



**LOUISIANA STATE LAW INSTITUTE**

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January 30, 2019

Representative Taylor Barras  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

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

**RE: HOUSE CONCURRRENT RESOLUTION NO. 100 OF THE 2018  
REGULAR SESSION**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to the Louisiana bail system.

Sincerely,

  
Guy Holdridge  
Director

cc: Representative Edmond Jordan

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)  
Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
CRIMINAL CODE AND CODE OF CRIMINAL PROCEDURE  
COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO HCR NO. 100 OF THE 2018 REGULAR SESSION**

**Relative to Louisiana's bail system**

Prepared for the  
Louisiana Legislature on

**January 30, 2019**

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE  
CRIMINAL CODE AND CODE OF CRIMINAL PROCEDURE  
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Judge Guy Holdridge, Acting Reporter  
Mallory C. Waller, Staff Attorney

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.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

January 30, 2019

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**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HCR NO. 100 OF THE 2018 REGULAR SESSION**

House Concurrent Resolution No. 100 of the 2018 Regular Session urges and requests the Louisiana State Law Institute to study and review Louisiana laws regarding bail and to study whether a system that 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. In fulfillment of this request, the Law Institute assigned the project to its Criminal Code and Code of Criminal Procedure Committee.

The Committee generally discussed the issues presented by the resolution as well as the Law Institute's comprehensive revision to the Code of Criminal Procedure articles on bail, which was enacted during the 2016 Regular Session as Acts 2016, No. 613. The Committee was also presented with a report on the Louisiana bail system by the Criminal Justice Committee of the Louisiana State Bar Association and agreed to further study the information and recommendations included in this report. The Committee then decided to form a Bail Subcommittee comprised of members with expertise in this area of criminal law, including existing Committee members, previous members of the Law Institute's Bail Bond Procedure Revision Committee, and other interested persons from various institutions and associations.

Both the Committee and Subcommittee plan to meet several times over the course of this year to further consider this information and to make recommendations concerning the bail system in Louisiana. A final report will be submitted to the Legislature once the Committee's recommendations have been approved by the Council of the Law Institute.

Respectfully submitted,

Judge Guy Holdridge, Acting Reporter  
Criminal Code and Code of Criminal Procedure Committee  
Louisiana State Law Institute