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NEWS from U.S. Senator Bob Dole

(R.-Kans.)

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DOLE AMENDMENT TO EXPAND TYPES OF

JUSTIFYING

PRE-TRIAL RELEASE

Washington, D.C. — Senator Bob Dole(R-Kansas) introduced an amendment to the Criminal Code Bill(S. 1437) today which would expand the types of offenses for which pretrial release may be denied. The offenses are murder, rape, armed kidnapping, armed robbery, or when a hostage is seized to negotiate the accused's release. Persons charged with these serious crimes against the person would still be granted pre-trial release, only those few offenders who are a continuing threat to the community would be denied pre-trial release.

The following is the text of Sen. Dole's statement made upon introduction of the Amendment:

Mr. Dole. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. Mr. President, S. 1437 carried over the basic structure of the Bail Reform Act of 1966, 18 U.S.C. 3141-3149. Sections 3502 and 3503 of S. 1437 relate to release pending trial in non-capital and capital cases, respectively. The Committee Report accurately states that the effect of Section 3502 is "in non-capital cases a person is to be released under those minimal conditions reasonably required to assure his presence at trial". In other words, the only important discretion left to the judge is to set the conditions of release.

STRICTURE PROCEDURE FOR CAPITAL CASES

The procedure, found in Section 3503, is significantly different in capital cases. For offenses punishable by death, the government has the opportunity to show that the person poses a danger to the community. If the judge is convinced, pre-trial release may be denied.

ONLY ONE CAPITAL CRIME IN S. 1437

Certainly crimes punishable by death are so serious that pre-trial release may have to be denied in some cases. Yet, S. 1437 virtually repeals the death sentence. The only crime which carries a constitutionally adequate death penalty is aircraft hijacking if another persons dies. The absence of any death penalty provisions makes Section 3503 effectively a dead letter at this time.

SERIOUS CRIMES AGAINST THE PERSON COVERED

The Senator from Kansas does not intend to raise the issue of capital punishment here. Nevertheless, I strongly believe that certain crimes are so inherently serious that pre-trial release may be inappropriate for some offenders. Individuals accused of serious crimes against the person may represent such a danger to others that no conditions of release may be adequate to prevent further criminal activity.

The amendment I am offering expands the types of offenses for which pre-trial release may be denied. These offenses represent very serious crimes against the person. The offenses are murder, rape, armed kidnapping, armed robbery, or when a hostage is seized to negotiate the accused's release.

SAME PROCEDURE AS FOR CAPITAL CRIMES

Persons who have been charged with these serious offenses will be subjected to the same bail procedure as those charged with a capital offense. Bail would not be automatically refused. Rather, the very structure already in place both in the Bail Reform Act and in S. 1437 is used.

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Mr. President, the only change my Amendment makes is to acknowledge that the serious offenses I have enumerated justify the same pre-trial procedure as capital crimes. It should be noted that all of these crimes have carried the death penalty either in state or federal statutes at one time.

The proponents of S. 1437 have repeatedly stated that the bill leaves many areas for Congress to fill in later. Presumably, one of these gaps is what crimes justify imposition of a capital punishment. Of the 112 bills introduced in the 95th Congress, imposing the death penalty, the crimes justifying that penalty include murder, rape, kidnapping, explosive offense, and placing a person other than the victim in grave danger. There are 21 members of the Senate who have cosponsored legislation to impose the death penalty for serious crimes. I hope that these Senators will support my Amendment which in this limited area would have the same effect as passage of a death penalty bill.

COMMUNITY NEEDS PROTECTION

Mr. President, if my Amendment is adopted, the vast majority of persons charged with these serious crimes against the person would still be granted pre-trial release. Only those few offenders who are a continuing threat to the community would be denied pre-trial release. If the government can prove the dangerousness of these criminals, I believe that the judge should be given the option of denying release.

Americans all across the country are being victimized by crime at an ever increasing rate. My Amendment would keep the worst and most dangerous criminals off the streets until they are tried. The Senator from Kansas believes that the American public deserves at least this much protection. The public would be the ones to benefit from passage of my Amendment.

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