Regular Session, 2012

SENATE BILL NO. 296

BY SENATOR KOSTELKA

CRIMINAL PROCEDURE. Constitutional Amendment to permit criminal defendants in certain cases to waive trial by jury with the consent of the prosecutor and court approval. (2/3-CA13s1(A))

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 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; and to specify an election for the

6   submission of the proposition to electors and to provide a ballot proposition.

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, for

9 their approval or rejection in the manner provided by law, a proposal to amend Article I,

10 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

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.

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

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

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

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

5   his right to a trial by jury ~~but no later than forty-five days prior to the trial date and~~

6   ~~the waiver shall be irrevocable~~ **with the approval of the court and the consent of**

7   **the prosecuting attorney**.

8   *   *   *

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

10 to the electors of the state of Louisiana at the statewide election to be held on November 6,

11 2012.

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

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

14 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as

15 follows:

16   Do you support an amendment to permit criminal defendants, except in

17   capital cases, to waive their right to a trial by jury if the prosecuting attorney

18   consents to the waiver and the trial court approves?

19   (Amends Article I, Section 17(A))

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present constitution provides that, except in capital cases, a defendant may knowingly and
intelligently waive his right to a trial by jury, but no later than 45 days prior to the trial date,
and such waiver is irrevocable.

Proposed constitutional amendment provides that, except in capital cases, a defendant may
knowingly and intelligently waive his right to a trial by jury but only with the approval of
the court and the consent of the prosecuting attorney. Proposed constitutional amendment
also deletes the provisions of present constitution that provide that this waiver can be made
no later than 45 days prior to the trial date and that such waiver is irrevocable

Specifies submission of the amendment to the voters at the statewide election to be held on
November 6, 2012.

(Amends Const. Art. I, Sec. 17(A))

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