

By: Representatives Moore, Lott

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 28

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 29,  
2 MISSISSIPPI CONSTITUTION OF 1890, TO PROHIBIT BAIL FOR SEX  
3 OFFENSES; AND FOR RELATED PURPOSES.

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

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

10 "Section 29. (1) Excessive bail shall not be required, and  
11 all persons shall, before conviction, be bailable by sufficient  
12 sureties, except for capital offenses (a) when the proof is  
13 evident or presumption great; or (b) when the person previously  
14 has been convicted of a capital offense or any other offense  
15 punishable by imprisonment for a maximum of twenty (20) years or  
16 more and except for a sex offense as that term is defined in  
17 Section 45-33-23.

18 (2) If a person charged with committing any offense that is  
19 punishable by death, life imprisonment or imprisonment for one (1)  
20 year or more in the penitentiary or any other state correctional  
21 facility is granted bail and (a) if that person is indicted for a  
22 felony committed while on bail; or (b) if the court, upon hearing,  
23 finds probable cause that the person has committed a felony while  
24 on bail, then the court shall revoke bail and shall order that the  
25 person be detained, without further bail, pending trial of the  
26 charge for which bail was revoked. For the purposes of this  
27 subsection (2) only, the term "felony" means any offense

28 punishable by death, life imprisonment or imprisonment for more  
29 than five (5) years under the laws of the jurisdiction in which  
30 the crime is committed. In addition, grand larceny shall be  
31 considered a felony for the purposes of this subsection.

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

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

49 BE IT FURTHER RESOLVED, That this proposed amendment shall be  
50 submitted by the Secretary of State to the qualified electors at  
51 an election to be held on the first Tuesday after the first Monday  
52 of November 2006, as provided by Section 273 of the Constitution  
53 and by general law.

54 BE IT FURTHER RESOLVED, That the explanation of this proposed  
55 amendment for the ballot shall read as follows: "This proposed  
56 constitutional amendment will prohibit bail for persons charged  
57 with sex offenses."