
A BILL FOR AN ACT

RELATING TO BAIL.

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

1 SECTION 1. The legislature finds that federal courts have
2 held that a defendant's financial circumstances and possible
3 alternative release conditions must be considered prior to
4 detention. Existing state law instructs all officers setting
5 bail to consider the pecuniary circumstances of the accused
6 party. The legislature believes that existing law should make
7 clear that information regarding a defendant's financial
8 circumstances, when available, should be considered when setting
9 bail.

10 The legislature further finds that under the current
11 pretrial system, bail amounts are not set uniformly across the
12 circuits and, in some cases, bail amounts are not set on an
13 individual, case-by-case basis. In any pretrial system that
14 employs money bail, it is imperative that bail is set in amounts
15 that the defendant is able to afford. While state and county
16 law enforcement officers have the discretion to set appropriate
17 amounts of bail, it is reasonable to order relatively similar



1 bail amounts for similarly situated defendants statewide.
2 Recent anecdotal observations in the first circuit suggest a
3 possible trend of bail settings in felony cases in amounts
4 similar to those on the neighbor islands. These observations
5 are encouraging and may be evidence of an evolving recognition
6 and commitment by police and prosecutors to set bail in
7 reasonable amounts that reflect the defendant's ability to post.

8 Accordingly, the purpose of this Act is to require monetary
9 bail to be set in reasonable amounts based upon all available
10 information, including the defendant's financial ability to
11 afford bail.

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

14 "§804-9 Amount. The amount of bail rests in the
15 discretion of the justice or judge or the officers named in
16 section 804-5 [~~;~~ but] and shall be set in reasonable amounts
17 based upon all available information, including the alleged
18 offense, possible punishment upon conviction, and the offender's
19 financial ability to afford bail. Bail amounts should be so
20 determined as not to suffer the wealthy to escape by the payment
21 of a pecuniary penalty, nor to render the privilege useless to



1 the poor. [~~In all cases, the officer letting to bail should~~
2 ~~consider the punishment to be inflicted on conviction, and the~~
3 ~~pecuniary circumstances of the party accused.] Pretrial service
4 officers may access other state agencies' data on an offender's
5 wages and tax information for the limited purpose of determining
6 an appropriate bail amount."~~

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

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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

13



Report Title:

Bail; Reasonable Amounts; Financial Circumstances

Description:

Requires bail to be set in reasonable amounts based upon all available information, including the alleged offense, possible punishment upon conviction, and the offender's financial ability to afford bail. Repeals the requirement of an officer letting to bail to consider the punishment to be inflicted on conviction and the pecuniary circumstances of the party accused. Allows pretrial service officers to access other state agencies' data on an offender's wages and tax information for the limited purpose of determining an appropriate bail amount. (SD1)

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