

1 Further, an arrest can significantly jeopardize the arrestee's
2 housing and employment and set into motion a chain of economic
3 and logistical hardships for the arrestee's family, especially
4 when the arrestee is the main source of household income and has
5 multiple dependents.

6 The purpose of this part is to reduce the number of
7 unnecessary arrests made in criminal cases, by requiring:

- 8 (1) Law enforcement officers to issue a citation in lieu
9 of making an arrest, with certain exceptions; and
10 (2) The grant of a forty-eight hour grace period after a
11 missed initial court appearance before the court may
12 issue an arrest warrant.

13 SECTION 2. Chapter 805, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§805- Initial court appearance; failure to appear;
17 grace period. A person who fails to appear in court for the
18 initial appearance in a case shall automatically be granted a
19 grace period of forty-eight hours before the court may issue an
20 arrest warrant for the person's non-appearance. During the
21 grace period, the person may voluntarily appear at court without



1 the need to provide advance notice to the court. If the
2 forty-eight hour grace period is scheduled to expire on a
3 Saturday, Sunday, or state holiday, the expiration shall be
4 extended to the same time on the next business day."

5 SECTION 3. Chapter 806, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§806- Initial court appearance; failure to appear;
9 grace period. A person who fails to appear in court for the
10 initial appearance in a case shall automatically be granted a
11 grace period of forty-eight hours before the court may issue an
12 arrest warrant for the person's non-appearance. During the
13 grace period, the person may voluntarily appear at court without
14 the need to provide advance notice to the court. If the
15 forty-eight hour grace period is scheduled to expire on a
16 Saturday, Sunday, or state holiday, the expiration shall be
17 extended to the same time on the next business day."

18 SECTION 4. Section 803-6, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending its title to read:



H.B. NO. 1336

1 "§803-6 Arrest, how made[-]; mandatory citation in lieu of
2 arrest; failure to appear."

3 2. By amending subsection (b) to read:

4 "(b) In any case in which it is lawful for a [~~police~~] law
5 enforcement officer to arrest a person without a warrant for a
6 felony, misdemeanor, petty misdemeanor, or violation, the
7 [~~police~~] officer [~~may, but need not,~~] shall issue a citation in
8 lieu of [~~the requirements of~~] making an arrest under
9 [~~+~~]subsection[~~+~~] (a), [~~if the police officer finds and is~~
10 ~~reasonably satisfied that the person:~~

- 11 ~~(1) Will appear in court at the time designated;~~
- 12 ~~(2) Has no outstanding arrest warrants which would justify~~
13 ~~the person's detention or give indication that the~~
14 ~~person might fail to appear in court; and~~
- 15 ~~(3) That the offense is of such nature that there will be~~
16 ~~no further police contact on or about the date in~~
17 ~~question, or in the immediate future.] unless:~~

18 (1) The case involves any of the following offenses:

- 19 (A) A "serious crime" as defined in section 804-3(a);
- 20 (B) Abuse of a family or household member
21 under section 709-906;



H.B. NO. 1336

- 1 (C) Violation of a domestic abuse protective order
- 2 issued pursuant to chapter 586, or of a temporary
- 3 restraining order or injunction against
- 4 harassment issued pursuant to section 604-10.5;
- 5 (D) Operating a vehicle under the influence of an
- 6 intoxicant under section 291E-61, habitually
- 7 operating a vehicle under the influence of an
- 8 intoxicant under section 291E-61.5, or operating
- 9 a vehicle after license and privilege have been
- 10 suspended or revoked for operating a vehicle
- 11 under the influence of an intoxicant under
- 12 section 291E-62;
- 13 (E) An offense involving physical assault or sexual
- 14 assault; or
- 15 (F) An offense for which the penalty requires a
- 16 mandatory term of imprisonment;
- 17 (2) The person has a history of failing to appear in
- 18 court;
- 19 (3) The person poses a significant danger to a specific or
- 20 reasonably identifiable person or persons, based upon
- 21 an articulable risk to a specific person or the



1 defendants in criminal cases who have not yet been found guilty
2 of a crime should be presumed to be entitled to release, unless
3 the prosecution can prove that release would be inappropriate
4 for a particular defendant because there is no condition or
5 combination of conditions of release that will assure the
6 person's return to court when required or the safety of other
7 persons.

