

By: Representative McBride

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 41

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 29,
2 MISSISSIPPI CONSTITUTION OF 1890, TO PROHIBIT BAIL FOR TRAFFICKING
3 IN CONTROLLED SUBSTANCES; 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. However, the court shall deny bail to a person charged with
17 trafficking in controlled substances. The Legislature, by general
18 law, shall define and prescribe the conduct which constitutes the
19 offense of trafficking in controlled substances.

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



28 charge for which bail was revoked. For the purposes of this
29 subsection (2) only, the term "felony" means any offense
30 punishable by death, life imprisonment or imprisonment for more
31 than five (5) years under the laws of the jurisdiction in which
32 the crime is committed. In addition, grand larceny shall be
33 considered a felony for the purposes of this subsection.

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

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

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

56 BE IT FURTHER RESOLVED, That the explanation of this proposed
57 amendment for the ballot shall read as follows: "This proposed
58 constitutional amendment prohibits bail for the offense of
59 trafficking in controlled substances. The amendment also requires



60 the Legislature to define and prescribe the conduct which
61 constitutes trafficking in controlled substances."

