

2024 Regular Session

HOUSE BILL NO. 99

BY REPRESENTATIVE BACALA

BAIL: Provides relative to contradictory bail hearings for certain persons

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 313(C)(1), (2), and (5), relative  
3 to bail; to provide relative to a contradictory bail hearing prior to setting bail; to  
4 require a contradictory bail hearing prior to setting bail for certain persons; to require  
5 the court to order a contradictory hearing to be held within a certain period of time;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 313(C)(1), (2), and (5) are hereby  
9 amended and reenacted to read as follows:

10 Art. 313. Gwen's Law; bail hearings; detention without bail

11 \* \* \*

12 C.(1)(a) When a person is arrested for a sex offense or a felony crime of  
13 violence, no bail shall be set until a magistrate has made a determination as to  
14 whether the contradictory bail hearing requirements of this Paragraph apply. Any  
15 magistrate with the authority to fix bail as provided in Article 314 may request that  
16 the law enforcement agency having custody of the defendant provide the magistrate  
17 with the criminal history of the defendant in order to determine whether the  
18 requirements of this Paragraph apply.

19 (b) A contradictory bail hearing, as provided for in this Paragraph, shall be  
20 held prior to setting bail for a person in custody who is charged with the commission

1 ~~of a sex offense and who has been previously convicted of a sex offense.~~ meets any  
2 of the following criteria:

3 (i) The person is charged with the commission of a sex offense or felony  
4 crime of violence and has been previously convicted of a sex offense or felony crime  
5 of violence.

6 (ii) The person is charged with the commission of a sex offense or felony  
7 crime of violence and is currently released pursuant to a bail undertaking posted  
8 pursuant to Article 312 for a sex offense or felony crime of violence.

9 (2) The court, after ~~having been given notice of an applicable prior~~  
10 ~~conviction as described in Subparagraph (5)~~ determining that the provisions of this  
11 Paragraph apply, shall order a contradictory hearing to be held within five days or  
12 as soon as practical under the circumstance after the ~~receiving notice of the prior~~  
13 ~~conviction~~ determination, exclusive of weekends and legal holidays.

14 \* \* \*

15 (5) For purposes of this Paragraph, "sex offense" means any offense as  
16 defined as a sex offense in R.S. 15:541 when the victim is under the age of thirteen  
17 at the time of commission of the offense and less than ten years have elapsed  
18 between the date of the commission of the current offense and the expiration of the  
19 maximum sentence of the previous conviction. "Felony crime of violence" shall  
20 mean any crime of violence enumerated or defined in R.S. 14:2(B) which is a felony.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 99 Engrossed 2024 Regular Session Bacala

**Abstract:** Requires a contradictory hearing to be held prior to setting bail for certain persons.

Present law provides relative to contradictory bail hearings for persons in custody.

Proposed law provides that when a person is arrested for a sex offense or a felony crime of violence, no bail shall be set until a magistrate has made a determination as to whether the contradictory bail hearing requirements of proposed law apply.

Proposed law further provides that any magistrate with the authority to fix bail as provided in present law (C.Cr.P. Art. 314) may request that the law enforcement agency having custody of the defendant provide the magistrate with the criminal history of the defendant in order to determine whether the requirements of proposed law apply.

Present law provides that a contradictory bail hearing shall be held prior to setting bail for a person in custody who is charged with the commission of a sex offense and who has been previously convicted of a sex offense.

Proposed law amends present law to provide that a contradictory bail hearing shall be held prior to setting bail for a person in custody who meets any of the following criteria:

- (1) The person is charged with the commission of a sex offense or felony crime of violence and has been previously convicted of a sex offense or felony crime of violence.
- (2) The person is charged with the commission of a sex offense or felony crime of violence and is currently released pursuant to a bail undertaking posted pursuant to present law (C.Cr.P. Art. 312) for a sex offense or felony crime of violence.

Present law provides that the court, after having been given notice of an applicable prior conviction as described in present law, shall order a contradictory hearing to be held within five days of receiving notice of the prior conviction, exclusive of weekends and legal holidays.

Proposed law amends present law to require the court, after determining that the provisions of present law apply, to order a contradictory hearing to be held within five days or as soon as practical under the circumstance after the determination, exclusive of weekends and legal holidays.

Present law defines the term "sex offense".

Proposed law retains present law and defines the term "felony crime of violence".

(Amends C.Cr.P. Art. 313(C)(1), (2), and (5))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Require that no bail shall be set when a person is arrested for a sex offense or a felony crime of violence until a magistrate has made a determination as to whether the contradictory bail hearing requirements of proposed law apply.
3. Permit any magistrate with the authority to fix bail to request that the law enforcement agency having custody of the defendant provide the magistrate with the criminal history of the defendant in order to determine whether the contradictory hearing requirements apply.
4. Require a contradictory bail hearing prior to setting bail for a person in custody who meets any of the following criteria:

- (a) The person is charged with the commission of a sex offense or felony crime of violence and has been previously convicted of a sex offense or felony crime of violence.
  - (b) The person is charged with the commission of a sex offense or felony crime of violence and is currently released pursuant to a bail undertaking posted before or after conviction for a sex offense or felony crime of violence.
5. Clarify that the court is required, after determining that the contradictory bail hearing requirements apply, to order a contradictory hearing to be held within five days or as soon as practical under the circumstance after the determination, exclusive of weekends and legal holidays.
6. Define the term "felony crime of violence".