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## DIGEST

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HB 733 Original

2024 Regular Session

Bayham

**Abstract:** Provides for the fixing of minimum and maximum bail amounts in relation to the type of offense that is committed.

Present law (C.Cr.P. Art. 315(A)) provides that unless the bail is fixed by a schedule in accordance with present law, the amount of bail shall be specifically fixed in each case. Further provides that in noncapital felony cases, a bail schedule according to the offense charged may be fixed by a district court and in misdemeanor cases, a bail schedule according to the offense charged may be fixed by a district, parish, or city court for offenses committed within its trial jurisdiction.

Present law provides that when more than one court has trial jurisdiction, the applicable bail schedule shall be that of the court in which the case is to be tried.

Proposed law removes these provisions of present law and provides that each court with criminal jurisdiction in this state shall set an initial bail in the following amounts, unless there is evidence that the mandatory minimum bail amount violates the factors provided in present law (C.Cr.P. Art. 316):

- (1) No amount shall be set for any of the following offenses:
  - (a) First degree murder (R.S. 14:30).
  - (b) First degree rape, formerly known as aggravated rape, when the victim is under the age of 13 years (R.S. 14:42).
  - (c) Any crime of violence where the proof is evident, the presumption of guilt is great, and 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.
- (2) Except as provided in proposed law, when the offense is punishable by life imprisonment, an amount of not less than \$250,000 nor more than \$1,000,000.
- (3) Except as provided in proposed law, when the offense is a felony that is necessarily punishable at hard labor, an amount of not less than \$50,000 nor more than \$250,000.
- (4) Except as provided in proposed law, when the offense contains a mandatory minimum sentence without the benefit of probation, parole, or suspension of sentence, an amount of

not less than \$25,000 nor more than \$75,000.

- (5) Except as provided in proposed law, when the offense is punishable with or without hard labor, an amount of not less than \$10,000 nor more than \$25,000.

Present law (C.Cr.P. Art. 315(B)) provides that the court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule.

Present law provides that the court order may also contain a general provision designating the amount of bail for any noncapital felony and misdemeanor not listed in the schedule and that a copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district, parish, or city.

Present law further provides that a bail schedule may be revised or rescinded at any time and the type or form of bail shall not be sent in a bail schedule.

Proposed law removes these provisions of present law and provides that for an offense involving a violation of the Uniform Controlled Dangerous Substances Law as provided in present law (Part X of Ch. 4 of Title 40 of the La. Rev. Statutes of 1950), each court with criminal jurisdiction in this state shall set an initial bail in the following amounts, unless there is evidence that the mandatory minimum bail amount violates the factors provided in present law (C.Cr.P. Art. 316):

- (1) No amount of bail shall be set for any violation of present law (R.S. 40:966(A), 967(A), 968(A), or 969(A)) where the proof is evident, the presumption of guilt is great, and 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.
- (2) Except as provided in proposed law, when the offense is a violation of present law (R.S. 40:966(A)) relative to distribution or possession with intent to distribute heroin, an amount of not less than \$250,000 nor more than \$1,000,000.
- (3) Except as provided in proposed law, when the offense is a violation of present law (R.S. 40:966(A)) relative to distribution or possession with intent to distribute a Schedule I controlled dangerous substance or controlled substance analogue, an amount of not less than \$100,000 nor more than \$250,000.
- (4) Except as provided in proposed law, when the offense is a violation of present law (R.S. 40:967(A)) relative to distribution or possession with intent to distribute a Schedule II controlled dangerous substance or controlled substance analogue, an amount of not less than \$75,000 nor more than \$250,000.
- (5) Except as provided in proposed law, when the offense is a violation of present law (R.S. 40:968(A) or 969(A)) relative to distribution or possession with intent to distribute a Schedule III or IV controlled dangerous substance or controlled substance analogue, an

amount of not less than \$50,000 nor more than \$200,000.

- (6) Except as provided in proposed law, when the offense is a violation of present law (R.S. 40:966(C)) relative to possession of a Schedule I controlled dangerous substance, an amount of not less than \$25,000 nor more than \$125,000.
- (7) When the offense is a violation of present law (R.S. 40:966(C)(2)(b), (d), (e), or (f)) relative to possession of more than 14 grams of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, an amount of not less than \$500 nor more than \$5,000.
- (8) When the offense is a violation of present law (R.S. 40:967(C)) relative to possession of a Schedule II controlled dangerous substance, an amount of not less than \$25,000 nor more than \$100,000.
- (9) When the offense is a violation of present law (R.S. 40:968(C)) relative to possession of a Schedule III controlled dangerous substance, an amount of not less than \$15,000 nor more than \$75,000.
- (10) When the offense is a violation of present law (R.S. 40:969(C)) relative to possession of a Schedule IV controlled dangerous substance, an amount of not less than \$5,000 nor more than \$50,000.

Proposed law shall not apply to a violation of present law (R.S. 40:966(C)(2)(a)) relative to possession of less than 14 grams of marijuana, tetrahydrocannabinol, or chemical derivatives thereof.

Present law (C.Cr.P. Art. 314) provides that the following magistrates, throughout their several territorial jurisdictions, shall have authority to fix bail:

- (1) District courts and their commissioners having criminal jurisdiction, in all cases.
- (2) City or parish courts and municipal and traffic courts of New Orleans having criminal jurisdiction, in cases not capital.
- (3) Mayor's courts and traffic courts in criminal cases within their trial jurisdiction.
- (4) Juvenile and family courts in criminal cases within their trial jurisdiction.
- (5) Justices of the peace in cases not capital or necessarily punishable at hard labor.

Present law further provides that an order fixing bail shall be in writing, set the type and a single amount of bail for each charge, designate the officer or officers authorized to accept the bail, and shall be signed electronically or by any other means by the magistrate. Further provides that an order fixing bail may issue on request of the state or defendant, or on the initiative of the magistrate.

Proposed law repeals present law.

(Amends C.Cr.P. Art. 315(A) and (B); Repeals C.Cr.P. Art. 314)