

2023 Regular Session

SENATE BILL NO. 48

BY SENATOR MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL PROCEDURE. Constitutional amendment to eliminate a judge's discretion to grant bail for certain offenses after conviction. (2/3 - CA8s1)

A JOINT RESOLUTION

Proposing to amend Article I, Section 18 of the Constitution of Louisiana, relative to the right to bail; to eliminate mandatory bail after conviction but before sentencing under certain circumstances; to eliminate a judge's discretion to grant bail after conviction but before sentencing under certain circumstances; to provide that after conviction, a person may be bailable in accordance with law; to specify an election for submission of the proposition to electors; and to provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article I, Section 18 of the Constitution of Louisiana, to read as follows:

§18. Right to Bail

Section 18.(A) Excessive bail shall not be required. Before and during a trial, a person shall be bailable by sufficient surety, except when he is charged with a capital offense and the proof is evident and the presumption of guilt is great. After conviction, **a person may be bailable in accordance with law.** ~~and before sentencing, a person shall be bailable if the maximum sentence which may be~~

1 ~~imposed is imprisonment for five years or less; and the judge may grant bail if the~~
2 ~~maximum sentence which may be imposed is imprisonment exceeding five years.~~
3 ~~After sentencing and until final judgment, a person shall be bailable if the sentence~~
4 ~~actually imposed is five years or less; and the judge may grant bail if the sentence~~
5 ~~actually imposed exceeds imprisonment for five years.~~

6 (B) ~~However, a~~ **A** person charged with a crime of violence as defined by law
7 or with production, manufacture, distribution, or dispensing or possession with intent
8 to produce, manufacture, distribute, or dispense a controlled dangerous substance as
9 defined by the Louisiana Controlled Dangerous Substances Law, and the proof is
10 evident and the presumption of guilt is great, ~~shall not~~ **may** be bailable ~~if, after a~~
11 ~~contradictory hearing, the judge or magistrate finds by clear and convincing evidence~~
12 ~~that there is a substantial risk that the person may flee or poses an imminent danger~~
13 ~~to any other person or the community~~ **in accordance with law.**

14 Section 2. Be it further resolved that this proposed amendment shall be submitted to
15 the electors of the state of Louisiana at the statewide election to be held on October 14, 2023.

16 Section 3. Be it further resolved that on the official ballot to be used at said election
17 there shall be printed a proposition, upon which the electors of the state shall be permitted
18 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
19 follows:

20 Do you support an amendment to provide that post-conviction bail shall not
21 be solely in the discretion of the judge but shall be allowed only in
22 accordance with bail provisions as provided by the Legislature of Louisiana
23 and that bail for crimes of violence and drug offenses where the proof is
24 evident and the presumption of guilt is great shall not be solely in the
25 discretion of the judge but shall be allowed only in accordance with bail
26 provisions as provided by the Legislature of Louisiana?

27 (Amends Const. Art. I, Sec. 18)

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

SB 48 Engrossed

2023 Regular Session

Morris

Present constitution provides for mandatory granting of bail when the maximum sentence a defendant faces is less than five years but gives the judge discretion to grant bail when the maximum sentence which may be imposed is greater than five years.

Proposed constitutional amendment deletes the provision for granting of bail after a defendant has been convicted but has not yet been sentenced, and adds that the person may be bailable in accordance with any provision of law.

Proposed constitutional amendment deletes the provision for denying post-conviction bail for a person charged with a crime of violence or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance, after a contradictory hearing, where the court determines by clear and convincing evidence that there is substantial risk that a person may flee or poses an imminent danger to any other person in the community, and adds that the person may be bailable in accordance with any provision of law.

Proposed constitutional amendment otherwise retains present constitution.

Specifies submission of the amendment to the voters at the statewide election to be held on October 14, 2023.

(Amends Const. Art. I, Sec. 18)