
A BILL FOR AN ACT

RELATED TO BAIL HEARINGS.

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

1 SECTION 1. The legislature finds that House Concurrent
2 Resolution No. 134, H.D. 1 (2017), established a task force to
3 examine and make recommendations regarding criminal pretrial
4 practices and procedures to maximize public safety, maximize
5 court appearances, and maximize pretrial release of the accused
6 and presumed innocent. The legislature further finds that the
7 task force's investigations revealed that the current system is
8 inconsistent as to whether and when a pretrial defendant is
9 accorded a bail hearing. Often, opportunities to hold prompt
10 hearings early in the proceedings are missed and result in
11 defendants being unnecessarily detained until a meaningful bail
12 hearing is held days or weeks later. Many of these individuals
13 are believed to be low-risk defendants who could be safely and
14 appropriately released.

15 The purpose of this Act is to adopt the recommendation of
16 the task force to entitle defendants to a prompt bail hearing.



1 SECTION 2. 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- Right to a prompt hearing. (a) Upon formal
5 charge and detention, and upon motion by either party, the
6 defendant shall have a right to a prompt hearing concerning
7 release or detention and whether any condition or combination of
8 conditions will reasonably assure the defendant's appearance as
9 required.

10 (b) At the hearing, the judge shall consider the following
11 factors in making a decision concerning release or detention:

12 (1) If there is a serious risk that the defendant will
13 flee;

14 (2) If there is a risk that the defendant will obstruct or
15 attempt to obstruct justice, or injure or intimidate,
16 or attempt to injure or intimidate, a prospective
17 witness or juror;

18 (3) If there is a serious risk that the defendant poses a
19 danger to any person or to the community; or

20 (4) If there is a serious risk that the defendant will
21 engage in criminal activity.



1 (c) At the hearing, the defendant shall have the right to
2 be represented by counsel, and, if financially unable to obtain
3 representation, to have counsel appointed. The defendant shall
4 be afforded an opportunity to testify, to present witnesses, to
5 cross-examine witnesses who appear at the hearing, and to
6 present information by proffer or otherwise. The rules
7 concerning admissibility of evidence in criminal trials shall
8 not apply to the presentation and consideration of information
9 at the hearing. The defendant may be detained pending
10 completion of the hearing."

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

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on March 15, 2094.

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Report Title:

Criminal Pretrial Practices; Right to Prompt Bail Hearing

Description:

Adds provision that, upon formal charge and detention, and upon motion by either party, defendants shall have the right to a prompt bail hearing concerning release or detention and whether any condition will reasonably assure the defendant's appearance. Allows defendants to be represented by counsel at the hearing, or have one appointed if they are financially unable to obtain representation. Allows defendants to present evidence and witnesses and to cross-examine witnesses who appear at the hearing. Effective 3/15/2094. (SD1)

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

