

Regular Session, 2013

HOUSE BILL NO. 297

BY REPRESENTATIVES JOHNSON AND WESLEY BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/BAIL: Limits the release of defendants on their own recognizance in certain circumstances

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 334.4, relative to the prohibition
3 on release on own recognizance for certain offenses; to provide for a rebuttable
4 presumption relative to the release of a defendant on his own recognizance under
5 certain circumstances; to provide for a contradictory hearing; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 334.4 is hereby amended and
9 reenacted to read as follows:

10 Art. 334.4. Arrest for certain crimes; release on own recognizance prohibited

11 A. Notwithstanding any other provision of law to the contrary, any defendant
12 who has been arrested for any of the following crimes shall not be released by the
13 court on the defendant's own recognizance or on the signature of any other person:

- 14 (1) R.S. 14:32.1 (vehicular homicide).
- 15 (2) R.S. 14:40.3 (cyberstalking), if the person has two prior convictions for
16 the same offense.
- 17 (3) R.S. 14:44.2 (aggravated kidnapping of a child).
- 18 (4) R.S. 14:79 (violation of protective orders), if the person has a prior
19 conviction for the same offense.
- 20 (5) R.S. 14:87.1 (killing a child during delivery).

- 1 (6) R.S. 14:87.2 (human experimentation).
- 2 (7) R.S. 14:93.3 (cruelty to the infirmed), if the person has a prior conviction
3 for the same offense.
- 4 (8) R.S. 14:98 (operating a vehicle while intoxicated), if the person has a
5 prior conviction for the same offense.
- 6 (9) R.S. 14:102.1(B) (aggravated cruelty to animals).
- 7 (10) R.S. 14:102.8 (injuring or killing of a police animal).
- 8 (11) The production, manufacturing, distribution, or dispensing or the
9 possession with the intent to produce, manufacture, distribute or dispense a
10 controlled dangerous substance in violation of R.S. 40:966(B), 967(B), 968(B),
11 969(B), or 970(B) of the Uniform Controlled Dangerous Substances Law.
- 12 B. There shall be a rebuttable presumption that any defendant, who has
13 previously been released on his own recognizance or on the signature of any other
14 person on a felony charge, and who has either been arrested for a new felony offense
15 or has at any time failed to appear in court as ordered, shall not be released on his
16 own recognizance or on the signature of any other person. This presumption may
17 be overcome if the judge determines, after contradictory hearing in open court, that
18 a review of the relevant factors warrants this type of release.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Johnson

HB No. 297

Abstract: Limits the release of defendants on their own recognizance in certain circumstances.

Present law provides that any defendant who has been arrested for certain crimes shall not be released by the court on his own recognizance or on the signature of any other person.

Proposed law retains present law and further provides for a rebuttable presumption that any defendant who has previously been released on his own recognizance or on the signature of any other person on a felony charge, who has either been arrested for a new felony offense or has at any time failed to appear in court as ordered, shall not again be released by the court on the defendant's own recognizance or on the signature of any other person.

Proposed law provides for the presumption to be overcome if the judge determines after a contradictory hearing in open court that a review of the relevant factors warrants the release.

(Amends C.Cr.P. Art. 334.4)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Deleted provisions prohibiting a defendant who has been previously released on his own recognizance from being released on his own recognizance when arrested for a new felony.
2. Added a rebuttable presumption limiting release of a defendant on his own recognizance, and provides for a contradictory hearing.