8 The legislature also finds that pretrial incarceration is
9 the primary driver of severe overcrowding in community
10 correctional centers, which becomes a health and safety issue
11 for defendants in custody as well as staff who work in
12 correctional facilities. Further, prolonged pretrial detention
13 gives the illusion that justice is being served by keeping an
14 alleged offender behind bars, but often has the unjust effect of
15 forcing a defendant to plead guilty even when the defendant may
16 have prevailed at trial, for the sake of hastening the
17 defendant's release from custody and return to a normal life.

18 The purpose of this part is to introduce meaningful reforms
19 to the manner of determining eligibility for pretrial release
20 and promote greater fairness and equity in the criminal courts,
21 by:



H.B. NO. 1336

- 1 (1) Prohibiting from inclusion in a pretrial bail report
2 certain types of information that tend to lead to bias
3 against a defendant;
- 4 (2) Requiring that copies of the bail report be provided
5 to the parties, including defendant's counsel, no
6 later than the commencement of the bail hearing;
- 7 (3) Establishing a rebuttable presumption that a defendant
8 is entitled to release and requiring the prosecution
9 to prove, by clear and convincing evidence, that
10 release of a defendant would be inappropriate based on
11 certain specified criteria;
- 12 (4) Requiring that any bail set by the court shall be in
13 an amount that the defendant is able to afford;
- 14 (5) Prohibiting the denial of pretrial release based
15 solely upon certain factors, such as the defendant's
16 positive test for drug use;
- 17 (6) Requiring the automatic issuance of protective orders
18 in assaultive cases;
- 19 (7) Providing that with respect to a revocation of release
20 on bail, recognizance, or supervised release, the
21 prosecution must prove, by clear and convincing



1 evidence, that the defendant intentionally violated a
2 condition of release, and that the condition was
3 reasonable under the totality of the circumstances;
4 and

- 5 (8) Requiring the court, in certain cases when revoking a
6 defendant's release, to enter a finding that no other
7 non-financial condition or combination of conditions
8 can be imposed that would ensure the defendant's
9 appearance and the safety of the public, and that the
10 revocation is therefore necessary as an action of last
11 resort.

12 SECTION 7. Chapter 353, Hawaii Revised Statutes, is
13 amended by adding a new section to part I to be appropriately
14 designated and to read as follows:

15 "§353- Bail reports; prohibited content. A pretrial
16 bail report prepared by the intake service center under section
17 353-10 shall not contain information on any of the following:

- 18 (1) Prior arrests in the defendant's criminal history that
19 did not result in a conviction; or
20 (2) The geographic location of the defendant's prior
21 arrests or convictions."



1 SECTION 8. Section 353-10, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The centers shall:

4 (1) Provide orientation, guidance, and technical services;

5 (2) Provide social-medical-psychiatric-psychological
6 diagnostic evaluation;

7 (3) Conduct internal pretrial risk assessments on adult
8 offenders within three working days of admission to a
9 community correctional center; provided that this
10 paragraph shall not apply to persons subject to county
11 or state detainers or holds, persons detained without
12 bail, persons detained for probation violation,
13 persons facing revocation of bail or supervised
14 release, and persons who have had a pretrial risk
15 assessment completed prior to admission to a community
16 correctional center. For purposes of this paragraph,
17 "pretrial risk assessment" means an objective,
18 research-based, validated assessment tool that
19 measures an offender's risk of flight, risk of
20 criminal conduct, and risk of violence or harm to any
21 person or the general public while on pretrial release



1 pending adjudication. The pretrial risk assessment
2 tool and procedures associated with its administration
3 shall be periodically reviewed and subject to further
4 validation at least every five years to evaluate the
5 effectiveness of the tool and the procedures
6 associated with its administration. The findings of
7 periodic reviews shall be publicly reported;

8 (4) Provide correctional prescription program planning and
9 security classification;

10 (5) Provide other personal and correctional services as
11 needed for both detained and committed persons;

12 (6) Monitor and record the progress of persons assigned to
13 correctional facilities who undergo further treatment
14 or who participate in prescribed correctional
15 programs;

