

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 an imminent 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 an imminent 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.

DIGEST

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

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

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added that the danger to another posed by the person must be imminent.