

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO PAYMENT OF BAIL.

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

1           SECTION 1. The legislature finds that, according to the  
2 National District Attorneys Association's national prosecution  
3 standards, "[a] prosecutor should not seek a bail amount or  
4 other release conditions that are greater than necessary to  
5 ensure the safety of others and the community and to ensure the  
6 appearance of the defendant at trial". Article I, section 12,  
7 of the Hawaii State Constitution likewise provides that  
8 "[e]xcessive bail shall not be required, nor excessive fines  
9 imposed", and further provides, "the court may dispense with  
10 bail if reasonably satisfied that the defendant or witness will  
11 appear when directed, except for a defendant charged with an  
12 offense punishable by life imprisonment".

13           The legislature further finds that, in recent years,  
14 several other states have undertaken significant reforms to  
15 their bail processing and other criminal pretrial practices and  
16 procedures, including Alaska, Arizona, Colorado, Kentucky,  
17 Maryland, Nevada, New Jersey, New Mexico, and Utah. In 2017,



1 the judiciary convened a task force at the request of the  
2 legislature to examine and make recommendations regarding  
3 criminal pretrial practices and procedures to maximize public  
4 safety, maximize court appearances, and maximize pretrial  
5 release of the accused and presumed innocent who do not pose a  
6 danger or flight risk.

7 The legislature additionally finds that one of the task  
8 force's recommendations was to expand the timeframe in which  
9 bail may be posted and defendants released. The task force's  
10 investigations revealed that only in the third circuit may  
11 defendants post cash bail on a twenty-four hours a day, seven  
12 days a week basis. Bail is posted with the Hawaii county police  
13 department, and notification is then made to release the  
14 defendant from the department of public safety's custody. The  
15 task force determined that this option does not exist in other  
16 counties, and defendants are frequently unable to post timely  
17 cash bail and be released. As a result, defendants must either  
18 wait to go to court to request release or contact a bondsman to  
19 file a surety bond with the court before they may be released.  
20 The task force concluded that defendants who are able to post  
21 bail or bond should not be detained simply because of an



1 administrative barrier requiring that bail or bond be payable  
2 only during normal business days and hours.

3 Accordingly, the purpose of this Act is to permit  
4 defendants for whom a monetary amount of bail has been set to  
5 pay the bail amount on a twenty-four hours a day, seven days a  
6 week basis and be released from custody forthwith upon posting  
7 or payment of bail.

8 SECTION 2. Section 804-7, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§804-7 Release after bail. [~~When bail is offered and~~  
11 ~~taken the prisoner shall be discharged from custody or~~  
12 ~~imprisonment.] Any defendant for whom a monetary amount of bail  
13 has been set by the police, other law enforcement agency, or the  
14 court, shall be permitted to post the bail amount at the police  
15 department, law enforcement agency, or county correctional  
16 center where the defendant is detained. The monetary bail shall  
17 be payable on a twenty-four hours a day and seven days a week  
18 basis. Upon posting or payment of bail, the defendant or the  
19 defendant's representative or agent shall be provided a bail  
20 receipt, and the defendant shall be released from custody  
21 forthwith."~~



# S.B. NO. 1423

1           SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: Clarena K. Washburn



# S.B. NO. 1423

**Report Title:**

Bail Posting; Payment; Law Enforcement; Pre-trial Defendants;  
Detention; Release

**Description:**

Permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

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