

**SENATE CONCURRENT
RESOLUTION No. 128**

**STATE OF NEW JERSEY
216th LEGISLATURE**

INTRODUCED JULY 10, 2014

Sponsored by:

Senator DONALD NORCROSS

District 5 (Camden and Gloucester)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman TIMOTHY J. EUSTACE

District 38 (Bergen and Passaic)

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Assemblywoman DONNA M. SIMON

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman DAVID P. RIBLE

District 30 (Monmouth and Ocean)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Co-Sponsored by:

Senator Beck and Assemblyman O'Scanlon

SYNOPSIS

Proposes constitutional amendment to authorize, under certain circumstances, pretrial detention of persons in criminal cases.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 8/5/2014)

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1 A **CONCURRENT RESOLUTION** proposing an amendment to Article
2 I, paragraph 11 of the Constitution of the State of New Jersey.

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4 **BE IT RESOLVED** by the Senate of the State of New Jersey (the
5 General Assembly concurring):

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7 1. The following proposed amendment to the Constitution of
8 the State of New Jersey is agreed to:

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10 PROPOSED AMENDMENT

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12 Amend Article I, paragraph 11 to read as follows:

13 11. No person shall, after acquittal, be tried for the same
14 offense. All persons shall, before conviction, be **[**bailable by
15 sufficient sureties, except for capital offenses when the proof is
16 evident or presumption great**]** eligible for pretrial release. Pretrial
17 release may be denied to a person if the court finds that no amount of
18 monetary bail, non-monetary conditions of pretrial release, or
19 combination of monetary bail and non-monetary conditions would
20 reasonably assure the person's appearance in court when required, or
21 protect the safety of any other person or the community, or prevent the
22 person from obstructing or attempting to obstruct the criminal justice
23 process. It shall be lawful for the Legislature to establish by law
24 procedures, terms, and conditions applicable to pretrial release and the
25 denial thereof authorized under this provision.

26 (cf: Art. I, par. 11)

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28 2. When this proposed amendment to the Constitution is finally
29 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
30 shall be submitted to the people at the next general election
31 occurring more than three months after the final agreement and
32 shall be published at least once in at least one newspaper of each
33 county designated by the President of the Senate, the Speaker of the
34 General Assembly and the Secretary of State, not less than three
35 months prior to the general election.

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37 3. This proposed amendment to the Constitution shall be
38 submitted to the people at that election in the following manner and
39 form:

40 There shall be printed on each official ballot to be used at the
41 general election, the following:

42 a. In every municipality in which voting machines are not used,
43 a legend which shall immediately precede the question as follows:

44 If you favor the proposition printed below make a cross (X), plus
45 (+), or check (✓) in the square opposite the word "Yes." If you are

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 opposed thereto make a cross (X), plus (+) or check (✓) in the
2 square opposite the word "No."

3 b. In every municipality the following question:

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	YES	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT TO ALLOW A COURT TO ORDER PRETRIAL DETENTION OF A PERSON IN A CRIMINAL CASE</p> <p>Do you approve amending the Constitution to allow a court to order pretrial detention of a person in a criminal case? This would change the current constitutional right to bail.</p> <p>The change to the Constitution would mean that a court could order that a person remain in jail prior to trial, even without a chance for the person to post bail, in some situations.</p> <p>The amendment also removes language in the Constitution about bail eligibility for death penalty cases. The death penalty no longer exists in New Jersey.</p>
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	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>The Constitution currently requires a court to grant bail to a jailed person in a criminal case before trial. If the person posts bail, the person is released from jail pending trial.</p> <p>The amendment would give a court the option of ordering a person to remain in jail in some situations. The court could order such detention based upon concerns that the person, if released: will not return to court; is a threat to the safety of another person or the community; or will obstruct or attempt to obstruct the criminal justice process.</p> <p>The amendment authorizes the Legislature to pass laws concerning pretrial release and pretrial detention. The amendment would take effect on January 1, 2017 to allow any new laws to be enacted and their requirements to be established.</p> <p>The amendment would also remove language in the Constitution about bail eligibility for death penalty cases. The death penalty no longer exists in New Jersey.</p>
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SCHEDULE

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This Constitutional amendment, if approved, shall take effect on January 1, 2017.

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STATEMENT

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This concurrent resolution proposes an amendment to the New Jersey Constitution that would authorize a court, under certain circumstances, to order the pretrial detention of a person in a criminal case. This would be authorized by changing the current constitutional right to bail.

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At present, the Constitution provides that all persons are entitled to bail (with an exception concerning death penalty cases), which, if posted, grants a release from jail pending trial. The amendment would change this right, so that a court could deny a person's release from jail even without a chance for that person to post bail.

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While eliminating the upfront right to bail, the proposed amendment would still make all persons eligible for pretrial release from jail (which could be by bail or other means). However, this

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1 release could be denied by the court based upon concerns that a
2 jailed person, if released: would not return to court when required;
3 would be a threat to the safety of another person or the community;
4 or would obstruct or attempt to obstruct the criminal justice process.

5 The amendment authorizes the Legislature to pass laws
6 concerning pretrial release and pretrial detention. In order to permit
7 the Legislature time to properly establish appropriate procedures,
8 terms, and conditions related to these matters, and their requirements
9 to be implemented by the other branches of government, the
10 amendment would not take effect until January 1, 2017.

11 The amendment would also remove language in the Constitution
12 about bail eligibility for death penalty cases that is unnecessary; the
13 death penalty no longer exists in New Jersey.