16 (7) Provide continuing supervision and control of persons
17 ordered to be placed on pretrial supervision by the
18 court and persons ordered by the director;

19 (8) Make inquiry with the offender concerning the
20 offender's financial circumstances and include this
21 information in the bail report; provided that the



1 department of public safety's pretrial services
2 officers shall be provided limited access for the
3 purpose of viewing other state agencies' relevant data
4 related to an offender's employment wages and taxes;

5 (9) Provide pretrial bail reports to the courts on adult
6 offenders, within three working days of admission of
7 the offender to a community correctional center, that
8 are ordered by the court or consented to by the
9 offender. A complete copy of the executed pretrial
10 risk assessment delineating the scored items, the
11 total score, any administrative scoring overrides
12 applied, and written explanations for administrative
13 scoring overrides, shall be included in the pretrial
14 bail report. The pretrial bail reports shall be
15 confidential [~~and~~], shall not be deemed to be public
16 records[~~-~~], and shall not include any information that
17 is prohibited under section 353- . A copy of a
18 pretrial bail report shall be provided no later than
19 the commencement of the bail hearing and shall be
20 provided only:

21 (A) To the defendant or defendant's counsel;



- 1 (B) To the prosecuting attorney;
- 2 (C) To the department of public safety;
- 3 (D) To any psychiatrist, psychologist, or other
- 4 treatment practitioner who is treating the
- 5 defendant pursuant to a court order;
- 6 (E) Upon request, to the adult client services
- 7 branch; and
- 8 (F) In accordance with applicable laws, persons, or
- 9 entities doing research. The research entity
- 10 must be approved and contracted by the department
- 11 of public safety to protect the confidentiality
- 12 of the information, insofar as the information is
- 13 not a public record."

14 SECTION 9. Section 804-3, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "§804-3 ~~[Bailable]~~ Pretrial release; bailable offenses.

17 (a) For purposes of this section, "serious crime" means murder
 18 or attempted murder in the first degree, murder or attempted
 19 murder in the second degree, or a class A or B felony, except
 20 forgery in the first degree and failing to render aid under



1 section 291C-12, and "bail" includes release on one's own
2 recognizance, supervised release, and conditional release.

3 (b) Any person charged with a criminal offense shall be
4 bailable by sufficient sureties; provided that bail may be
5 denied where the charge is for a serious crime, and:

6 (1) There is a serious risk that the person will [~~flee,~~]
7 wilfully abscond;

8 (2) There is a serious risk that the person will obstruct
9 or attempt to obstruct justice, or therefore, injure,
10 or intimidate, or attempt to thereafter, injure, or
11 intimidate, a prospective witness or juror[+] with the
12 purpose of obstructing or attempting to obstruct
13 justice; or

14 (3) There is a serious risk that the person poses a
15 significant danger to [any] a specific or reasonably
16 identifiable person or persons, based upon an
17 articulable risk to a specific person or the
18 community[+or

19 ~~(4) There is a serious risk that the person will engage in~~
20 ~~illegal activity.]; and~~



1 the risk cannot be mitigated by any set of release conditions
2 imposed by the court.

3 (c) ~~[Under subsection (b) (1) a rebuttable presumption~~
4 ~~arises that there is a serious risk that the person will flee or~~
5 ~~will not appear as directed by the court where the person is~~
6 ~~charged with a criminal offense punishable by imprisonment for~~
7 ~~life without possibility of parole. For purposes of subsection~~
8 ~~(b) (3) and (4) a rebuttable presumption arises that the person~~
9 ~~poses a serious danger to any person or community or will engage~~
10 ~~in illegal activity where the court determines that:~~

11 ~~(1) The defendant has been previously convicted of a~~
12 ~~serious crime involving violence against a person~~
13 ~~within the ten year period preceding the date of the~~
14 ~~charge against the defendant;~~

15 ~~(2) The defendant is already on bail on a felony charge~~
16 ~~involving violence against a person; or~~

17 ~~(3) The defendant is on probation or parole for a serious~~
18 ~~crime involving violence to a person.] There shall be~~

19 a rebuttable presumption that the person is entitled to release
20 on recognizance or to supervised release, and that the person
21 will appear in court when required. The burden of proof shall



1 be upon the prosecution to establish, by clear and convincing
2 evidence, that release under this subsection would be
3 inappropriate based upon the criteria in subsection (b).

