

Regular Session, 2005

# ACT No. 237

HOUSE BILL NO. 451

BY REPRESENTATIVES GEYMANN AND DORSEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact Code of Criminal Procedure Article 330.2, relative to bail; to provide for the  
3 contradictory hearings prior to granting bail for certain sex offenders; to provide for  
4 definitions; to provide for the forms of bail for certain sex offenses; to provide for  
5 exceptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 330.2 is hereby enacted to read as  
8 follows:

9 Art. 330.2. Bail hearing for certain sex offenders; detention

10 A. A contradictory bail hearing, as provided for in this Article, shall be held  
11 prior to setting bail for a person in custody who is charged with a sex offense and  
12 who has been previously convicted of a sex offense.

13 B. The court, after having been given notice of an applicable prior conviction  
14 as described in Paragraph F of this Article, shall order a contradictory hearing to be  
15 held within five days of receiving notice of the prior conviction, exclusive of  
16 weekends and legal holidays.

17 C. At the contradictory hearing the court, in addition to hearing whatever  
18 evidence it finds relevant, shall, with the consent of the prosecuting attorney,  
19 perform an ex parte examination of the evidence against the accused.

20 D. In addition to the factors listed in Article 334 of the Code of Criminal  
21 Procedure, the court shall take into consideration the previous criminal record of the  
22 defendant; any potential threat or danger the defendant poses to the victim, the  
23 family of the victim, or to any member of the public, especially children; and the  
24 court shall give ample consideration to any statistical evidence prepared by the

1            United States Department of Justice relative to the likelihood of the defendant, or any  
 2            person in general who has been convicted of sexually inappropriate conduct with a  
 3            prepubescent child under the age of thirteen, to commit similar offenses against  
 4            juvenile victims in the future.

5            E. The types or forms of bail which may be posted for a sex offense are  
 6            secured personal surety as authorized by Article 318, commercial surety as  
 7            authorized by Article 314, and cash deposits as authorized by Article 324. The  
 8            posting of bail through use of unsecured personal surety as authorized by Article 317  
 9            is prohibited.

10           F. For purposes of this Article, "sex offense" means any offense as defined  
 11           as a sex offense in R.S. 15:541(14.1) when the victim is under the age of thirteen at  
 12           the time of commission of the offense and less than ten years have elapsed between  
 13           the date of the commission of the current offense and the expiration of the maximum  
 14           sentence of the previous conviction.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_