



**LOUISIANA STATE LAW INSTITUTE**

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December 22, 2025

Representative Phillip R. DeVillier  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

Senator Cameron Henry  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

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

Dear Mr. Speaker and Mr. President:

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

Sincerely,

  
Guy Holdridge  
Director

GH/puc  
Enclosure

cc: Representative Edmond Jordan

email cc: David R. Poynter Legislative Research Library  
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Secretary of State, Ms. Nancy Landry  
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**LOUISIANA STATE LAW INSTITUTE  
CODE OF CRIMINAL PROCEDURE COMMITTEE**

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

**Relative to bail and the appearance of defendants**

Prepared for the  
Louisiana Legislature on

**December 22, 2025**

Baton Rouge, Louisiana

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

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Marilyn Castle, Reporter  
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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

December 22, 2025

To: Representative Phillip R. DeVillier  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, LA 70804

Senator J. Cameron Henry, Jr.  
President of the Senate  
P.O. Box 94183  
Baton Rouge, LA 70804

### **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 urged and requested the Louisiana State Law Institute to review Louisiana laws regarding bail and 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. This resolution was assigned to the Law Institute's Code of Criminal Procedure Committee, which operates under the direction of retired Judge Marilyn Castle as Reporter. A subcommittee was formed to explore this issue, but research for statistics proved difficult regarding any hard data while there exists anecdotal information regarding issues of public safety and repeat offenses by those released without bond.

Subsequently, other resolutions were assigned to the Code of Criminal Procedure Committee regarding bail. These included House Concurrent Resolution No. 191 of 2024 on the feasibility of statewide bond schedules and House Resolution No. 243 of 2024 concerning the possibility of seventy-two-hour holds prior to bail setting for charges involving physical or sexual abuse of a minor. As a result of the efforts to respond to these resolutions, the Law Institute has found all of the following:

1. The primary purpose of bail is to ensure the presence of a defendant at all court appearances.

2. A statewide court date text and email reminder system would greatly assist with the objective of ensuring appearance and should be considered in any discussion regarding bail. This method has already proven highly effective in Jefferson Parish as well as in a pilot program in East Baton Rouge Parish. At least six states – Alaska, Colorado, Massachusetts, New York, Texas, and Washington – have enacted legislation to mandate the creation of statewide reminder system.

Although funding may be an obstacle to establishing such a system in some jurisdictions, the Texas Judicial Branch launched the Texas Court Reminder Program to provide a statewide court text and email reminder system to decrease failure-to-appear (FTA) rates, improve access to

justice, reduce the number of warrants issued, reduce the number of phone calls to the court, and improve communication with the public. It is offered to courts and county jurisdictions, without cost, through the Texas Office of Court Administration. It should be noted that email service of pleadings in civil cases (subsequent to an original petition) is already authorized in Louisiana. See Code of Civil Procedure Article 1313.

While many believe criminal defendants intentionally skip court dates, the experience from the above-mentioned programs demonstrates otherwise. Although there are some who intentionally try to elude court, there are more who miss due to disorganization and lack of stability. Although defendants may have transient housing and lose their subpoenas, they do maintain email addresses and phone numbers. When appearances for court improve, cases do not languish unresolved and fewer warrants are issued, saving law enforcement resources. For misdemeanor and traffic matters, this also means fines and costs are paid sooner and some driver's license suspensions are avoided. For more serious offenses, this means fewer continuances and better confidence in the justice system.

Clerks of court can provide this text and email reminder service. While there is initial expense in setting up the system, there are cost savings in better collection of fines and court costs, less duplication of subpoena costs, and reduction of judicial, IDO, and DA caseloads when cases can be resolved rather than reset due to a defendant's nonappearance. Mandating clerks of court to provide this service while also providing them with necessary funds to establish the system is therefore one of the Committee's recommendations.

Cost savings in better collection of fines and court costs, less duplication of subpoena costs, and reduction of judicial, IDO, and DA caseloads may prove any initial expenditure to be cost-effective. State funding for a multi-year pilot program in key jurisdictions may be an effective method of testing the economy of such a text and email reminder system.

3. While the primary purpose of bail is to ensure the presence of a defendant at all court appearances, the element of public safety cannot be discounted in relation to bail decisions. Code of Criminal Procedure Article 316 provides:

The amount of bail shall be fixed in an amount that will ensure the presence of the defendant, as required, and the safety of any other person and the community, having regard to:

(1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.

(2) The weight of the evidence against the defendant.

(3) The previous criminal record of the defendant.

(4) The ability of the defendant to give bail.

(5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.

(6) The defendant's voluntary participation in a pretrial drug testing program.

(7) The absence or presence in the defendant of any controlled dangerous substance.

(8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.

(9) Any other circumstances affecting the probability of defendant's appearance.

(10) The type or form of bail.

Code of Criminal Procedure Article 316 properly recognizes the need for individualized consideration of cases in setting bail. Neither a presumption that a certain bail amount is appropriate nor a presumption of release without bail are effective without application of the above factors. There are also currently a number of crimes for which unsecured release is prohibited including crimes of violence, sex offenses against minors, violations of protective orders, and drug distribution. See Code of Criminal Procedure Article 321(C).

4. In addition, supplements to bail, such as electronic monitoring, drug testing, mental health, drug treatment, and other services, have been found to be effective in curtailing re-offending as well as improving court attendance in some jurisdictions. The disparity across the state of resources to utilize such alternatives as well as availability and costs of jail space are factors in attempting to establish any statewide bail policy.

5. In many Louisiana jurisdictions, misdemeanor summons, in lieu of arrest, are utilized for nonviolent misdemeanors, excluding OWI. This is a form of unsecured release based upon the nature of the offense and minimal danger to the community. In most cases, this unsecured release is not afforded to repeat misdemeanor offenders.

6. Under the current bail system, when bond is set, most bonds are posted via commercial surety furnished by bonding companies. A defendant pays a premium to a bonding company (usually 12% of the bond amount) in order to post bond. That premium is nonrefundable from the surety company. An alternative to the use of commercial bonds is the use of cash deposits as authorized by Code of Criminal Procedure Article 326. It reads, in pertinent part:

A.(1) In lieu of a surety the defendant may furnish a bail undertaking, secured by a deposit with an officer authorized to accept the bail. The deposit shall consist of any of the following which are equal to the amount of the bail:



- (a) Cash.
  - (b) A certified or cashier's check on any state or national bank.
  - (c) Bonds of the United States government negotiable by delivery.
  - (d) Bonds of the state of Louisiana or any political subdivision thereof negotiable by delivery.
  - (e) United States postal money orders or money orders issued by any state or national bank.
- (2) The court in the parishes of St. John the Baptist and St. Charles, by written rule, may alter the percentage amount of bail to be deposited with the officer authorized to accept the bail undertaking and authorize the officer to charge an administrative fee, not to exceed fifteen dollars, for processing the bail undertaking.

Due to the special provision for St. Charles Parish, the amount of any cash bond to be posted has been adjusted. The amount of cash deposit required to bond out is ten percent of the amount of bond set and is deposited with the sheriff. In addition, the sheriff receives a fifteen-dollar administrative fee plus collects an additional fifteen dollars per R.S. 15:85.1. The sheriff maintains the cash deposit in an interest-bearing account. The interest earned can be distributed in any manner directed by the Legislature to cover costs incurred in criminal cases. At the conclusion of each case, the defendant may receive a refund of the cash deposit, or it may be applied to any fine or costs assessed to the defendant. If the defendant fails to appear, the money may be forfeited and distributed in the manner of forfeited bonds. If all parishes were to receive the same legislative authorization and choose to model St. Charles Parish, the amount required to be paid by a defendant would be less, a defendant would have the ability to recover the deposit or use it to pay fines and fees, and local governmental entities would have additional income.

Under such a system, judges would still have the authority to require a defendant to post a commercial bond if there is concern about a defendant trying to flee, to deny bond if a defendant has repeatedly failed to appear, or to require other conditions of bond in addition to the cash deposit.

While there are differences in regard to resources across the judicial districts of the state, there is no barrier to use of the cash deposit other than the need for an amendment to Code of Criminal Procedure Article 326(A)(2) to authorize all courts in all parishes to, by written rule, alter the percentage amount of bail to be deposited with the officer authorized to accept the bail undertaking and authorize the officer to charge an administrative fee for processing the bail undertaking.

The Louisiana State Law Institute therefore recommends implementing a statewide text and email reminder system for court appearances to help ensure the appearance of defendants. It also recommends an amendment to Code of Criminal Procedure Article 326 to allow all parishes to accept reduced cash deposits in lieu of posting the full bond. This would lessen the financial

burden of defendants posting bond and also incentivize court appearance by allowing the defendant to receive a return of the deposit or use it to cover any fine or cost imposed. Better appearance rates by defendants promote better public safety. The Louisiana State Law Institute respectfully submits these recommendations to the Legislature for its consideration.