



LOUISIANA STATE LAW INSTITUTE

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January 15, 2014

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: SR NO. 111 of 2013

Dear Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2013 Senate Resolution No. 111, relative to Louisiana Bail Laws and Procedures.

Sincerely,

A handwritten signature in black ink that reads "William E. Crawford".

William E. Crawford
Director

WEC/puc

cc: Senator Dan Claitor

e-mail cc: David R. Poynter Legislative Research Library
drplib@legis.la.us
Secretary of State, Mr. Tom Schedler
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**LOUISIANA STATE LAW INSTITUTE
BAIL BOND PROCEDUREE REVISION COMMITTEE [NEW]**

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SENATE RESOLUTION NO. 111 OF THE 2013 REGULAR SESSION
(LOUISIANA BAIL LAWS AND PROCEDURES)**

January 15, 2014
Baton Rouge, LA

BAIL BOND PROCEDURE REVISION COMMITTEE [NEW]

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January 15, 2014

To: Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, LA 70804

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE
IN RESPONSE TO SENATE RESOLUTION NO. 111 OF THE 2013 REGULAR SESSION**

Senate Resolution No. 111 of the 2013 Regular Session requested the Louisiana State Law Institute to make "a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernizations of bail practices." The resolution requested that the Law Institute report its findings no later than February 1, 2014. A copy of SR 111 is attached.

The Institute's Bail Bond Procedure Revision Committee [new] was assigned to study this matter. Judge Guy Holdridge was appointed the Committee's Reporter. The Committee's membership includes individuals involved in the various aspects of bail bond procedure to include members of the judiciary, both at the trial and appellate level, academia, prosecutors and the defense bar, the bail bond industry, and the department of insurance.

The Committee held its initial meeting on November 14, 2013. At this meeting, the Reporter led a discussion which requested those present to identify the issues which the Committee should address and those issues which it should not address.

During the ensuing discussion, it became apparent that the issues involved are both numerous and complex. The major issues which those present discussed dealt with having bond forfeiture procedures comply with civil procedure, simplifying those procedures and consolidating them in one place, delaying recordation of the judgment of bond forfeiture until after the forfeiture hearing followed by a short period for a suspensive appeal, eliminate unnecessary and premature bond forfeitures, authorize each judicial district to set up, by local rule, a cash bond system, the lack of uniformity throughout the state for bond forfeitures to include the courts and law enforcement, require an affidavit stating the reasons for surrendering defendant, make it easier to determine whether a bench warrant for the defendant has been issued and if so when, authorize the use of a split bond – permitting the defendant to satisfy the bail obligation by utilizing a combination of a commercial, personal or property bond, authorize the defendant to initially pay a certain amount of the bail up front and then pay the rest over a period of time and assure that the failure to meet deadlines in the bond forfeiture process will result in a meaningful consequence.

The Committee will meet again on January 31, 2014.

However the issues involved will require additional time before the Committee will be in a position to complete its work and make a final report to the Council of the Law Institute and

the Legislature. Therefore, the Committee will be unable to complete its work by February 1, 2014, as provided in the resolution.

Respectfully Submitted,
Guy Holdridge
Reporter, Bail Bond Procedure
Revision Committee [New]

SENATE RESOLUTION NO. 111

BY SENATOR CLAITOR

A RESOLUTION

To urge and request the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

WHEREAS, Article 1, Section 18, of the Louisiana Constitution provides for the right to bail and states:

"(A) 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 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.

(B) However, a person charged with a crime of violence as defined by law or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law, and the proof is evident and the presumption of guilt is great, shall not be bailable if, after a contradictory hearing, the judge or magistrate finds by clear and convincing evidence that there is a substantial risk that the person may flee or poses an imminent danger to any other person or the community."; and

WHEREAS, Section 18 prohibits excessive bail and further mandates that before and during a trial a person shall generally be bailable by sufficient surety, except as otherwise provided in the Section; and

WHEREAS, current laws providing bail and bail bond requirements, procedures and references are scattered in numerous locations throughout Louisiana criminal and civil law, including the Louisiana Code of Criminal Procedure, Criminal Code, Children's Code, and Titles 13, 15, 22, 29, 32, 39, 46, and 56 of the Louisiana Revised Statutes of 1950; and

WHEREAS, these criminal and civil laws should be comprehensively studied to determine the need for revisions that will produce best practices satisfying the constitutional requirements of Article I, Section 18, while enhancing legal and judicial economy, efficiency, fairness and uniformity in the criminal justice system; and

WHEREAS, the study should further determine if revisions to these criminal and civil laws are necessary to eliminate inconsistencies and ambiguity in current wording in order to achieve such best practices and a consistent body of law; and

WHEREAS, such study should include all aspects of the bail and bail bond process set forth in both criminal and civil laws, including granting and fixing of bail for adult and juvenile offenders, types of bail, the sufficiency, types and financial solvency of surety, procedures, requirements and time periods applicable to the bail undertaking process, the ability to meet bail financial obligations, release on bail, bail hearings, conditions of bail, bail bonds, bail enforcement, surrender of the defendant and actions for violation of the bail order, revocation and forfeiture of bail, issuance of arrest warrants, bond forfeiture proceedings, judgments and appeals, and legal forms, documents and notices utilized in the bail and bail bond process.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to perform a comprehensive study of Louisiana bail laws and procedures and to make recommendations as necessary for modernization of bail practices.

BE IT FURTHER RESOLVED that no later than February 1, 2014, the findings of such study to date shall be submitted in a report to the Senate together with any recommendations in the form of specific proposed legislation.

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

PRESIDENT OF THE SENATE