

JAN 19 2023

A BILL FOR AN ACT

RELATING TO CRIMINAL PRETRIAL REFORM.

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

1 SECTION 1. The legislature finds that there is a need to
2 address the substantial and continued overcrowding of facilities
3 used to house pretrial defendants.

4 The purpose of this Act is to eliminate the use of monetary
5 bail and require defendants to be released on their own
6 recognizance for traffic offenses, violations, nonviolent petty
7 misdemeanor offenses, nonviolent misdemeanor offenses, and
8 nonviolent class C felony offenses.

9 SECTION 2. Chapter 804, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§804- Monetary bail; nonviolent offenders. (a) Any
13 defendant arrested, charged, and held for a traffic offense,
14 violation, nonviolent petty misdemeanor offense, nonviolent
15 misdemeanor offense, or nonviolent class C felony offense shall
16 be ordered by the court to be released on the defendant's own
17 recognizance at arraignment and plea conditioned upon:



S.B. NO. 35D

- 1 (1) The defendant's appearance in court; and
- 2 (2) Any other least restrictive, non-monetary condition
- 3 necessary to:
- 4 (A) Ensure the defendant's appearance in court; and
- 5 (B) Protect the public.
- 6 (b) This section shall not apply if:
- 7 (1) The offense involves:
- 8 (A) Assault;
- 9 (B) Terroristic threatening;
- 10 (C) Sexual assault;
- 11 (D) Abuse of family or household members;
- 12 (E) Violation of a temporary restraining order;
- 13 (F) Violation of an order for protection;
- 14 (G) Violation of a restraining order or injunction;
- 15 (H) Operating a vehicle under the influence of an
- 16 intoxicant;
- 17 (I) Negligent homicide;
- 18 (J) A minor;
- 19 (K) Unauthorized entry into a dwelling; or
- 20 (L) Any other crime of violence; or



- 1 (2) One or more of the following apply:
- 2 (A) The defendant has a history of non-appearance in
3 the last twenty-four months;
- 4 (B) The defendant has at least one prior conviction
5 for a misdemeanor crime of violence or felony
6 crime of violence within the last eight years;
- 7 (C) The defendant was pending trial or sentencing at
8 the time of arrest;
- 9 (D) The defendant was on probation, parole, or
10 conditional release at the time of arrest;
- 11 (E) The defendant is also concurrently charged with a
12 violent petty misdemeanor, a violent misdemeanor,
13 or any felony offense arising from the same or
14 separate incident; or
- 15 (F) The defendant presents a risk of danger to any
16 identifiable person or persons or to the
17 community, including but not limited to a risk of
18 infection.
- 19 (c) If any of the exceptions in subsection (b) apply, and
20 the court finds no condition or combination of non-monetary
21 conditions in section 804-7.1 will ensure the defendant's



1 appearance or protect against specific threats of imminent harm
2 to an identifiable person or persons or the community, bail may
3 be set in a reasonable amount pursuant to section 804-9, taking
4 into consideration the defendant's financial ability to afford
5 bail. If the defendant is unable to post the amount of bail,
6 the defendant shall be entitled to a prompt hearing under
7 section 804-7.5. If the defendant is unable to post bail in the
8 amount of \$99 or less, the director of public safety may, in the
9 director's discretion, release the defendant.

10 (d) This section shall neither preclude law enforcement
11 from setting an initial bail before arraignment, nor prevent a
12 court from determining bail or conditions of release at
13 arraignment should an initial bail be set by law enforcement
14 before arraignment."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: 



S.B. NO. 350

Report Title:

Bail; Release; Detention

Description:

Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for traffic offenses; violations; and nonviolent petty misdemeanor, misdemeanor, and nonviolent class C felony offenses, with certain exceptions.

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

