



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date Introduced: 7 May, 2019

House: Senate

Minister: Attorney General and
Minister of Legal Affairs

Senate Bill No: 4 of 2019

Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's website, www.ttparliament.org

BILL ESSENTIALS

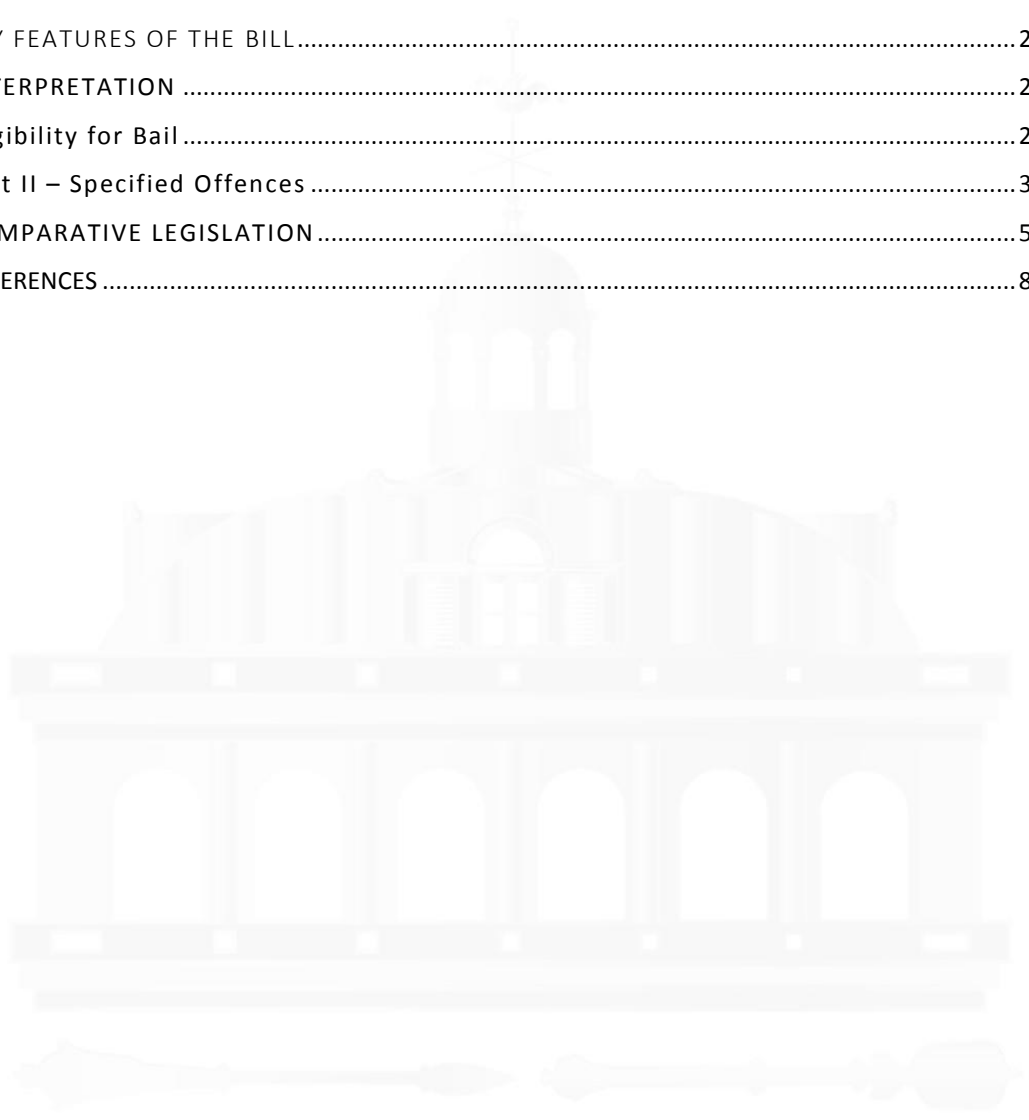
BILL ESSENTIALS NO. 14, 2018–19

10 JUNE, 2019

The Bail (Amendment) Bill, 2019

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BACKGROUND


1. **The Bail (Amendment) Bill, 2019**¹ (hereinafter referred to as “**the Bill**”) seeks to amend the **Bail Act Chap. 4:60**² (hereinafter referred to as “**the Act**”) 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 (10) years or more.
2. This Bill was introduced in the Senate by the Attorney General and Minister of Legal Affairs on May 7, 2019.
3. The Bill would be inconsistent with **Sections 4 and 5** of the **Constitution of the Republic of Trinidad and Tobago** and would therefore be required to be passed by a special majority of three-fifths of the members of each House.
4. The duration of this Bill being in force shall be for a period of five (5) years from the date of its commencement.

KEY FEATURES OF THE BILL

INTERPRETATION

5. **Clause 4** of the Bill seeks to amend the definition of the word “Court” contained in Section 3 of the Act by inserting the words “a Master” after the words “a Judge”.

Eligibility for Bail



6. **Clause 5** of the Bill proposes to amend Section 5 of the Act by repealing the existing subsections (2) and (3) and inserting seven (7) new subsections (2) through (8) after the existing subsection (1).
7. **Clause 5 new subsection (2)** provides that a Court must deny bail to any person who upon or after commencement of this Bill is charged with any offence listed in Part II of the First Schedule and had been previously convicted of an offence punishable by a term of imprisonment of ten (10) years or more.
8. **Clause 5 new subsection (3)** provides that subject to new subsections (2), (4) and (5) a Court must not grant bail to any person who upon or after commencement of this Bill is charged with any offence:-
 -  Under Section 6(1) or 6(2) of the **Firearms Act**³ for possession of a firearm, ammunition⁴ or prohibited weapon as the case may be;

¹ <http://www.ttparliament.org/publications.php?mid=28&id=836>

² http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/4.60.pdf

³ **Chap 16:01**: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/16.01.pdf

⁴ **Ammunition** means ammunition for any firearm of any kind or 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 projectile which can be used (whether singly or in suitable combinations) as, or in connection with, a missile.

-  Listed in Part II of the First Schedule and has a pending charge for an offence specified under this Part; or
 -  Listed in Part II of the First Schedule, except for 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 alleged offence.
9. **Clause 5 new subsection (4)** provides that subject to subsection (5), where a person is charged with any offence mentioned in subsections (2) or (3) and are brought before the Court but no evidence has been taken within one hundred and twenty (120) days of the reading of the charge, that person is entitled to make an application to a Judge for bail.
10. **Clause 5 new subsection (5)** establishes that where a person is charged under Section 12(1) of the **Anti-Gang Act**⁵ with harbouring any child and 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 (60) days of reading the charge, then that person is entitled to make an application to a Judge for bail.
11. **Clause 5 new subsection (6)** provides that under this section a conviction would include 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 territory.
12. **Clause 5 new subsection (7)** provides that under this section with the exception of subsection (3), 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 (120) days of the reading of the charge but the trial has not been completed within one (1) year from the date of the reading of the charge, then that person is entitled to make an application to a Judge for bail.
13. **Clause 6** of the Bill proposes to amend the First Schedule of the Act by repealing Part II and inserting the new Part II.

Part II – Specified Offences

14. **Part II new subsection (a)** of the Bill provides for an offence committed by a person over the age of eighteen (18) years under the **Anti-Gang Act**⁶ which is punishable by imprisonment for a term of ten (10) years or more.
15. **Part II new subsection (b)** of the Bill provides for an offence under the **Offences Against the Person Act**⁷ which is punishable by imprisonment for a term of ten (10) years or more or an offence committed under Section 48 or 54 of this Act.

⁵ Act No. 1 of 2018: <http://www.ttparliament.org/legislations/a2018-01g.pdf>

⁶ Act No. 1 of 2018: <http://www.ttparliament.org/legislations/a2018-01g.pdf>

⁷ Chap 11:08: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.08.pdf

16. **Part II new subsection (c)** of the Bill provides for an offence under the **Dangerous Drugs Act**⁸ which is punishable by imprisonment for a term of ten (10) years or more.
17. **Part II new subsection (d)** of the Bill provides for an offence under the **Kidnapping Act**⁹ which is punishable by imprisonment for a term of ten (10) years or more.
18. **Part II new subsection (e)** of the Bill provides for a sexual offence in which the alleged victim is a child, including a sexual offence under the **Sexual Offences Act**¹⁰ or the **Children Act**¹¹ or any Act repealing and replacing any of those Acts.
19. **Part II new subsection (f)** of the Bill provides for an offence under the **Sexual Offences Act** which is punishable by imprisonment for a term of ten (10) years or more.
20. **Part II new subsection (g)** of the Bill provides for an offence under the **Anti-Terrorism Act**¹² which is punishable by imprisonment for a term of ten (10) years or more.
21. **Part II new subsection (h)** of the Bill provides for an offence under the **Trafficking in Persons Act**¹³ which is punishable by imprisonment for a term of ten (10) years or more.
22. **Part II new subsection (i)** of the Bill provides for an offence under the **Firearms Act**¹⁴ except for an offence under Section 6(1) and 6(2) which is punishable by imprisonment for a term of ten (10) years or more or an offence under Section 8, 9, or 10 of that Act.
23. **Part II new subsection (j)** of the Bill provides for an attempt to commit an offence listed in this Part II or Part I of this Schedule.

⁸ Chap 11:25: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.25.pdf

⁹ Chap 11:26: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.26.pdf

¹⁰ Chap 11:28: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/11.28.pdf

¹¹ Chap 46:01: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/46.01.pdf

¹² Chap 12:07: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/12.07.pdf

¹³ Chap 12:10: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/12.10.pdf

¹⁴ Chap 16:01: http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/16.01.pdf

COMPARATIVE LEGISLATION

Sections under the Act	<p>JAMAICA Bail (Interim Provisions for Specified Offences) Act, No. 22 of 2010 Bail (Amendment) Act, No. 20 of 2010</p>	<p>BARBADOS Bail Amendment Act, 2019 Cap. 122A</p>	<p>ST LUCIA Criminal Code, 2005 Chapter 3.01</p>	<p>AUSTRALIA Bail Act No. 27 of 2005 (Norfolk Island)</p>
<p>Purpose of the Act</p>		<ul style="list-style-type: none"> ▪ To amend the Bail Act to restrict the grant of bail where a person is charged with certain serious offences. 		<ul style="list-style-type: none"> ▪ To provide for the granting of bail to accused persons in or in connection with criminal proceedings.
<p>Serious Offences</p>	<ul style="list-style-type: none"> ▪ Any person who is charged with any offence specified in paragraphs 1-6 of the Second Schedule (Murder, S. 2,3,4 of Treason Felony Act, S. 3 of Malicious Injuries to Property Act (arson of dwelling house), S. 42A of Larceny Act (extortion), S. 4,9,10,20,24,25 of Firearms Act and S. 8,13,14,15,16,17,20 of Offences Against the Person Act) or any offence specified in paragraphs 7-11 of the Second Schedule (S. 3,5,6,7,7A,7B,8,8A,9,11,21A of Dangerous Drugs Act, S. 4 of Trafficking in Persons [Prevention, Suppression and 	<ul style="list-style-type: none"> ▪ Bail shall not be granted to persons charged with serious offences of murder, treason, high treason or an offence under the Firearms Act Cap. 179 punishable with imprisonment for 10 years or more, unless a period of 24 months has expired after the person was charged. 	<ul style="list-style-type: none"> ▪ A person who is charged with murder, treason, rape or any offence under the Firearms Act or the Drugs (Prevention of Misuse) Act punishable on indictment by imprisonment of not less than five years, any offence under the Firearms Act or any person who has been convicted and sentenced to death or imprisonment in respect of any offences referred to and who has given notice of intention to appeal against his or her 	<ul style="list-style-type: none"> ▪ A person accused of an offence of murder or an offence against the Dangerous Drugs Act 1927 punishable by a term of imprisonment for more than 7 years is not to be granted bail unless the person satisfies a court that bail should not be refused. Also, where an accused person has, within the period of 10 years immediately preceding the date of the offence, been found guilty of murder or an offence

	<p>Punishment] Act, S. 10 of Child Care and Protection Act (trafficking of children), S. 44,45,47,48,50,53,56,57,58,59, 60,,61,69,70 of the Offences Against the Person Act and perverting the course of justice) and has on previous occasions been convicted of an offence specified in the Second Schedule, shall be entitled to be granted bail only if a period of 60 days, commencing on the date on which the person is first charged with that offence has elapsed and the person satisfies the Court that bail should be granted.</p>		<p>conviction; shall not be granted bail.</p>	<p>against section 54, 59, 61 93D, or 93E, of the Crimes Act or an offence against a law of a State or another Territory of the Commonwealth, or of another country, that is similar to those offences.</p>
<p>Exceptions</p>		<ul style="list-style-type: none"> ▪ Bail may be granted by the High Court where any person is charged with murder in circumstances connected with the discharge of that person’s official duties or the court is of the view that the strength of the evidence suggests that the accused did not commit the offence with which he is charged or the court is satisfied on the 	<ul style="list-style-type: none"> ▪ Where the appeal in respect of a person who has been convicted and sentenced to death or imprisonment for any of the serious offences mentioned is not heard within a period of 6 months from the date of his or her conviction he or she may apply to the Court of Appeal for bail pending 	<ul style="list-style-type: none"> ▪ A person accused of an offence to which Section 9 applies is entitled to be granted bail in accordance with this Act unless an authorised member or court is satisfied that he or she is (pursuant to the power of the Supreme Court to grant bail whether or not such person has appeared

		evidence presented that the accused would be able to rely on the defence of self defence.	the determination of his or her appeal.	before the Supreme Court in connection with the offence) justified in refusing bail or the person stands convicted of the offence or the requirement for bail is dispensed with under Section 9.
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References

Comparative Legislation

JAMAICA

- **Bail (Interim Provisions for Specified Offences) Act, No. 22 of 2010**
- **Bail (Amendment) Act, No. 20 of 2010**
[https://www.japarliament.gov.jm/attachments/341_The%20Bail%20\(Interim%20Provisions%20for%20Specified%20Offences\)%20Act,%202010.pdf](https://www.japarliament.gov.jm/attachments/341_The%20Bail%20(Interim%20Provisions%20for%20Specified%20Offences)%20Act,%202010.pdf)
[https://japarliament.gov.jm/attachments/341_The%20Bail%20\(Amendment\)%20Act,%202010.pdf](https://japarliament.gov.jm/attachments/341_The%20Bail%20(Amendment)%20Act,%202010.pdf)

BARBADOS

- **Bail Amendment Act, 2019 Cap. 122A**
https://www.barbadosparliament.com/uploads/bill_resolution/6156e6e81474bc03c1ce4008ff8dbf70.pdf

ST LUCIA

- **Criminal Code, 2005 Chapter 3.01**
<http://www.govt.lc/www/legislation/Criminal%20Code.pdf>

AUSTRALIA

- **Bail Act, No. 27 of 2005 (Norfolk Island)**
<https://www.legislation.gov.au/Details/C2017Q00016>



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