

Introduced by Senator Nguyen

April 12, 2016

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article I thereof, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as introduced, Nguyen. Bail: risk of flight exception.

The California Constitution requires a person to be released on bail, as provided, except for certain crimes and offenses, including capital crimes when the facts are evident or the presumption great, and felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others.

This measure would expand the exception described above to include felony offenses when the facts are evident or the presumption great and the court finds based on preponderance of the evidence that there is a substantial likelihood the person will flee if released and that no condition or combination of conditions will reasonably assure the person's appearance at hearing or trial if released.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2015–16 Regular
- 3 Session commencing on the first day of December 2014, two-thirds

1 of the membership of each house concurring, hereby proposes to
 2 the people of the State of California, that the Constitution of the
 3 State be amended as follows:

4 That Section 12 of Article I thereof is amended to read:

5 SEC. 12. (a) A person shall be released on bail by sufficient
 6 sureties, except ~~for~~ *for any of the following crimes and offenses:*

7 (a)

8 (1) Capital crimes when the facts are evident or the presumption
 9 ~~great~~; *great*.

10 (b)

11 (2) Felony offenses involving acts of violence on another person,
 12 or felony sexual assault offenses on another person, when the facts
 13 are evident or the presumption great and the court finds based upon
 14 clear and convincing evidence that there is a substantial likelihood
 15 the person's release would result in great bodily harm to ~~others~~; or
 16 *others*.

17 (c)

18 (3) Felony offenses when the facts are evident or the
 19 presumption great and the court finds based on clear and
 20 convincing evidence that the person has threatened another with
 21 great bodily harm and that there is a substantial likelihood that the
 22 person would carry out the threat if released.

23 (4) *Felony offenses when the facts are evident or the*
 24 *presumption great and the court finds based on preponderance of*
 25 *the evidence that there is a substantial likelihood the person will*
 26 *flee if released and that no condition or combination of conditions*
 27 *will reasonably assure the person's appearance at hearing or trial*
 28 *if released.*

29 ~~Excessive~~

30 (b) ~~Excessive~~ bail ~~may~~ shall not be required. In fixing the
 31 amount of bail, the court shall take into consideration the
 32 seriousness of the offense charged, the previous criminal record
 33 of the defendant, and the probability of his or her appearing at the
 34 trial or hearing of the case.

35 ~~A~~

36 (c) A person may be released on his or her own recognizance
 37 in the court's discretion.

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