4 (d) If [~~after~~] the court finds pursuant to a hearing [the
5 court finds] that no condition or combination of conditions will
6 reasonably assure the appearance of the person when required or
7 the safety of any other person or [~~community,~~] persons, bail may
8 be denied[~~-~~]; provided that the court enters on the record its
9 findings with respect to the detention decision. The burden of
10 proof shall be upon the prosecution to establish, by clear and
11 convincing evidence, that there is no condition or combination
12 of conditions that will reasonably assure the appearance of the
13 person when required or the safety of any other person or
14 persons.

15 (e) Any bail set by the court shall be in an amount that
16 the person is able to afford, based upon information in the bail
17 report or the person's sworn affidavit or testimony, subject to
18 any rebuttal evidence the prosecution may introduce, at the
19 release hearing; provided that:

20 (1) In setting bail, the court shall exclude from
21 consideration any income derived from public benefits,



1 including supplemental security income, social
2 security disability insurance, and temporary
3 assistance for needy families, and any income that is
4 at or below the federal poverty level. If the person
5 has no source of income other than public benefits or
6 has a household income that is at or below the federal
7 poverty level, the person shall be deemed unable to
8 pay bail in any amount; and

9 (2) If the person has a household income that is above the
10 federal poverty level and that is not derived from
11 public benefits, the court shall consider an amount
12 that the person could reasonably afford to pay within
13 forty hours of the person's arrest."

14 SECTION 10. Section 804-7.1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§804-7.1 Conditions of release on bail, recognizance, or
17 supervised release. (a) Upon a showing that there exists a
18 danger that the defendant will commit a serious crime as defined
19 in section 804-3(a) or will seek to intimidate witnesses, or
20 will otherwise unlawfully interfere with the orderly
21 administration of justice, the judicial officer named in



1 section 804-5 may deny the defendant's release on bail,
2 recognizance, or supervised release[-]; provided that denial of
3 release on bail, recognizance, or supervised release shall not
4 be based solely upon the defendant having:

5 (1) Recently tested positive for drug use;

6 (2) A prior criminal history, if the history contains only
7 arrests but no convictions; or

8 (3) A prior revocation of release on bail, recognizance,
9 or supervised release, regardless of whether in a
10 prior criminal case or in the instant case.

11 (b) Upon the defendant's release on bail, recognizance, or
12 supervised release, however, the court may enter an order:

13 (1) Prohibiting the defendant from approaching or
14 communicating with particular persons or classes of
15 persons, including the complainant; provided that when
16 the alleged offense involves physical assault or
17 sexual assault, a written protective order prohibiting
18 the defendant from having contact in any form with the
19 complainant or with any other witness shall
20 automatically issue, and the defendant shall be
21 advised of the protective order while on the record;



- 1 except that no such order should be deemed to prohibit
2 any lawful and ethical activity of defendant's
3 counsel;
- 4 (2) Prohibiting the defendant from going to certain
5 described geographical areas or premises;
- 6 (3) Prohibiting the defendant from possessing any
7 dangerous weapon, engaging in certain described
8 activities, or indulging in intoxicating liquors or
9 certain drugs;
- 10 (4) Requiring the defendant to report regularly to and
11 remain under the supervision of an officer of the
12 court;
- 13 (5) Requiring the defendant to maintain employment, or, if
14 unemployed, to actively seek employment, or attend an
15 educational or vocational institution;
- 16 (6) Requiring the defendant to comply with a specified
17 curfew;
- 18 (7) Requiring the defendant to seek and maintain mental
19 health treatment or testing, including treatment for
20 drug or alcohol dependency, or to remain in a
21 specified institution for that purpose;



1 (8) Requiring the defendant to remain in the jurisdiction
2 of the judicial circuit in which the charges are
3 pending unless approval is obtained from a court of
4 competent jurisdiction to leave the jurisdiction of
5 the court;

6 (9) Requiring the defendant to submit to the use of
7 electronic monitoring and surveillance;

8 (10) Requiring the confinement of the defendant in the
9 defendant's residence;

10 (11) Requiring the defendant to satisfy any other condition
11 reasonably necessary to ensure the appearance of the
12 defendant as required and to ensure the safety of any
13 other person or ~~[community,]~~ persons; or

14 (12) Imposing any combination of conditions listed above;
15 provided that the court shall impose the least restrictive
16 non-financial conditions required to ensure the defendant's
17 appearance and to protect the public.

