

2017 Regular Session

HOUSE RESOLUTION NO. 138

BY REPRESENTATIVE SCHRODER

A RESOLUTION

To urge and request the Louisiana District Attorneys Association, in conjunction with the Louisiana Sheriffs' Association and the Association of Louisiana Bail Underwriters, to study the procedure of constructively surrendering a defendant and to develop and recommend a process or standard for determining the reasonable costs of transporting a defendant from one parish or foreign jurisdiction to the jurisdiction where a warrant for arrest has been issued for purposes of constructively surrendering the defendant.

WHEREAS, a person in custody who is charged with the commission of an offense is entitled to bail before conviction pursuant to Article I, Section 18 of the Constitution of Louisiana and Code of Criminal Procedure Article 312; and

WHEREAS, in 2013, Senate Resolution No. 111 requested the Louisiana State Law Institute to perform a comprehensive study of Louisiana laws regarding bail to determine necessary revisions that would meet constitutional requirements while enhancing legal and judicial economy, efficiency, fairness, and uniformity in the criminal justice system; and

WHEREAS, after many years of work and as a result of this comprehensive study, in 2016, Act No. 613, which substantially reorganized and revised the laws with respect to bail, was enacted by the legislature and became effective on January 1, 2017; and

WHEREAS, under this revision, Code of Criminal Procedure Article 331 provides that a surety may "constructively surrender" a defendant who is detained in another parish of the state of Louisiana or a foreign jurisdiction, and upon the constructive surrender of the defendant, the surety is fully and finally discharged and relieved of all obligations under the bail undertaking; and

WHEREAS, in order to constructively surrender the defendant, the law requires the following conditions to be met:

(1) A warrant for arrest has been issued for the defendant in the jurisdiction in which the bail obligation is in place.

(2) The surety has provided proof of the defendant's current incarceration to the court in which the bail obligation is in place, the prosecuting attorney, and the officer originally charged with the defendant's detention.

(3) The surety has paid to the officer the reasonable costs of returning the defendant to the jurisdiction where the warrant for arrest was issued; and

WHEREAS, there is currently no law or standard in place for determining the "reasonable costs" of returning the defendant to the jurisdiction where the warrant for arrest was issued, and such "reasonable costs" can vary from parish-to-parish throughout the state; and

WHEREAS, developing a standard for determining reasonable costs of returning the defendant is necessary to ensure an efficient, fair, and uniform criminal justice system.

THEREFORE, BE IT RESOLVED that the House of Representatives of Legislature of Louisiana does hereby urge and request the Louisiana District Attorneys Association, in conjunction with the Louisiana Sheriffs' Association and the Association of Louisiana Bail Underwriters, to study the procedure for constructively surrendering a defendant and to develop and recommend a process or standard for determining the reasonable costs of transporting a defendant from one parish or foreign jurisdiction to the jurisdiction where a warrant for arrest has been issued for purposes of constructively surrendering the defendant.

BE IT FURTHER RESOLED that the Louisiana District Attorneys Association shall report its findings and recommendations to the legislature, including any recommendations for legislative action, by March 1, 2018.

BE IT FURTHER RESOLVED that suitable copies of this Resolution be transmitted to the executive director of the Louisiana District Attorneys Association, the executive director of the Louisiana Sheriffs' Association, and the president of the Association of Louisiana Bail Underwriters.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES