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Fourth Session Eleventh Parliament Republic of
Trinidad and Tobago

SENATE

BILL

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

THE BAIL (AMENDMENT) BILL, 2019

Explanatory Note

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

The purpose of this Bill is to provide for the circumstances in which bail may be denied to a person who is charged with a listed offence that is punishable for a term of imprisonment of ten years or more.

Clause 1 of the Bill would cite the short title of the Bill.

Clause 2 of the Bill would allow for the Bill, when enacted, to have effect even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 of the Bill would define the words “the Act” to mean the Bail Act Chap. 4:60.

Clause 4 of the Bill would amend the definition of “Court” in section 3 of the Act.

Clause 5 of the Bill would amend section 5 of the Act by repealing subsections (2) and (3) and substituting new subsections (2) through (8). The new subsections would generally provide the circumstances in which a person who is charged with any offence listed in Part II of the Act, be denied access to Bail. The period for which a person would be denied access to Bail is, generally, one hundred and twenty days except under section 12(1) of the Anti-Gang Act, the period of denial of access to bail would be sixty days after the reading of the charge. After the expiration of the specified days for restricting access to bail, the person would, thereafter, be entitled to make an application to a Judge for bail.

Clause 6 of the Bill would repeal Part II of the Act and replace it with a new Part II. The new Part II would list the offences for which a person would be denied access to Bail.

Clause 7 of the Bill would provide that the Act would continue in force for a period of five years from the day of commencement.

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[, 2019]

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, 2019.

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 3 amended **4.** Section 3 of the Act is amended in the definition of “Court”, by inserting after the words “a Judge”, the words “a Master,”.

Section 5 amended **5.** Section 5 of the Act is amended—
 (a) by repealing subsections (2) and (3); and
 (b) by inserting after subsection (1), the following subsections:

“ (2) A Court shall not grant bail to a person who on or after the commencement of this Act is charged with an offence listed in Part II of the First Schedule and has been previously convicted of an offence which is punishable by imprisonment for a term of ten years or more.

(3) Subject to subsections (2), (4) and (5), a Court shall not grant bail to a person who on or after the commencement of the Bail (Amendment) Act, 2019, is charged with an offence—

- (a) under section 6(1) or (2) of the Firearms Act for possession of a firearm, ammunition or prohibited weapon as the case may be;
- (b) listed in Part II of the First Schedule and has a pending charge for an offence specified in the said Part II; or
- (c) listed in Part II of the First Schedule, except an offence under section 6 of the Firearms Act, where the prosecution informs the Court that the person or any other person involved in the commission of the offence used or had in his possession a firearm or imitation firearm during the commission of the offence.

(4) Subject to subsection (5), where a person is charged with an offence mentioned in subsections (2) or (3) and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.

(5) Where a person—

(a) is charged under section 12(1) of the Anti-Gang Act with harbouring a person who is a child; and

(b) is the parent or person acting in *loco parentis* of the child,

and is 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 for bail.

(6) For the purpose of this section, a conviction includes a conviction for a similar or materially similar offence as listed in Part II of the First Schedule which is imposed by a court of competent jurisdiction in any foreign jurisdiction.

(7) For the purpose of this section, except subsection (3)(a), where a person is charged with an offence listed in Part II of the First Schedule and evidence has been taken within one hundred and twenty days of the reading of the charge but the trial is not completed within one year from the date of the reading of the charge, that person is entitled to make an application to a Judge for bail.

(8) For the purposes of subsection (3)(a), “ammunition” means—

(a) ammunition for any firearm of any kind; or

- (b) any explosive when enclosed in any case or contrivance adapted or prepared so as to form a cartridge, charge or complete round for any firearm or any other weapon, or to form any tube for firing explosives, or to form a detonator, or a projectile, which can be used (whether singly or in suitable combinations) as, or in connection with, a missile.”.

6. The First Schedule to the Act is amended by ^{First Schedule} repealing Part II and substituting the following Part: ^{Amended}

“PART II

SPECIFIED OFFENCES

- Act No. 1 of 2018 (a) an offence committed by a person over the age of eighteen years under the Anti-Gang Act which is punishable by imprisonment for a term of ten years or more;
- Chap. 11:08 (b) an offence under the Offences Against the Person Act which is punishable by imprisonment for a term of ten years or more, or an offence under section 48 or 54 of that Act;
- Chap. 11:25 (c) an offence under the Dangerous Drugs Act which is punishable by imprisonment for a term of ten years or more;
- Chap. 11:26 (d) an offence under the Kidnapping Act which is punishable by imprisonment for a term or ten years or more;

- Chap. 11:28
Chap. 46:01
- (e) a sexual offence in which the alleged victim is a child, including a sexual offence under the Sexual Offences Act or the Children Act, or any Act repealing and replacing any of those Acts;
- Chap. 11:28
- (f) an offence under the Sexual Offences Act which is punishable by imprisonment for a term of ten years or more;
- Chap. 12:07
- (g) an offence under the Anti-Terrorism Act which is punishable by imprisonment for a term of ten years or more;
- Chap. 12:10
- (h) an offence under the Trafficking in Persons Act which is punishable by imprisonment for a term of ten years or more;
- Chap. 16:01
- (i) an offence under the Firearms Act, other than under section 6(1) or (2), which is punishable by imprisonment for a term of ten years or more, or an offence under section 8, 9 or 10 of that Act;
- (j) an attempt to commit an offence listed in this Part or Part I of this Schedule.”

Duration

7. This Act shall continue in force for a period of five years from the date of its commencement.

Passed in the Senate this day of , 2019.

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.

President of the Senate

Passed in the House of Representatives this day
of , 2019.

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

No. 4 of 2019

FOURTH SESSION
ELEVENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

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Received and read the

First time

Second time

Third time
