

Regular Session, 1997

HOUSE BILL NO. 667

BY REPRESENTATIVES BRUNEAU AND WINDHORST

CRIMINAL/PROCEDURE: (Constitutional Amendment) Provides a person is not bailable if after contradictory hearing a judge finds that the defendant may flee or poses a danger to others

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A JOINT RESOLUTION

Proposing to amend Article I, Section 18 of the Constitution of Louisiana, relative to right to bail; to provide that a defendant is not bailable if after a hearing a judge determines that he may flee or poses a danger to others; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

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 of Louisiana, 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. 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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 may grant bail if the maximum sentence which may be imposed is  
2 imprisonment exceeding five years. After sentencing and until final  
3 judgment, a person shall be bailable if the sentence actually imposed is  
4 five years or less; and the judge may grant bail if the sentence actually  
5 imposed exceeds imprisonment for five years. However, a person shall  
6 not be bailable if, after a contradictory hearing, the judge or magistrate  
7 finds that there is a substantial risk that the person may flee or poses a  
8 danger to any other person or the community.

9 \* \* \*

10 Section 2. Be it further resolved that this proposed amendment shall be  
11 submitted to the electors of the state of Louisiana at the congressional primary  
12 election to be held in 1998.

13 Section 3. Be it further resolved that on the official ballot to be used  
14 at said election there shall be printed a proposition, upon which the electors  
15 of the state shall be permitted to vote FOR or AGAINST, to amend the  
16 Constitution of Louisiana, which proposition shall read as follows:

17 To provide that, a person shall not be bailable if, after a  
18 contradictory hearing, the judge or magistrate finds that there is  
19 a substantial risk that the person may flee or poses a danger to  
20 any other person or the community. (Amends Article I,  
21 Section 18)

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Bruneau, Windhorst

HB No. 667

Present constitution provides that 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, and that no excessive bail shall be required.

Proposed constitutional amendment retains the provisions of the present constitution and adds that a person shall not be bailable if after a contradictory hearing a judge or magistrate determines that there is a substantial risk that the person may flee or poses a danger to another person or the community.

Provides for submission of the proposed amendment to the voters at the congressional primary election to be held in 1998.

(Amends Const. Art. I, §18)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Adds that the judge or magistrate must find that there is a substantial risk that the person may flee or poses a danger to another.