

THE BAIL (AMENDMENT) BILL, 2008

Arrangement of Clauses

Clause

1. Short title
2. Act inconsistent with Constitution
3. Interpretation
4. Section 5 amended
5. Section 5A inserted
6. First Schedule amended

*Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 47,
No.108, 24th July, 2008*

No. 19 of 2008

First Session Ninth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Bail Act, Chap. 4:60

THE BAIL (AMENDMENT) BILL, 2008

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Bail Act, Chap. 4:60 (“the Act”) to make the offences of kidnapping for ransom or knowingly negotiating to obtain a ransom under the Kidnapping Act, Chap. 11:26, non-bailable offences for a period of sixty days, but thereafter bail may be granted at the discretion of the High Court. The Bill will also make certain violent offences (including possession of a firearm or ammunition without licence, certificate or permit under the Firearms Act, Chap. 16:01, or trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking under the Dangerous Drugs Act, Chap. 11:25, or kidnapping at common law or assault occasioning actual bodily harm) non-bailable offences where a person has been convicted on two prior occasions for any of those offences or a combination of those offences arising from a single incident.

The Act would be inconsistent with sections 4 and 5 of the Constitution and is therefore required to be passed by a special majority of three-fifths of the members of each House.

Clause 1 provides the short title of this Act, for which this is the Bill.

Clause 2 provides that this Act shall have effect though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 seeks to provide the interpretation provision.

Clause 4 seeks to amend section 5 of the Act by inserting two new subsections after subsection (3). These two subsections would provide that the Court would not grant bail where a person is charged with a violent offence listed in Part III of the First Schedule and has been convicted on two prior occasions for any of those listed violent offences.

Clause 5 seeks to amend the Act by inserting after section 5, section 5A to make the offences of kidnapping for ransom or

knowingly negotiating to obtain a ransom under the Kidnapping Act, non-bailable offences. However, where the preliminary enquiry in relation to the charge has not commenced, that is, no evidence has been taken within sixty (60) days of the date of the charge being read to the person charged, the person charged is entitled to apply to a Judge in Chambers for bail.

Clause 6 seeks to amend the First Schedule to the Act. The existing Part II would be repealed and a new Part II would be substituted. By this clause also, a new Part III would be inserted in the First Schedule to provide a list of violent offences.

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[, 2008]

WHEREAS it is enacted by section 13(1) of the ^{Preamble} Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:—
Short title	1. This Act may be cited as the Bail (Amendment) Act, 2008.
Act inconsistent with Constitution	2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
Interpretation Chap. 4:60	3. In this Act, “the Act” means the Bail Act.
Section 5 amended	4. Section 5 of the Act is amended by inserting after subsection (3) the following subsections:
First Schedule	<p>“ (4) A Court shall not grant bail to a person who is charged with an offence listed in Part III of the First Schedule and has been convicted—</p> <p>(a) on two occasions of any offence arising out of separate transactions; or</p> <p>(b) of any combination of offences arising out of a single transaction,</p> <p>listed in that Part.</p> <p>(5) In calculating the two prior convictions referred to in subsection (4), the Court shall take into account only convictions recorded within the last fifteen years.”.</p>

5. The Act is amended by inserting after section 5, the Section 5A inserted following section:

“No bail for kidnapping offences
Chap. 11:26 5A. (1) A Court shall not grant bail to a person charged with the offence of kidnapping for ransom or knowingly negotiating to obtain a ransom under the Kidnapping Act.

(2) Notwithstanding subsection (1), where a person is charged with an offence mentioned in subsection (1) and brought before the Court but no evidence has been taken within sixty days of the reading of the charge, that person is entitled to make an application to a Judge in Chambers for bail.”.

6. The First Schedule to the Act is amended— First Schedule amended

(a) by repealing Part II and substituting the following Part:

“PART II

SPECIFIED OFFENCES

- (a) possession of imitation firearm in pursuance of any criminal offence;
- (b) larceny of a motor vehicle;
- (c) perverting or defeating the course of public justice;
- (d) arson; and
- (e) receiving stolen goods.”; and

(b) by inserting after Part II the following new Part:

“PART III

VIOLENT OFFENCES

- (a) manslaughter;
- (b) shooting or wounding with intent to do grievous bodily harm, unlawful wounding;
- (c) robbery, robbery with aggravation, robbery with violence;
- (d) assault occasioning actual bodily harm;
- (e) possession and use of firearms or ammunition with intent to endanger life;
- (f) possession of a firearm or ammunition without licence, certificate or permit;
- (g) trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking;
- (h) rape;
- (i) grievous sexual assault;
- (j) sexual intercourse with female under fourteen;
- (k) sexual intercourse with female between fourteen and sixteen;
- (l) sexual intercourse with male under sixteen;
- (m) buggery;

- (n) sexual intercourse with an adopted minor;
- (o) sexual intercourse with a mentally subnormal person;
- (p) incest;
- (q) kidnapping;
- (r) kidnapping for ransom;
- (s) knowingly negotiating to obtain a ransom; and
- (t) an attempt to commit any offence listed in this Part or in Part I.”.

Passed in the House of Representatives this day
of , 2008.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2008.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

No. 19 of 2008

FIRST SESSION
NINTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

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Received and read the

First time

Second time

Third time
