HLS 18RS-3441 ORIGINAL

2018 Regular Session

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HOUSE CONCURRENT RESOLUTION NO. 100

BY REPRESENTATIVE JORDAN

BAIL: Requests that the La. State Law Institute study and provide recommendations regarding the presumed release of a person on unsecured personal surety or bail without surety

A CONCURRENT RESOLUTION

2	To urge and request the Louisiana State Law Institute to review Louisiana laws regarding
3	bail and study whether a system which provides for the presumed release of a person
4	on unsecured personal surety or bail without surety in lieu of a preset bail schedule
5	would be more successful in ensuring the appearance of the defendant and the public
6	safety of the community.
7	WHEREAS, a person in custody who is charged with the commission of an offense
8	is entitled to bail before conviction pursuant to Article I, Section 18 of the Constitution of
9	Louisiana and Code of Criminal Procedure Article 312; and
10	WHEREAS, the American Bar Association (ABA) is one of the largest voluntary
11	professional membership organizations and the leading organization of legal professionals
12	in the United States, and since its founding in 1878, the ABA has worked to protect the
13	rights granted to individuals by the United States Constitution, including the rights of those
14	persons who are accused of crimes; and
15	WHEREAS, the ABA's work in this area is reflected in the ABA Standards for
16	Criminal Justice (Standards), a list of principals articulating the ABA's recommendations
17	for fair and effective systems of criminal justice that were developed and revised by the
18	ABA Criminal Justice Section comprised of prosecutors, defense lawyers, judges,
19	academics, and members of the public; and

1	WHEREAS, the United States Supreme Court and other courts have looked to the
2	Standards for guidance about the appropriate balance between individual rights and public
3	safety in the field of criminal justice; and
4	WHEREAS, the Standards reflect the ABA's conclusion that "although there may
5	be narrow circumstances in which monetary conditions of release are necessary to ensure
6	a defendant's appearance, inflexible money-bail requirements drawn from a present schedule
7	of offenses, which takes no account of a defendant's individual circumstances, should be
8	abolished" as such systems discriminate against the indigent, seriously impair the rights of
9	persons accused of crimes, and provide little benefit to the public; and
10	WHEREAS, in its Amicus Curiae brief to the United States Court of Appeals for the
11	Eleventh Circuit in the case Walker v. City of Calhoun, the ABA argues that inflexible
12	money-bail systems that rely on preset bail schedules, instead of individualized
13	determinations of the appropriate conditions of release, violate the Due Process and Equal
14	Protection Clauses of the Fourteenth Amendment; and
15	WHEREAS, it is important that Louisiana's system of pretrial release and detention
16	protects the community and ensures the appearance of the accused for court dates, while
17	securing the rights of the accused.
18	THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
19	urge and request the Louisiana State Law Institute to review Louisiana laws regarding bail
20	and to study whether a system which provides for the presumed release of a person on
21	unsecured personal surety or bail without surety in lieu of a preset bail schedule would be
22	more successful in ensuring the appearance of the defendant and the public safety of the
23	community.
24	BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report
25	its findings to the Louisiana Legislature no later than February 1, 2019.
26	BE IT FURTHER RESOLVED that a suitable copy of this Resolution be sent to the
27	Louisiana State Law Institute.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 100 Original

2018 Regular Session

Jordan

Requests that the La. State Law Institute review La. laws regarding bail and study whether a system which provides for the presumed release of a person on unsecured personal surety or bail without surety in lieu of a preset bail schedule would be more successful in ensuring the appearance of the defendant and the public safety of the community. Requires the La. State Law Institute to report its findings no later than Feb. 1, 2019.