

Regular Session, 1997

SENATE BILL NO. 282

BY SENATOR LENTINI

CRIMINAL PROCEDURE. Constitutional amendment to provide relative to joinder of felonies and trials in criminal cases.

1 A JOINT RESOLUTION

2 Proposing to amend Article I, Section 17 of the Constitution of Louisiana,
3 relative to jury trials in criminal cases; to provide relative to joinder of
4 felonies; and to specify an election date for submission of the
5 proposition to electors and provide a ballot proposition.

6 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of
7 the members elected to each house concurring, that there shall be submitted
8 to the electors of the state, for their approval or rejection in the manner
9 provided by law, a proposal to amend Article I, Section 17 of the Constitution
10 of Louisiana, to read as follows:

11 §17. Jury Trial in Criminal Cases; **Joinder of Felonies; Mode of**
12 **Trial**

13 Section 17. **(A) Jury Trial in Criminal Cases.** A criminal case
14 in which the punishment may be capital shall be tried before a jury of
15 twelve persons, all of whom must concur to render a verdict. A case in

1 which the punishment is necessarily confinement at hard labor shall be
2 tried before a jury of twelve persons, ten of whom must concur to
3 render a verdict. A case in which the punishment may be confinement
4 at hard labor or confinement without hard labor for more than six
5 months shall be tried before a jury of six persons, ~~five~~ all of whom
6 must concur to render a verdict. The accused shall have a right to full
7 voir dire examination of prospective jurors and to challenge jurors
8 peremptorily. The number of challenges shall be fixed by law. Except
9 in capital cases, a defendant may knowingly and intelligently waive his
10 right to a trial by jury.

11 **Article I, Section 17(B) is all proposed new law.**

12 (B) Joinder of Felonies; Mode of Trial. Notwithstanding any
13 provision of law to the contrary, offenses in which punishment is
14 necessarily confinement at hard labor may be charged in the same
15 indictment or information with offenses in which the punishment may
16 be confinement at hard labor; provided, however, that the joined
17 offenses are of the same or similar character or are based on the same
18 act or transaction or on two or more acts or transactions connected
19 together or constituting parts of a common scheme or plan; and
20 provided further, that cases so joined shall be tried by a jury composed
21 of twelve jurors, ten of whom must concur to render a verdict.

22 Section 2. Be it further resolved that this proposed amendment shall be
23 submitted to the electors of the state at the congressional primary election to
24 be held in 1998.

25 Section 3. Be it further resolved that on the official ballot to be used
26 at the election there shall be printed a proposition, upon which the electors of
27 the state shall be permitted to vote FOR or AGAINST, to amend the

1 Constitution of Louisiana, which proposition shall read as follows:

2 To provide for composition of jury and joinder of felony
3 offenses in criminal cases.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Joseph G. Guillory, Jr.

Lentini (SB 282)

DIGEST

Present constitutional amendment provides that a criminal case in which the punishment may be capital shall be tried before a jury of twelve persons, all of whom must concur to render a verdict.

Proposed constitutional amendment retains present constitutional amendment.

Present constitutional amendment provides that a case in which the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, ten of whom must concur to render a verdict.

Proposed constitutional amendment retains present constitutional amendment.

Present constitutional amendment provides that a case in which the punishment may be confinement at hard labor or confinement without hard labor for more than six months shall be tried before a jury of six persons, five of whom must concur to render a verdict.

Proposed constitutional amendment amends present constitutional amendment to provide that all six persons on the jury must concur rather than five of six.

Present constitutional amendment provides that the accused shall have a right to full voir dire examination of prospective jurors and to challenge jurors peremptorily. The number of challenges shall be fixed by law. Except in capital cases, a defendant may knowingly and intelligently waive his right to a trial by jury.

Proposed constitutional amendment retains present constitutional amendment.

Proposed constitutional amendment provides that notwithstanding any provision of law to the contrary, offenses in which punishment is necessarily confinement at hard labor may be charged in the same indictment or information with offenses in which the punishment may be confinement at hard labor; provided, however, that the joined offenses are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan; and provided further, that cases so joined shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict.

(Amends Art. I, Sec. 17)