SLS 22RS-29 ENGROSSED

2022 Regular Session

SENATE BILL NO. 89

BY SENATOR MORRIS

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CRIMINAL PROCEDURE. Provides relative to bail for offenders convicted of certain offenses while awaiting sentencing. (8/1/22)

AN ACT 1 2 To amend and reenact Code of Criminal Procedure Art. 312(E), (F), and (G), relative to bail; to provide relative to bail for offenders who have committed or been convicted of 3 certain offenses; and to provide for related matters. 4 5 Be it enacted by the Legislature of Louisiana: Section 1. Code of Criminal Procedure Art. 312(E), (F), and (G) are hereby amended 6 7 and reenacted to read as follows: 8 Art. 312. Right to bail before and after conviction 9 10 E. After (1) Except as provided in Paragraph G of this Article, after 11 conviction and before sentence, bail shall be allowed if the maximum sentence which may be imposed is imprisonment for five years or less. Bail Except as provided in 12 13 Paragraph G of this Article, bail may be allowed pending sentence if the maximum sentence which may be imposed is imprisonment exceeding five years, except when 14 the court has reason to believe, based on competent evidence, that the release of the 15 person convicted will pose a danger to any other person or the community, or that 16

there is a substantial risk that the person convicted might flee.

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probation.

1	F. After Except as provided in Paragraph G of this Article, after sentence
2	and until final judgment, bail shall be allowed if a sentence of five years or less is
3	actually imposed. Bail Except as provided in Paragraph G of this Article, bail
4	may be allowed after sentence and until final judgment if the sentence actually
5	imposed exceeds imprisonment for five years, except when the court has reason to
6	believe, based on competent evidence, that the release of the person convicted will
7	pose a danger to any other person or the community, or that there is a substantial risk
8	that the person convicted might flee.
9	G.(1) After conviction of a capital offense, a defendant shall not be allowed
10	<del>bail.</del>
11	(2)(a) After conviction of any crime punishable by imprisonment for twenty-
12	five years or more that is both a sex offense and a crime of violence, there shall be
13	a rebuttable presumption that the release of the person convicted will pose a danger
14	to another person or the community and that there is a substantial risk that the person
15	convicted might flee.
16	(b) For purposes of this Paragraph:
17	(i) "Crime of violence" means any offense defined or enumerated as a crime
18	of violence in R.S. 14:2(B).
19	(ii) "Sex offense" means any offense that requires registration and
20	notification pursuant to R.S. 15:540 et seq.
21	Notwithstanding any other provision of law to the contrary, after
22	conviction of any of the following offenses, a defendant shall not be allowed bail:
23	(1) Any offense punishable by death or life imprisonment.
24	(2) Any offense that is both a crime of violence as defined in R.S. 14:2(B)
25	and a sex offense as defined in R.S. 15:541.
26	(3) Any offense that is a felony committed upon a family member,
27	household member, or dating partner, as those terms are defined by R.S.
28	46:2132, for which the defendant is in whole or in part not eligible for

(4) Any other offense punishable by imprisonment for thirty years or

2 more.

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

## DIGEST 2022 Regular Session

SB 89 Engrossed

Morris

<u>Present law</u> provides that after conviction and before sentencing, bail must be allowed if the maximum sentence which may be imposed is imprisonment for five years or less.

<u>Proposed law</u> retains <u>present law</u>, except when the crime of conviction is an offense punishable by death or life imprisonment, both a crime of violence and sex offense, or a felony committed upon a family member, household member or dating partner, as defined by <u>present law</u>, or punishable by imprisonment for thirty years or more, in which case bail will be denied.

<u>Present law</u> provides that bail may be allowed pending sentence if the maximum sentence which may be imposed is imprisonment exceeding five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community, or that there is a substantial risk that the person convicted might flee.

<u>Proposed law</u> retains <u>present law</u>, except when the crime of conviction is an offense punishable by death or life imprisonment, both a crime of violence and sex offense, or a felony committed upon a family member, household member or dating partner, as defined by <u>present law</u>, or punishable by imprisonment for thirty years or more.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 312(E), (F), and (G))

Summary of Amendments Adopted by Senate

## Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

- 1. Provides that a person will be denied bail when the crime of conviction is punishable by death or life imprisonment, is both a crime of violence and sex offense, is a felony committed upon a family member, household member, or dating partner, or punishable by imprisonment for 30 years or more.
- 2. Deletes proposed law relative to delay for sentencing after conviction.