

SENATE RESOLUTION NO. 208

BY SENATOR PRICE

A RESOLUTION

To create a task force to review pretrial detention and to develop legislative solutions to the problem of income-based pretrial detention.

WHEREAS, Article I, Section 18 of the Louisiana Constitution prohibits excessive bail and further provides that before and during a trial, a person shall be bailable by sufficient surety, except when a person is charged with a capital offense, a crime of violence, or certain offenses defined by the Louisiana controlled dangerous substance law and the proof is evident and the presumption of guilt is great; and

WHEREAS, Louisiana law provides that bail shall be determined by ten factors and that in certain instances an accused can be detained if a magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community; and

WHEREAS, one factor in determining bail pursuant to Louisiana Code of Criminal Procedure Article 316 is the ability of the defendant to give bail; and

WHEREAS, in *United States v. Salerno* the court declared, "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."; and

WHEREAS, the federal Bail Reform Act of 1966 provides for bail rights for defendants by giving noncapital defendants a statutory right to be released pending trial, on their personal recognizance or surety bond; and

WHEREAS, the United States Supreme Court has held that "unless the right to bail before trial is preserved, the presumption of innocence, would lose its meaning".

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby create a task force to study income-based pretrial detention in Louisiana and to develop legislative solutions to the problem of income-based pretrial detention.

BE IT FURTHER RESOLVED that the task force shall be composed of the following members:

(1) A member appointed by the president of the board of directors of the Louisiana Association of Criminal Defense Lawyers or his designee.

(2) The executive director of the American Civil Liberties Union of Louisiana or her designee.

(3) The chair of the board of directors of the Foundation for Louisiana or his designee.

(4) A member of the Louisiana District Attorneys Association to be appointed by the president of the board of directors of the association.

(5) A member of the judiciary appointed by the president of the executive board of the Louisiana District Judges Association.

BE IT FURTHER RESOLVED that the first meeting shall be called by the Senator representing District 2 and at first meeting the task force shall elect a chair.

BE IT FURTHER RESOLVED that the task force shall be staffed, at the discretion of the task force, by the staff of one or more of the organizations from which the task force's membership is designated or appointed.

BE IT FURTHER RESOLVED that the task force shall submit a written report of its findings, together with specific proposals to the Senate Committee on Judiciary C prior to convening of the 2020 Regular Session.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the president of the board of directors of the Louisiana Association of Criminal Defense Lawyers, the executive director of the American Civil Liberties Union of Louisiana, the chair of the board of directors of the Foundation for Louisiana, the president of the board of directors of the Louisiana District Attorneys Association, and the president of the executive board of the Louisiana District Judges Association.

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PRESIDENT OF THE SENATE