

2018 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 100

BY REPRESENTATIVE JORDAN

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to review Louisiana laws regarding bail and study whether a system which provides for the presumed release of a person on unsecured personal surety or bail without surety in lieu of a preset bail schedule would be more successful in ensuring the appearance of the defendant and the public safety of the community.

WHEREAS, a person in custody who is charged with the commission of an offense is entitled to bail before conviction pursuant to Article I, Section 18 of the Constitution of Louisiana and Code of Criminal Procedure Article 312; and

WHEREAS, the American Bar Association (ABA) is one of the largest voluntary professional membership organizations and the leading organization of legal professionals in the United States, and since its founding in 1878, the ABA has worked to protect the rights granted to individuals by the United States Constitution, including the rights of those persons who are accused of crimes; and

WHEREAS, the ABA's work in this area is reflected in the *ABA Standards for Criminal Justice (Standards)*, a list of principals articulating the ABA's recommendations for fair and effective systems of criminal justice that were developed and revised by the ABA Criminal Justice Section comprised of prosecutors, defense lawyers, judges, academics, and members of the public; and

WHEREAS, the United States Supreme Court and other courts have looked to the *Standards* for guidance about the appropriate balance between individual rights and public safety in the field of criminal justice; and

WHEREAS, the *Standards* reflect the ABA's conclusion that "although there may be narrow circumstances in which monetary conditions of release are necessary to ensure a defendant's appearance, inflexible money-bail requirements drawn from a present schedule of offenses, which takes no account of a defendant's individual circumstances, should be abolished" as such systems discriminate against the indigent, seriously impair the rights of persons accused of crimes, and provide little benefit to the public; and

WHEREAS, in its Amicus Curiae brief to the United States Court of Appeals for the Eleventh Circuit in the case *Walker v. City of Calhoun*, the ABA argues that inflexible money-bail systems that rely on preset bail schedules, instead of individualized determinations of the appropriate conditions of release, violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment; and

WHEREAS, it is important that Louisiana's system of pretrial release and detention protects the community and ensures the appearance of the accused for court dates, while securing the rights of the accused.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to review Louisiana laws regarding bail and to study whether a system which provides for the presumed release of a person on unsecured personal surety or bail without surety in lieu of a preset bail schedule would be more successful in ensuring the appearance of the defendant and the public safety of the community.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report its findings to the Louisiana Legislature no later than February 1, 2019.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be sent to the Louisiana State Law Institute.

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE