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No. 17 of 2013

Fourth Session Tenth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

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

THE BAIL (AMENDMENT) BILL, 2013

Explanatory Note

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

The purpose of the Bail (Amendment) Bill, 2013 is to amend the First Schedule of the Bail Act, Chap. 4:60 and to substitute a new list of offences for which a person who is charged for any such offence and who has a previous conviction for any such offence during the last ten years will not be entitled to be granted bail. However, where the matter has not started after one hundred and twenty days, the person is entitled to apply to a Judge to be granted bail.

The Bill requires a three-fifth majority vote in each House in accordance with section 13 of the Constitution. The Bill would remain in force for three years after it becomes law.

THE BAIL (AMENDMENT) BILL, 2013

Arrangement of Clauses

Clause

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

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[, 2013]

Preamble

WHEREAS it is enacted by section 13(1) of the 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, 2013.

Act inconsistent with the Constitution **2.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation **3.** In this Act, the Act means the Bail Act.

Chap. 4:60
Section 5 amended **4.** Section 5 of the Act is amended by repealing subsections (2) to (10) and substituting the following subsections:

“ (2) Subject to subsections (3) and (4), a Court shall not grant bail to any person who is over the age of eighteen years and who—

(a) was convicted within the last ten years for an offence listed in Part II of the First Schedule; and

(b) is charged with an offence listed in Part II of the First Schedule,

whether the conviction or charge, as the case may be, was for an offence arising out of separate transactions or a combination of offences arising out of a single transaction.

(3) Subject to subsection (4), where a person is charged with an offence listed in Part II of the First Schedule 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.

(4) Where a person—

(a) is charged under section 10(1) of the Anti-Gang Act, 2011 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 and 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.”.

5. Parts II and III of the First Schedule to the Act are First Schedule amended deleted and the following Part is substituted:

“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;
- (e) receiving stolen goods;
- (f) gang membership;
- (g) coercing or encouraging gang membership;
- (h) preventing gang member from leaving gang;
- (i) participation in criminal activity in association with gang;
- (j) possession of bullet-proof vest, firearm or ammunition for benefit of gang;
- (k) harbouring or concealing gang members;
- (l) recruiting gang members;

PART II—CONTINUED
SPECIFIED OFFENCES

- (*m*) threatening to publish with intent to extort;
- (*n*) demanding money with menaces;
- (*o*) manslaughter;
- (*p*) shooting or wounding with intent to do grievous bodily harm, unlawful wounding;
- (*q*) robbery, robbery with aggravation, robbery with violence;
- (*r*) assault occasioning actual bodily harm;
- (*s*) possession and use of firearm or ammunition with intent to endanger life;
- (*t*) possession of a firearm or ammunition without licence, certificate or permit;
- (*u*) trafficking in a dangerous drug or being in possession of a dangerous drug for the purpose of trafficking;
- (*v*) rape;
- (*w*) grievous sexual assault;
- (*x*) buggery;
- (*y*) sexual intercourse with a mentally subnormal person;
- (*z*) incest;
- (*aa*) kidnapping;
- (*bb*) kidnapping for ransom;
- (*cc*) knowingly negotiating to obtain a ransom;
- (*dd*) any offence punishable by imprisonment for a term of ten years or more; and
- (*ee*) an attempt to commit any offence listed in this Schedule.”.

Duration

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

Passed in the House of Representatives this _____ day
of _____, 2013.

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 _____, 2013.

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

No. 17 of 2013

FOURTH SESSION
TENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

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Chap. 4:60

Received and read the

First time

Second time

Third time