

2022 Regular Session

HOUSE BILL NO. 877

BY REPRESENTATIVE WILFORD CARTER

BAIL: Provides relative to factors in fixing the amount of bail

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 316(9) and (10) and to enact
3 Code of Criminal Procedure Article 316(11) and (12), relative to bail; to provide
4 relative to factors in fixing the amount of bail; to provide that the amount of bail
5 shall be fixed in an amount having regard to the presumption of innocence until the
6 defendant is proven guilty and substantial financial hardship on the defendant; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 316(9) and (10) are hereby amended
10 and reenacted and Code of Criminal Procedure Article 316(11) and (12) are hereby enacted
11 to read as follows:

12 Art. 316. Factors in fixing amount of bail

13 The amount of bail shall be fixed in an amount that will ensure the presence
14 of the defendant, as required, and the safety of any other person and the community,
15 having regard to:

16 * * *

17 (9) The presumption of innocence until the defendant is proven guilty.

18 (10) The determination of substantial financial hardship on the defendant and
19 his family for a defendant charged with a nonviolent offense.

- 1 ~~(9)~~ (11) Any other circumstances affecting the probability of the defendant's
2 appearance.
3 ~~(10)~~ (12) The type or form of bail.
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DIGEST

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HB 877 Original

2022 Regular Session

Wilford Carter

Abstract: Relative to factors in fixing the amount of bail, provides that consideration shall be given to the presumption of innocence until the defendant is proven guilty and the substantial financial hardship the amount of bail would have on a defendant and his family.

Present law requires bail to be fixed in an amount that will ensure the presence of the defendant, as required, and the safety of any other person and the community, having regard to:

- (1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.
- (2) The weight of the evidence against the defendant.
- (3) The previous criminal record of the defendant.
- (4) The ability of the defendant to give bail.
- (5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.
- (6) The defendant's voluntary participation in a pretrial drug testing program.
- (7) The absence or presence in the defendant of any controlled dangerous substance.
- (8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.
- (9) Any other circumstances affecting the probability of the defendant's appearance.
- (10) The type or form of bail.

Proposed law retains present law and adds that consideration shall be given to:

- (1) The presumption of innocence until the defendant is proven guilty.
- (2) The determination of substantial financial hardship on the defendant and his family for a defendant charged with a nonviolent offense.

(Amends C.Cr.P. Art. 316(9) and (10); Adds C.Cr.P. Art. 316(11) and (12))