

1 ~~After sentencing and until final judgment, a person shall be bailable if the sentence~~
2 ~~actually imposed is five years or less, and the judge may grant bail if the sentence~~
3 ~~actually imposed exceeds imprisonment for five years.~~

4 (B) ~~However, a~~ A person charged with a crime of violence as defined by law
5 or with production, manufacture, distribution, or dispensing or possession with intent
6 to produce, manufacture, distribute, or dispense a controlled dangerous substance as
7 defined by the Louisiana Controlled Dangerous Substances Law, and the proof is
8 evident and the presumption of guilt is great, ~~shall not~~ may be bailable if, ~~after a~~
9 ~~contradictory hearing, the judge or magistrate finds by clear and convincing evidence~~
10 ~~that there is a substantial risk that the person may flee or poses an imminent danger~~
11 ~~to any other person or the community~~ in accordance with law.

12 Section 2. Be it further resolved that this proposed amendment shall be submitted to
13 the electors of the state of Louisiana at the statewide election to be held on November 8,
14 2022.

15 Section 3. Be it further resolved that on the official ballot to be used at said election
16 there shall be printed a proposition, upon which the electors of the state shall be permitted
17 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
18 follows:

19 Do you support an amendment to provide that post-conviction bail shall not
20 be solely in the discretion of the judge but shall be allowed only in
21 accordance with bail provisions as provided by the Legislature of Louisiana
22 and that bail for crimes of violence and drug offenses where the proof is
23 evident and the presumption of guilt is great shall not be solely in the
24 discretion of the judge but shall be allowed only in accordance with bail
25 provisions as provided by the Legislature of Louisiana?

26 (Amends Const. Art. I, Sec. 18(A))

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

DIGEST

SB 4 Reengrossed

2022 Regular Session

Morris

Present constitution provides for mandatory granting of bail when the maximum sentence a defendant faces is less than five years, but gives the judge discretion to grant bail when the maximum sentence which may be imposed is greater than five years.

Proposed constitutional amendment deletes the provision for granting of bail after a defendant has been convicted but has not yet been sentenced, and adds that the person may be bailable in accordance with any provision of law.

Proposed constitutional amendment deletes the provision for denying post-conviction bail for a person charged with a crime of violence or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled danger substance, after a contradictory hearing, where the court determines by clear and convincing evidence that there is substantial risk that a person may flee or possess an imminent danger to any other person in the community, and adds that the person may be bailable in accordance with any provision of law.

Proposed constitutional amendment otherwise retains present constitution.

Specifies submission of the amendment to the voters at the statewide election to be held on November 8, 2022.

(Amends Const. Art. I, Sec. 18)

Summary of Amendments Adopted by Senate

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

1. Deletes constitutional provision that a person may be bailable after conviction and adds that a person may be bailable in accordance with any provision of law.
2. Changes proposed question to voters.

Senate Floor Amendments to engrossed bill

1. Deletes constitutional provision that a person charged with a crime of violence or production, manufacturing, distributing or possessing with intent to produce, manufacture, distribute or dispense, shall not be bailable, after a contradictory hearing, if the court determines by clear and convincing evidence that the person poses a substantial risk of fleeing or an imminent danger to any other person or the community.
2. Change proposed question to voters.