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## 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) After an amount of bail is  
5 determined by a justice or judge pursuant to section 804-9, a  
6 defendant in custody may petition the court for unsecured bail.

7 Upon a showing that:

8           (1) Securing the bail bond or obtaining a surety or  
9           sureties to secure the bail bond pursuant to section  
10           804-11.5 would result in significant financial  
11           hardship; and

12           (2) The continued incarceration of the defendant would  
13           jeopardize the defendant's ability to maintain  
14           employment, remain enrolled in any educational or  
15           training program, care for a dependent, continue  
16           medical or therapeutic treatment, or maintain housing;



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

10 (b) In granting or denying a petition for unsecured bail,  
11 the court may consider:

12 (1) The defendant's:

13 (A) Employment status and history;

14 (B) Family relationships, specifically the nature and  
15 extent of those relationships;

16 (C) Past and present residences;

17 (D) Character and reputation;

18 (E) Ties to the community;

19 (F) Financial circumstances; and

20 (G) Prior criminal record, if any, and any prior  
21 failures to appear in court;



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- 1        (2) The agreement of any person to assist the defendant to
- 2        appear in court when required and to satisfy the
- 3        conditions of release;
- 4        (3) The results of an empirical and validated pretrial
- 5        risk assessment;
- 6        (4) The offense charged and any potential sentence; and
- 7        (5) Any other facts the court finds relevant to the
- 8        defendant's likelihood to appear in court and satisfy
- 9        the conditions of release."

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

13        SECTION 3. New statutory material is underscored.

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

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INTRODUCED BY:   
 By Request  
 JAN 17 2019



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**Report Title:**

OHA Package; Office of Hawaiian Affairs; Courts; Unsecured Bail

**Description:**

Authorizes a defendant in custody to petition a court for unsecured bail.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

