



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

GOV. MSG. NO. 1397

July 10, 2019

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: SB192 SD1 HD2 CD1

Pursuant to Section 16 of Article III of the State Constitution, SB192 SD1 HD2 CD1, entitled "A BILL FOR AN ACT RELATING TO BAIL" became law as ACT 277 on July 10, 2019.

This bill will authorize the court to release a defendant in custody on unsecured bail.

We understand that this change was intended to provide an alternative to cash bail. However, various alternatives to the cash bail system exist and afford judges flexibility in authorizing a Defendant's release in lieu of the posting of cash bail. Also, there is no system or procedure proposed to address the collection of unsecured bail when Defendants who have been released fail to appear at subsequent court proceedings.

For the foregoing reasons, I allowed SB192 SD1 HD2 CD1 to become law without my signature.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO BAIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 804, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§804- Unsecured bail. (a) The court may order the
5 defendant released upon the execution of an unsecured financial
6 bond for all or part of the bail amount by the defendant and any
7 additional obligors as may be required by the court, upon the
8 deposit of cash or other security as described in section
9 804-11.5 for any remaining bail amount not covered by the
10 unsecured financial bond, and subject to any other conditions of
11 release that will reasonably assure the appearance of the
12 defendant in court as required and protect the public.

13 (b) In the event that a defendant fails to appear in court
14 as required or breaches any other condition of release, the
15 court shall enter an order of forfeiture of the unsecured
16 financial bond.

17 (c) In granting or denying unsecured bail, the court may
18 consider:



- 1 (1) The defendant's:
- 2 (A) Employment status and history;
- 3 (B) Family relationships, specifically the nature and
- 4 extent of those relationships;
- 5 (C) Past and present residences;
- 6 (D) Character and reputation;
- 7 (E) Ties to the community;
- 8 (F) Financial circumstances; and
- 9 (G) Prior criminal record, if any, and any prior
- 10 failures to appear in court;
- 11 (2) The agreement of any person to assist the defendant to
- 12 appear in court when required and to satisfy the
- 13 conditions of release;
- 14 (3) The results of an empirical and validated pretrial
- 15 risk assessment;
- 16 (4) The offense charged and any potential sentence; and
- 17 (5) Any other facts the court finds relevant to the
- 18 defendant's likelihood to appear in court and satisfy
- 19 the conditions of release."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

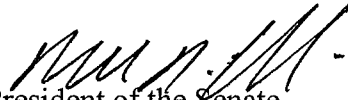
APPROVED this day of , 2019

GOVERNOR OF THE STATE OF HAWAII


THE SENATE OF THE STATE OF HAWAI‘I

Date: April 30, 2019
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai‘i, Regular Session of 2019.



President of the Senate



Clerk of the Senate

SB No. 192, SD 1, HD 2, CD 1

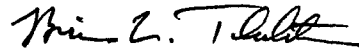
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2019
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives