

Regular Session, 2013

SENATE RESOLUTION NO. 111

BY SENATOR CLAITOR

LEGISLATIVE AGENCIES. Requests the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

A RESOLUTION

To urge and request the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

WHEREAS, Article 1, Section 18, of the Louisiana Constitution provides for the right to bail and states:

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

(B) However, a person charged with a crime of violence as defined by law or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law, and the proof is evident and the presumption of guilt is great, shall not be bailable 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."; and

WHEREAS, Section 18 prohibits excessive bail and further mandates that before and during a trial a person shall generally be bailable by sufficient surety, except as otherwise provided in the Section; and

1 WHEREAS, current laws providing bail and bail bond requirements, procedures and
2 references are scattered in numerous locations throughout Louisiana criminal and civil law,
3 including the Louisiana Code of Criminal Procedure, Criminal Code, Children's Code, and
4 Titles 13, 15, 22, 29, 32, 39, 46, and 56 of the Louisiana Revised Statutes of 1950; and

5 WHEREAS, these criminal and civil laws should be comprehensively studied to
6 determine the need for revisions that will produce best practices satisfying the constitutional
7 requirements of Article I, Section 18, while enhancing legal and judicial economy,
8 efficiency, fairness and uniformity in the criminal justice system; and

9 WHEREAS, the study should further determine if revisions to these criminal and
10 civil laws are necessary to eliminate inconsistencies and ambiguity in current wording in
11 order to achieve such best practices and a consistent body of law; and

12 WHEREAS, such study should include all aspects of the bail and bail bond process
13 set forth in both criminal and civil laws, including granting and fixing of bail for adult and
14 juvenile offenders, types of bail, the sufficiency, types and financial solvency of surety,
15 procedures, requirements and time periods applicable to the bail undertaking process, the
16 ability to meet bail financial obligations, release on bail, bail hearings, conditions of bail,
17 bail bonds, bail enforcement, surrender of the defendant and actions for violation of the bail
18 order, revocation and forfeiture of bail, issuance of arrest warrants, bond forfeiture
19 proceedings, judgments and appeals, and legal forms, documents and notices utilized in the
20 bail and bail bond process.

21 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
22 does hereby urge and request the Louisiana State Law Institute to perform a comprehensive
23 study of Louisiana bail laws and procedures and to make recommendations as necessary for
24 modernization of bail practices.

25 BE IT FURTHER RESOLVED that no later than February 1, 2014, the findings of
26 such study to date shall be submitted in a report to the Senate together with any
27 recommendations in the form of specific proposed legislation.

28 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
29 director of the Louisiana State Law Institute.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones .

DIGEST

Claitor

SR No. 111

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