Regular Session, 2010

HOUSE BILL NO. 940

BY REPRESENTATIVE MONTOUCET

CRIMINAL/JURY TRIALS: (Constitutional Amendment) Permits criminal defendants in certain cases to waive trial by jury with the consent of the prosecutor and court approval

1   A JOINT RESOLUTION

2 Proposing to amend Article I, Section 17(A) of the Constitution of Louisiana, relative to jury

3   trials in criminal cases; to provide for with respect to the waiver of a trial by jury; to

4   provide that a criminal defendant's waiver of a jury trial shall be contingent upon the

5   prosecution's consent and court approval; to provide for submission of the proposed

6   amendment to the electors; and to provide for related matters.

7   Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members

8 elected to each house concurring, that there shall be submitted to the electors of the state of

9 Louisiana, for their approval or rejection in the manner provided by law, a proposal to

10 amend Article I, Section 17(A) of the Constitution of Louisiana, to read as follows:

11   §17. Jury Trial in Criminal Cases; Joinder of Felonies; Mode of Trial

12   Section 17.(A) Jury Trial in Criminal Cases. A criminal case in which the

13   punishment may be capital shall be tried before a jury of twelve persons, all of whom

14   must concur to render a verdict. A case in which the punishment is necessarily

15   confinement at hard labor shall be tried before a jury of twelve persons, ten of whom

16   must concur to render a verdict. A case in which the punishment may be

17   confinement at hard labor or confinement without hard labor for more than six

18   months shall be tried before a jury of six persons, all of whom must concur to render

19   a verdict. The accused shall have a right to full voir dire examination of prospective

1   jurors and to challenge jurors peremptorily. The number of challenges shall be fixed

2   by law. Except in capital cases, a defendant may knowingly and intelligently waive

3   his right to a trial by jury, with the approval of the court and the consent of the

4   prosecuting attorney.

5   *   *   *

6   Section 2. Be it further resolved that this proposed amendment shall be submitted

7   to the electors of the state of Louisiana at the statewide election to be held on November 2,

8   2010.

9   Section 3. Be it further resolved that on the official ballot to be used at said election

10   there shall be printed a proposition, upon which the electors of the state shall be permitted

11   to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall

12   read as follows:

13   To permit criminal defendants, except in capital cases, to waive their right

14   to a trial by jury if the prosecuting attorney consents to the waiver and the

15   trial court approves. (Amends Article I, Section 17(A))

DIGEST

Montoucet   HB No. 940

Abstract: Provides for a criminal defendant in certain cases to waive trial by jury with the consent of the prosecutor and court approval.

Present constitution (Art. I, §17(A)) permits a criminal defendant, except in capital cases, to knowingly and intelligently waive his right to a trial by jury.

Proposed constitutional amendment retains present constitution (Art. I, §17(A)) but requires the waiver to have the consent of the prosecuting attorney and court approval.

Proposed constitutional amendment, if approved by a majority of voting electors, shall become effective 20 days after proclamation by the governor that the amendment has been adopted.

Provides for submission of the proposed amendment to the voters at the statewide election to be held November 2, 2010.

(Amends Const. Art. I, §17(A))

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.