conveyances, and all mortgages and encumbrances on movable  
6 and immovable property are required to be recorded in the office of the recorder of  
7 mortgages. It is the policy of this state that the manner in which acts of conveyance or  
8 mortgage of immovable property, chattel mortgages, filings under Chapter 9 of the Louisiana  
9 Commercial Laws, notarial acts, and all other acts filed for public record shall be uniform  
10 throughout the state and that the citizens of the city and parish of Orleans should be afforded  
11 the convenience and economy of filing a document for record in one office.

12 (D) One sheriff. The legislature recognizes that the consolidation of the powers,  
13 duties, functions, and employees of the civil and criminal sheriffs into a single sheriff of the  
14 parish of Orleans is in the best interest of the citizens of the parish of Orleans and the state  
15 of Louisiana and that the historical reasons for having two sheriffs are no longer valid and  
16 sound economically.

17 (E) Legislative action required now. The constitution prohibits decreasing the terms  
18 of judges and other elected officials during their terms of office, and accordingly, some of  
19 the provisions of this Act will not effect a consolidation until 2009, 2010, and 2015,  
20 respectively. The legislature declares, however, that the process must begin now so that the  
21 elected officials covered by this Act as well as their employees and the citizens of New  
22 Orleans can plan for the future and know that the district court, clerk, and sheriff are  
23 structured in the most efficient manner with vision for the future and not in a system  
24 established two centuries ago.

25 Section 2. R.S. 13:1, 471, 474, 477(introductory paragraph), 691(A), 759, 842(A),  
26 846(A) (introductory paragraph), and 901 are hereby amended and reenacted and R.S.  
27 13:474.1, 477(41), 621.41, 621.42, 621.43, 714.1, 714.2, 751.1, 751.2, 751.3, 751.4, 751.5,  
28 841.3, 983, and 996.62 through 996.64 are hereby enacted to read as follows:

29 TITLE 13. COURTS AND JUDICIAL PROCEDURE

30 CHAPTER 1. JUDICIAL OFFICERS AND EMPLOYEES, IN GENERAL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

PART I. GENERAL PROVISIONS

§1. Duties of the minute clerks of courts of Orleans ~~parish~~ **Parish**

The minute clerks of the court of appeals and of the ~~civil and criminal district courts of the parish of Orleans~~ **Forty-First Judicial District Court** shall attend the sessions of the court for which they are appointed, and shall, under the supervision of the judge or judges of the courts, keep the minutes of the court, issue all notices, copies of rules and orders entered on the minutes, which are required to be issued, and make due entries on the dockets of the causes and of the proceedings therein, and shall perform such other duties as the judges may direct.

\* \* \*

CHAPTER 4. DISTRICT COURTS ORLEANS PARISH EXCEPTED

PART I. GENERAL PROVISIONS

§471. Scope of Chapter 4

~~The~~ **Except as otherwise provided by law to the contrary, the general** provisions of R.S. 13:472 through 13:967 inclusive ~~this Chapter~~ shall not apply to the district courts ~~court~~ of Orleans ~~parish, except as provided in Title 13, Chapter 5~~ **Parish.**

\* \* \*

§474. Registry of the district court; designation

The district judges shall designate in each of the parishes in their respective judicial districts, the fiscal agent of each parish in his district, ~~the parish of Orleans~~ ~~excepted~~; as a depository of any and all monies, stocks, bonds, notes, deeds, contracts, or documents of any nature belonging to minors, interdicts, absentees, or persons unknown, when, for any purpose, and for the benefit of such person or persons it is desired to keep such property safely. The bank so designated as the fiscal agent shall be known as the registry of the court in and for the parish and district concerned.

**§474.1. Judicial depository**

**A. The bank or banks so designated as fiscal agent for such funds shall furnish adequate security, satisfactory to the judges, to secure the return and**

1 payment of any such deposited funds.

2 B. It shall be the duty of the judges to endeavor to receive interest on all  
3 monies so deposited, and if, for any reason, the fiscal agent, or agents, so  
4 designated are unable or unwilling to pay interest on such deposit, the judges  
5 of the district court are hereby authorized to purchase certificates of deposit,  
6 and/or other forms of certificates of indebtedness bearing interest, or they may  
7 purchase short-term United States bonds, treasury notes, or certificates.

8 C. Any and all interest received on all such monies so deposited, or from  
9 any certificates of deposit, certificates of indebtedness, or United States bonds,  
10 treasury notes, or certificates, shall be distributed in the following manner:

11 (1) One-half of all interest so received, as received, shall be transferred  
12 to and shall form part of the Consolidated Judicial Expense Fund for the  
13 Forty-First Judicial District Court, in reimbursement and payment for the  
14 services rendered in administering said "registry of the court" fund by the  
15 judges, clerk, and other employees whose salaries are paid out of the fund.

16 (2) The ultimate recipient of any of said funds so deposited in the  
17 registry of the court shall receive interest on such sum received by him, to be  
18 calculated on the following basis, to wit:

19 (a) The rate of interest per annum to be paid such recipient shall be  
20 one-half of the average interest rate received from the fiscal agent and/or from  
21 certificates of deposit, certificates of indebtedness, United States government  
22 bonds, treasury notes, or certificates, during the period that the funds being  
23 disbursed were on deposit in the registry of the court.

24 (b) Interest shall be paid such recipient on the same percentage of such  
25 sum he receives as the total amount of such registry funds invested with interest  
26 bears to the total of such funds held in the registry of the court during the  
27 preceding year.

28 (c) In determining the amount of such registry funds invested with  
29 interest, and the total of such funds held in the registry of the court, as provided  
30 in Subparagraph (b) of this Paragraph, the basis for such determination shall

1 be the average daily balance of the total funds invested and the average daily  
 2 balances of the total funds held in the registry of the court fund during the  
 3 period that the funds being disbursed were on deposit in the registry of the  
 4 court fund.

5 D. In the event it becomes necessary to disburse funds which have been  
 6 deposited in the registry of the Consolidated Judicial Expense Fund, in  
 7 accordance with a duly rendered court order, in excess of the amount held by  
 8 the fiscal agent of the fund, in its noninterest bearing account, the presiding  
 9 judge or the acting chief judge of the Forty-First Judicial District Court, on an  
 10 order issued by the majority of the judges of the district court, sitting en banc,  
 11 shall have the authority to borrow such funds so needed for disbursal from the  
 12 fiscal agent, or others, at the then prevailing interest rate for loans of this  
 13 character, using as collateral to secure any such loan an amount of bonds, or  
 14 certificates of deposit, or certificates of indebtedness in which funds have been  
 15 invested, and, if required so to do by any such lending agency, to execute any  
 16 note or other form of agreement to repay such loan.

17 \* \* \*

18 §477. Judicial districts

19 There shall be forty~~one~~ judicial districts in the state, ~~the parish of Orleans~~  
 20 ~~excepted~~; and each district shall be composed as follows:

21 \* \* \*

22 (41) Orleans Parish shall compose the Forty-First District.

23 \* \* \*

24 §621.41. Forty-First Judicial District

25 A.(1) The Forty-First Judicial District Court shall have twenty-six  
 26 judges and one magistrate judge.

27 (2) The Forty-First Judicial District Court shall have the same  
 28 jurisdiction as the district courts throughout the state, as fixed by the  
 29 constitution, as provided in this Section, or as provided by law.

30 B.(1) The judges of the Forty-First Judicial District Court by rule

1 adopted by a majority vote of the judges sitting en banc, with the consent of the  
2 judge of the respective division, may assign certain divisions of the court to a  
3 criminal section and certain divisions to a civil, domestic relations, or other  
4 section of the court. The judges of the Forty-First Judicial District Court,  
5 including the magistrate judge, en banc, shall assign certain divisions of the  
6 court to a juvenile section when the Juvenile Court of the parish of Orleans is  
7 abolished and jurisdiction of that court is transferred to the Forty-First Judicial  
8 District Court.

9 (2) Notwithstanding any principal assignments to divisions, all divisions  
10 of the court shall retain general jurisdiction to hear all matters.

11 C. The Forty-First Judicial District Court shall be composed of divisions  
12 A through Z and the magistrate judge over the magistrate section.

13 D. The judges presently presiding over Divisions A through N of the Civil  
14 District Court for the parish of Orleans shall preside over Divisions A through  
15 N of the Forty-First Judicial District Court. The judges shall continue to serve  
16 until the thirty-first day of December of the year in which their terms expire.

17 E. The judges presently presiding over Divisions A through L of the  
18 Criminal District Court for the parish of Orleans shall preside over Divisions  
19 O through Z of the Forty-First Judicial District Court. The judges shall  
20 continue to serve until the thirty-first day of December of the year in which  
21 their terms expire.

22 F.(1) The Forty-First Judicial District Court shall have general  
23 supervisory jurisdiction over the municipal and traffic courts and appellate  
24 jurisdiction of all misdemeanor cases tried before the Municipal Court and the  
25 Traffic Court. Appeals from the municipal and traffic courts shall be on the  
26 law and the facts and shall be tried upon the records made and the evidence  
27 offered in said courts by the judge to whom the appeal shall be allotted. In all  
28 misdemeanor cases tried before the judges of the Forty-First Judicial District  
29 Court, an appeal shall lie on questions of law and fact to two or more of the  
30 judges, as prescribed by said court. The judges shall adopt rules regulating the

1 manner of taking and hearing and deciding such appeals.

2 (2) The Forty-First Judicial District Court has appellate jurisdiction  
3 over all cases tried in the city courts of said court where the amount in dispute,  
4 value of the movable property involved, or fund to be distributed does not  
5 exceed one hundred dollars, exclusive of interest. These appeals shall be tried  
6 de novo by a single judge and without a jury; however, the Forty-First Judicial  
7 District Court may provide by rule that no evidence shall be admitted on the  
8 trial de novo which was not offered in the city court unless it is shown to the  
9 satisfaction of the court that despite the exercise of reasonable diligence by the  
10 party offering it such evidence could not have been produced at the trial in the  
11 city court.

