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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB59
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8 SYNOPSIS: The Constitution of Alabama of 1901,
9 provides that all individuals charged with a crime
10 are allowed bail before conviction, unless the
11 person is charged with a capital offense and the
12 proof of guilt is evident or the presumption of
13 guilt is great and also prohibits excessive bail.

14 This bill would propose an amendment to the
15 Constitution of Alabama of 1901, that would require
16 reasonable bail in all cases, unless charged with
17 certain enumerated offenses.
18

19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To propose an amendment to Section 16 of the
24 Constitution of Alabama of 1901, now appearing as Section 16
25 of the Official Recompilation of the Constitution of Alabama
26 1901, as amended, to provide that an individual is entitled to
27 release from custody on the least restrictive condition or

1 combination of conditions, prior to conviction, unless charged
2 with a capital offense, murder, kidnapping in the first
3 degree, kidnapping in the second degree, rape in the first
4 degree, sodomy in the first degree, sexual torture, sexual
5 abuse in the first degree, or human trafficking in the first
6 degree; to provide for a hearing; to specify determinations
7 that must be made by a judge; and to further provide for
8 conditions of release.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. The following amendment to the
11 Constitution of Alabama of 1901, as amended, is proposed and
12 shall become valid as a part thereof when approved by a
13 majority of the qualified electors voting thereon and in
14 accordance with Sections 284, 285, and 287 of the Constitution
15 of Alabama of 1901, as amended:

16 PROPOSED AMENDMENT

17 "Section 16.

18 ~~"That all persons shall, before conviction, be~~
19 ~~bailable by sufficient sureties, except for capital offenses,~~
20 ~~when the proof is evident or the presumption great; and that~~
21 ~~excessive bail shall not in any case be required. Any~~
22 individual charged with a crime is entitled to release from
23 custody on the least restrictive condition or combination of
24 conditions, prior to conviction, unless charged with a capital
25 offense, murder, kidnapping in the first degree, kidnapping in
26 the second degree, rape in the first degree, sodomy in the
27 first degree, sexual torture, sexual abuse in the first

1 degree, or human trafficking in the first degree. If a
2 defendant is charged with one or more of these offenses, the
3 defendant may be detained without bail only if a judge makes
4 findings on the record, following an adversarial hearing with
5 counsel, that there is clear and convincing evidence either
6 that supports conviction, or shows the defendant presents a
7 significant risk of intentional flight to avoid prosecution or
8 to imminently cause bodily harm to a person or persons if
9 released, and that no conditions or combination of conditions
10 are available to reasonably reduce the risk. No condition of
11 release, including unaffordable monetary conditions, may be
12 imposed that results in the detention of the defendant."

13 Section 2. An election upon the proposed amendment
14 shall be held in accordance with Sections 284 and 285 of the
15 Constitution of Alabama of 1901, now appearing as Sections 284
16 and 285 of the Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, and the election laws of this
18 state.

19 Section 3. The appropriate election official shall
20 assign a ballot number for the proposed constitutional
21 amendment on the election ballot and shall set forth the
22 following description of the substance or subject matter of
23 the proposed constitutional amendment:

24 Proposing an amendment to Section 16 of the
25 Constitution of Alabama of 1901, now appearing as Section 16
26 of the Official Recompilation of the Constitution of Alabama
27 1901, as amended, to provide that an individual is entitled to

1 release from custody on the least restrictive condition or
2 combination of conditions, prior to conviction, unless charged
3 with a capital offense, murder, kidnapping in the first
4 degree, kidnapping in the second degree, rape in the first
5 degree, sodomy in the first degree, sexual torture, sexual
6 abuse in the first degree, or human trafficking in the first
7 degree; to provide for a hearing; to specify determinations
8 that must be made by a judge; and to further provide for
9 conditions of release."

10 "Proposed by Act _____."

11 This description shall be followed by the following
12 language:

13 "Yes () No ()."