

2024 Regular Session

SENATE BILL NO. 79

BY SENATOR MORRIS

CRIMINAL PROCEDURE. Constitutional amendment to eliminate judge's discretion to grant bail for certain offenses after conviction. (2/3 - CA12s1(A))

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A JOINT RESOLUTION

Proposing to amend Article I, Section 18 of the Constitution of Louisiana, relative to the right to bail; to eliminate mandatory bail after conviction but before sentencing under certain circumstances; to provide that after conviction, a person may be bailable in accordance with law; to specify an election for submission of the proposition to electors; and to provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article I, Section 18 of the Constitution of Louisiana, to read as follows:

§18. Right to Bail

Section 18.(A) Excessive bail shall not be required. Before and during a trial, a person shall be bailable by sufficient surety, except when he is charged with a capital offense and the proof is evident and the presumption of guilt is great. After conviction, **a person may be bailable in accordance law.** ~~and before sentencing, a person shall be bailable if the maximum sentence which may be imposed is imprisonment for five years or less; and the judge may grant bail if the maximum~~

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

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

13 Section 2. Be it further resolved that this proposed amendment shall be submitted to  
14 the electors of the state of Louisiana at the statewide election to be held on November 5,  
15 2024.

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

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

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

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

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DIGEST

SB 79 Original 2024 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 removes provisions for mandatory bail after a defendant has been convicted but has not yet been sentenced. Provides for granting of bail as provided by law.

Present constitution prohibits a person from being bailable when 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 dangerous substance defined in the La. Controlled Dangerous Substances Law and when proof is evident and the presumption of guilt is great if, after a contradictory hearing, the judge or magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community.

Proposed constitutional amendment provides that 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 dangerous substance defined in the La. Controlled Dangerous Substances Law may be bailable as provided by law.

Specifies submission of the amendment to the voters at the statewide election to be held on November 5, 2024.

(Amends Const. Art. I, §18)