

2022 Regular Session

SENATE BILL NO. 89

BY SENATOR MORRIS

CRIMINAL PROCEDURE. Provides relative to bail for offenders convicted of certain offenses while awaiting sentencing. (See Act)

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 312(E), (F), and (G), relative to bail;
3 to provide relative to bail for offenders who have committed or been convicted of
4 certain offenses; to provide for effectiveness; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Art. 312(E), (F), and (G) are hereby amended
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
12 may be imposed is imprisonment for five years or less. ~~Bail~~ **Except as provided in**
13 **Paragraph G of this Article, bail** may be allowed pending sentence if the maximum
14 sentence which may be imposed is imprisonment exceeding five years, except when
15 the court has reason to believe, based on competent evidence, that the release of the
16 person convicted will pose a danger to any other person or the community, or that
17 there is a substantial risk that the person convicted might flee.

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 ~~bail.~~

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
29 probation.

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

* * *

Section 2. This Act shall take effect and become operative if and when the proposed amendment of Article I, Section 18 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. 4 of this 2022 Regular Session of the Legislature is adopted at the statewide election to be held on November 8, 2022, and becomes effective.

The original instrument was prepared by Whitney Kauffeld. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jacob Wilson.

DIGEST

SB 89 Reengrossed

2022 Regular Session

Morris

Present law 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.

Proposed law retains present law, 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 present law, or punishable by imprisonment for thirty years or more, in which case bail will be denied.

Present law 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.

Proposed law retains present law, 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 present law, or punishable by imprisonment for thirty years or more.

Proposed law provides for an effective date contingent upon whether the proposed amendment to Article I, Section 18 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. 4 of this 2022 Regular Session of the Legislature is adopted at the statewide election to be held on November 8, 2022, and becomes effective.

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

Summary of Amendments Adopted by SenateCommittee 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.

Senate Floor Amendments to engrossed bill

1. Provides for an effective date contingent upon whether the proposed amendment to Article I, Section 18 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. 4 of this 2022 Regular Session of the Legislature is adopted at the statewide election to be held on November 8, 2022, and becomes effective.