

2019 Regular Session

SENATE RESOLUTION NO. 208

BY SENATOR PRICE

CRIMINAL PROCEDURE. Creates task force to study and make recommendations on income-based pretrial detention of a person.

1 A RESOLUTION

2 To create a task force to review pretrial detention and to develop legislative solutions to the
3 problem of income-based pretrial detention.

4 WHEREAS, Article I, Section 18 of the Louisiana Constitution prohibits excessive
5 bail and further provides that before and during a trial, a person shall be bailable by
6 sufficient surety, except when a person is charged with a capital offense, a crime of violence,
7 or certain offenses defined by the Louisiana controlled dangerous substance law and the
8 proof is evident and the presumption of guilt is great; and

9 WHEREAS, Louisiana law provides that bail shall be determined by ten factors and
10 that in certain instances an accused can be detained if a magistrate finds by clear and
11 convincing evidence that there is a substantial risk that the person may flee or poses an
12 imminent danger to any other person or the community; and

13 WHEREAS, one factor in determining bail pursuant to Louisiana Code of Criminal
14 Procedure Article 316 is the ability of the defendant to give bail; and

15 WHEREAS, in *United States v. Salerno* the court declared, "In our society liberty
16 is the norm, and detention prior to trial or without trial is the carefully limited exception.";
17 and

18 WHEREAS, the federal Bail Reform Act of 1966 provides for bail rights for

1 defendants by giving noncapital defendants a statutory right to be released pending trial, on
2 their personal recognizance or surety bond; and

3 WHEREAS, the United States Supreme Court has held that "unless the right to bail
4 before trial is preserved, the presumption of innocence, would lose its meaning".

5 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
6 does hereby create a task force to study income-based pretrial detention in Louisiana and to
7 develop legislative solutions to the problem of income-based pretrial detention.

8 BE IT FURTHER RESOLVED that the task force shall be composed of the
9 following members:

10 (1) A member appointed by the president of the board of directors of the Louisiana
11 Association of Criminal Defense Lawyers or his designee.

12 (2) The executive director of the American Civil Liberties Union of Louisiana or her
13 designee.

14 (3) The chair of the board of directors of the Foundation for Louisiana or his
15 designee.

16 (4) A member of the Louisiana District Attorneys Association to be appointed by the
17 president of the board of directors of the association.

18 (5) A member of the judiciary appointed by the president of the executive board of
19 the Louisiana District Judges Association.

20 BE IT FURTHER RESOLVED that the first meeting shall be called by the Senator
21 representing District 2 and at first meeting the task force shall elect a chair.

22 BE IT FURTHER RESOLVED that the task force shall be staffed by the Senate staff
23 assigned to the Senate Committee on Judiciary C.

24 BE IT FURTHER RESOLVED that the task force shall submit a written report of
25 its findings, together with specific proposals to the Senate Committee on Judiciary C prior
26 to convening of the 2020 Regular Session.

27 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
28 president of the board of directors of the Louisiana Association of Criminal Defense
29 Lawyers, the executive director of the American Civil Liberties Union of Louisiana, the
30 chair of the board of directors of the Foundation for Louisiana, the president of the board of

1 directors of the Louisiana District Attorneys Association, and the president of the executive
2 board of the Louisiana District Judges Association.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Xavier I. Alexander.

	DIGEST	
SR 208 Original	2019 Regular Session	Price

Create a task force to review pretrial detention and to develop legislative solutions to the
problem of income-based pretrial detention.