

JAN 17 2020

A BILL FOR AN ACT

RELATING TO MONETARY BAIL.

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

1 SECTION 1. The legislature finds that bail is the amount
2 of money defendants must post to be released from custody until
3 the resolution of their case. Bail is not intended to be a fine
4 or any form of punishment. The purpose of bail is to ensure
5 that defendants will appear for trial and all pretrial hearings
6 for which they are required to be present, and money paid in
7 bail is returned to defendants once their case is resolved.

8 The legislature further finds that monetary bail
9 requirements contribute to overcrowding in jails. Defendants
10 who cannot afford to post bail can be forced to remain in jail
11 for extended periods of time even in cases of petty or minor
12 nonviolent offenses.

13 The purpose of this Act is to prohibit courts from
14 requiring monetary bail as a condition for release when a person
15 is charged with a petty misdemeanor, a traffic violation, or an
16 equivalent offense under county ordinance.



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- Monetary bail for certain offenses; prohibited.

5 (a) The court shall be prohibited from requiring monetary bail
6 as a condition for release when a person is charged with:

7 (1) A traffic offense, a petty misdemeanor, or an
8 equivalent offense under county ordinances; or

9 (2) An offense under county ordinances for which there is
10 no comparable offense under the Hawaii Revised
11 Statutes;

12 provided that if the offense is a traffic offense that resulted
13 in death or bodily injury, this prohibition shall not apply.

14 (b) Nothing in this section shall limit the issuance of a
15 warrant by the court for a person who fails to appear in court
16 as required or who violates a condition of release."

17 SECTION 3. Section 804-3, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) [~~Any~~] Except as provided by section 804- , any
20 person charged with a criminal offense shall be bailable by



1 sufficient sureties; provided that bail may be denied where the
2 charge is for a serious crime, and:

3 (1) There is a serious risk that the person will flee;

4 (2) There is a serious risk that the person will obstruct
5 or attempt to obstruct justice, or therefore, injure,
6 or intimidate, or attempt to thereafter, injure, or
7 intimidate, a prospective witness or juror;

8 (3) There is a serious risk that the person poses a danger
9 to any person or the community; or

10 (4) There is a serious risk that the person will engage in
11 illegal activity."

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.

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S.B. NO. 2591

Report Title:

Monetary Bail; Prohibition; Petty Misdemeanors; Traffic Offenses

Description:

Prohibits courts from requiring a monetary bail as a condition for release when a person is charged with a petty misdemeanor, a traffic violation, or an equivalent offense under county ordinance, except under certain circumstances.

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