

RÉSUMÉ DIGEST

HB 1059

2022 Regular Session

Bacala

Present law (C.Cr.P. Art. 312(G)) provides that after conviction of a capital offense, a defendant shall not be allowed bail. Further provides that after conviction of any crime punishable by imprisonment for 25 years or more that is both a sex offense and a crime of violence, there shall be a rebuttable presumption that the release of the person convicted will pose a danger to another person or the community and there is a substantial risk that the person convicted might flee.

Proposed law would have provided that if bail is granted to a person convicted of a crime punishable by imprisonment for 25 years or more that is both a sex offense and a crime of violence, upon subsequent arrest by the defendant for any violation of present law (Title 14 of the La. Revised Statutes of 1950), the court shall enter an order revoking bail.

Present law (C.Cr.P. Art. 312(H)) provides that a person held without bail or unable to post bail may invoke the supervisory jurisdiction of the court of appeal on a claim that the trial court has improperly refused bail or a reduction of bail in aailable case.

Proposed law would have provided that if an order revoking bail is not entered pursuant to proposed law, the state may invoke the supervisory jurisdiction of the court of appeal on a claim that the trial court improperly refused to revoke bail.

Present law (C.Cr.P. Art. 313) provides relative to contradictory bail hearings for persons in custody.

Proposed law would have retained present law and provided that prior to setting bail, a contradictory hearing may be held for a person in custody for a crime of violence who is currently released pursuant to a bail undertaking for a felony crime of violence.

Proposed law would have further permitted the court, after receiving notice by a law enforcement agency, to order the contradictory hearing to be held within five days, exclusive of weekends and legal holidays. If the court chooses not to hold a hearing, the court is required to notify the prosecutor.

(Proposed to amend C.Cr.P. Art. 312(G)(2)(b) and (H); Proposed to add C.Cr.P. Arts. 312(G)(2)(c) and 313(E))

VETO MESSAGE:

"As originally filed, this bill would have provided for contradictory hearings being conducted prior to bail being granted to certain persons charged with crimes of violence. However, a Senate floor amendment, concurred in by the House, would mandate the court revoke post-conviction bail granted to a defendant if the defendant is arrested for any offense provided for in Title 14 while out on post-conviction bail prior to sentencing. Not only would this legislation deprive the court of its discretion to revoke post-conviction bail, it would also deprive the defendant of due process by mandating revocation based solely on an arrest, for which the defendant would be presumed innocent until proven guilty."