HOUSE CONCURRENT RESOLUTION NO. 41

A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 29, MISSISSIPPI CONSTITUTION OF 1890, TO PROHIBIT BAIL FOR TRAFFICKING IN CONTROLLED SUBSTANCES; AND FOR RELATED PURPOSES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI, That the following amendment to the Mississippi Constitution of 1890 is proposed to the qualified electors of the state:

Amend Section 29, Mississippi Constitution of 1890, to read as follows:

"Section 29. (1) Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses (a) when the proof is evident or presumption great; or (b) when the person previously has been convicted of a capital offense or any other offense punishable by imprisonment for a maximum of twenty (20) years or more. However, the court shall deny bail to a person charged with trafficking in controlled substances. The Legislature, by general law, shall define and prescribe the conduct which constitutes the offense of trafficking in controlled substances.

(2) If a person charged with committing any offense that is punishable by death, life imprisonment or imprisonment for one (1) year or more in the penitentiary or any other state correctional facility is granted bail and (a) if that person is indicted for a felony committed while on bail; or (b) if the court, upon hearing, finds probable cause that the person has committed a felony while on bail, then the court shall revoke bail and shall order that the person be detained, without further bail, pending trial of the..."
charge for which bail was revoked. For the purposes of this subsection (2) only, the term "felony" means any offense punishable by death, life imprisonment or imprisonment for more than five (5) years under the laws of the jurisdiction in which the crime is committed. In addition, grand larceny shall be considered a felony for the purposes of this subsection.

(3) In the case of offenses punishable by imprisonment for a maximum of twenty (20) years or more or by life imprisonment, a county or circuit court judge may deny bail for such offenses when the proof is evident or the presumption great upon making a determination that the release of the person or persons arrested for such offenses would constitute a special danger to any other person or to the community or that no condition or combination of conditions will reasonably assure the appearance of the person as required.

(4) In any case where bail is denied before conviction, the judge shall place in the record his reasons for denying bail. Any person who is charged with an offense punishable by imprisonment for a maximum of twenty (20) years or more or by life imprisonment and who is denied bail prior to conviction shall be entitled to an emergency hearing before a justice of the Mississippi Supreme Court. The provisions of this subsection (4) do not apply to bail revocation orders.

BE IT FURTHER RESOLVED, That this proposed amendment shall be submitted by the Secretary of State to the qualified electors at an election to be held on the first Tuesday after the first Monday of November 2002, as provided by Section 273 of the Constitution and by general law.

BE IT FURTHER RESOLVED, That the explanation of this proposed constitutional amendment prohibits bail for the offense of trafficking in controlled substances. The amendment also requires
the Legislature to define and prescribe the conduct which constitutes trafficking in controlled substances."