

2022 Regular Session

HOUSE BILL NO. 500

BY REPRESENTATIVE BACALA

BAIL: Provides relative to contradictory hearings prior to setting bail for certain persons

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 312(B), relative to bail; to
3 provide relative to the right to bail before and after conviction; to provide relative to
4 a contradictory hearing prior to setting bail; to require a contradictory hearing prior
5 to setting bail for certain persons; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 312(B) is hereby amended and
8 reenacted to read as follows:

9 Art. 312. Right to bail before and after conviction

10 * * *

11 B.(1) A person released on a previously posted bail undertaking for (1) a
12 crime of violence as defined by R.S. 14:2(B) which carries a minimum mandatory
13 sentence of imprisonment upon conviction or (2) the production, manufacture,
14 distribution, or dispensing or possession with intent to produce, manufacture,
15 distribute, or dispense a controlled dangerous substance as defined by the Louisiana
16 Uniform Controlled Dangerous Substances Law, shall not be readmitted to bail when
17 the person previously failed to appear and a warrant for arrest was issued and not
18 recalled or the previous bail undertaking has been revoked or forfeited. If a person
19 voluntarily appears without confinement by a law enforcement officer or bail
20 recovery agent following a motion to revoke bail or issuance of an arrest warrant for

1 failure to appear but prior to revocation or forfeiture, then he may be released only
2 under one of the following circumstances:

3 ~~(1)~~(a) After a contradictory hearing, a person may be released on the
4 previously posted bail undertaking if the motion to revoke bail is rescinded or the
5 arrest warrant is recalled and the surety is present or represented at the hearing and
6 gives written consent. Previous instances of revocation and forfeiture in unrelated
7 cases are admissible at the hearing. This relief is available only once.

8 ~~(2)~~(b) A person may be released on a new bail undertaking without a
9 contradictory hearing only on bail with a commercial surety and in an amount higher
10 than the original bail.

11 (2) Prior to setting bail, a contradictory hearing shall be held for the
12 following circumstances:

13 (a) A person is in custody and has a previous conviction for a felony crime
14 of violence enumerated or defined in R.S. 14:2(B).

15 (b) A person is in custody and is currently released pursuant to a bail
16 undertaking for a felony crime of violence enumerated or defined in R.S. 14:2(B).

17 (c) A person is in custody and was previously released by virtue of a bail
18 undertaking posted after conviction for a crime of violence enumerated or defined
19 in R.S. 14:2(B).

20 * * *

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)]

HB 500 Original

2022 Regular Session

Bacala

Abstract: Requires a contradictory hearing to be held prior to setting bail for certain persons.

Present law provides that a person released on a previously posted bail undertaking for a crime of violence which carries a minimum mandatory sentence of imprisonment upon conviction or for the production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance, shall not be readmitted to bail when the person previously failed to appear and a warrant for

arrest was issued and not recalled or the previous bail undertaking has been revoked or forfeited.

Proposed law retains present law and provides that prior to setting bail, a contradictory hearing is required for the following circumstances:

- (a) A person is in custody and has a previous conviction for a felony crime of violence.
- (b) A person is in custody and is currently released pursuant to a bail undertaking for a felony crime of violence.
- (c) A person is in custody and was previously released by virtue of a bail undertaking posted after conviction for a crime of violence.

(Amends C.Cr.P. Art. 312(B))