12 G. All judges of the Forty-First Judicial District shall be elected by the  
13 qualified electors of the parish for terms of six years at the congressional  
14 election immediately preceding the expiration of their terms, and every six years  
15 thereafter. Each judge shall take office on the first day of January of the year  
16 following election and shall serve through December thirty-first of the last year  
17 of his term. Any candidate for election to the office of judge of this court must  
18 designate the division for which he is a candidate, and, if elected, shall succeed  
19 to the office of judge of the division for which he was a candidate. The judge  
20 oldest in continuous service in each division of the district court shall preside,  
21 and in the event two or more judges shall have served the same length of time,  
22 the judge oldest in years shall preside.

23 H.(1) Subject to the recommendations of the committee provided for in  
24 R.S. 13:996.62, on the date that the Forty-First Judicial District Court becomes  
25 effective, all of the books, papers, records, monies, actions, and other property  
26 of every kind and description, movable and immovable, real and personal,  
27 possessed, controlled, or used by the Civil District Court for the parish and  
28 Criminal District Court for the parish shall be transferred and be owned,  
29 possessed, controlled, and used by the Forty-First Judicial District Court.

30 (2) The judges of the Forty-First Judicial District, including the

1 magistrate judge, shall retain all accrued benefits and contributions to which  
2 they were entitled and shall continue to contribute, if applicable, to the  
3 retirement system or pension fund to which they were contributing on  
4 December 31, 2008. The salaries of the judges and group health and life  
5 insurance premiums shall continue to be paid from the same sources and in the  
6 same manner in which they were paid on December 31, 2008; however, the  
7 payment of health and life insurance premiums shall be in accordance with the  
8 unified group health and life insurance program adopted by the committee  
9 provided for in R.S. 13:996.62.

10 (3) The employees of the Civil District Court for the parish and the  
11 Criminal District Court for the parish shall be transferred in accordance with  
12 this Section, to the extent required and in accordance with applicable civil  
13 service laws, and shall be subject to the supervision and control of the  
14 Forty-First Judicial District Court. The employees transferred in accordance  
15 with this Section shall continue to contribute to the retirement system or  
16 pension fund to which they were contributing on the effective date of this  
17 Section, including the retention of all accrued benefits and contributions to  
18 which they were entitled on the effective date of this Section. The salaries of the  
19 employees shall continue to be paid from the same sources and in the manner  
20 in which they are paid on December 31, 2008. The employees shall continue to  
21 be entitled to participate in the same health and life insurance plans they are  
22 participating in on December 31, 2008.

23 I. Pursuant to the provisions of R.S. 13:61, as amended by Act 16 of the  
24 First Extraordinary Session of 2006, the Judicial Council is hereby requested  
25 to make recommendations as to the total number of district court judges in the  
26 parishes necessary to effectively and efficiently serve the administration of  
27 justice in the parishes, taking into consideration such factors as the funding of  
28 the operations of the court, the population of the parishes, and the caseload of  
29 the divisions and each section of the court. The recommendations shall be  
30 submitted to the legislature not later than March 1, 2007 in accordance with Act

1 16 of the First Extraordinary Session of 2006. If the council recommends a  
2 reduction in the total number of judges, such reduction shall be accomplished  
3 by attrition or retirement, unless otherwise provided by law.

4 §621.42. Domestic Relations Section

5 There shall be a Domestic Relations Section, composed of three judges  
6 from the divisions of the Forty-First Judicial District Court designated in R.S.  
7 13:621.41(D). Domestic relations cases shall consist of all domestic matters,  
8 including suits for divorce or annulment, alimony, child support, custody of  
9 children, partition of community property, adoption, and any other similar  
10 matters which the court, en banc, may designate as domestic relation matters  
11 or cases.

12 §621.43. Forty-First Judicial District; office or positions and functions

13 The Forty-First Judicial District Court shall have a position or office of  
14 judicial administrator, deputy judicial administrator, and assistants as needed,  
15 at least twenty-six law clerks, and at least eight secretaries, and shall provide for  
16 the conduct of the jury commission and sanity hearings, the cost of all of which  
17 shall be allocated by the Judicial Budgetary Control Council to such court;  
18 however, the positions provided for in R.S. 13:1384 shall be paid as required by  
19 the provisions of that Section.

20 \* \* \*

21 SUBPART C. COMPENSATION

22 §691. Annual salaries of district judges; certain civil district court judges; certain  
23 ~~criminal district court judges~~; and certain juvenile and family court  
24 judges

25 A. The annual salary of each of the several district judges of judicial  
26 districts; including the civil district court judges and the criminal district court judges  
27 of the parish of Orleans; the magistrate of the criminal district court for the parish of  
28 Orleans **Forty-First Judicial District**; the judges of the juvenile court of the parish  
29 of Orleans, the parish of Caddo, the parish of East Baton Rouge, and the parish of  
30 Jefferson; and the judges of the family court of East Baton Rouge Parish, shall be