18 (c) The judicial officer may revoke a defendant's ~~[bail~~
19 ~~upon proof that the defendant has breached any of the conditions~~
20 ~~imposed.]~~ release on bail, recognizance, or supervised release;



1 provided that the revocation is in accordance with the
2 requirements of section 804-7.3."

3 SECTION 11. Section 804-7.2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§804-7.2 Violations of conditions of release on bail,
6 recognizance, or supervised release. (a) [~~Upon~~] Subject to the
7 limitation set out in subsection (d), upon verified application
8 by the prosecuting attorney alleging that a defendant has
9 intentionally violated the conditions of release on bail,
10 recognizance, or supervised release, the judicial officer named
11 in section 804-5 shall issue a warrant directing the defendant
12 be arrested and taken forthwith before the court of record for
13 hearing.

14 (b) [~~Upon~~] Subject to the limitation set out in subsection
15 (d), upon verified application by a pretrial officer of the
16 intake service center that a defendant has intentionally
17 violated the conditions of release on bail, recognizance, or
18 supervised release, the court may issue an order pertaining to
19 bail to secure the defendant's appearance before the court or a
20 warrant directing that the defendant be arrested and taken
21 forthwith before the court of record for hearing.



1 (c) [A] Subject to the limitation set out in subsection
2 (d), a law enforcement officer having reasonable grounds to
3 believe that a released felony defendant has violated the
4 conditions of release on bail, recognizance, or supervised
5 release, may, where it would be impracticable to secure a
6 warrant, arrest the defendant and take the defendant forthwith
7 before the court of record.

8 (d) A defendant shall not be arrested under this section
9 solely because the defendant has tested positive for drug use."

10 SECTION 12. Section 804-7.3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§804-7.3 Sanctions for violation of conditions of release
13 on bail, recognizance, or supervised release. After hearing,
14 and upon finding that the defendant has intentionally violated
15 reasonable conditions imposed on release on bail, recognizance,
16 or supervised release, the court may impose different or
17 additional conditions upon defendant's release or revoke
18 defendant's release on bail, recognizance, or supervised
19 release[-]; provided that:

20 (1) The burden of proof shall be upon the prosecution to
21 establish, by clear and convincing evidence, that the



1 of addiction and not simply due to a deliberate choice to
2 disregard the law or the terms of probation or parole.
3 Subjecting a probationer or parolee to arrest and potential
4 revocation of community supervision is disruptive to the
5 person's overall efforts and progress in leading a pro-social
6 life--and is also costly for the State. The State currently
7 spends \$219 per day, or \$79,935 per year, to incarcerate just
8 one person. Research shows that, in contrast, community-based
9 services are a fraction of the cost of incarceration.

10 The legislature believes that, instead of expending funds
11 to arrest a probationer or parolee who has tested positive for
12 drug use, and holding a hearing on whether probation or parole
13 should be revoked based on the positive test, funds should be
14 reinvested in employment, housing, social services, and
15 community-based treatment programs that more effectively reduce
16 recidivism.

17 The purpose of this part is to:

18 (1) Provide that at any time before trial, any party
19 representing the defendant or providing information to
20 the court concerning the defendant may request that
21 the court order the defendant to undergo a substance



1 abuse assessment and participate in any necessary
2 treatment;

3 (2) Prohibit the arrest of a probationer or parolee solely
4 due to the person having tested positive for drug use;
5 and

6 (3) Prohibit the revocation of probation or parole solely
7 due to the person having tested positive for drug use.

8 SECTION 14. Chapter 805, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§805- Drug screening; request. At any time before
12 trial, any party representing the defendant, or providing
13 information to the court concerning the defendant, may request
14 that the court order the defendant to undergo a substance abuse
15 assessment and participate in any necessary treatment; provided
16 that this section shall not preclude a request of this nature
17 being made subsequent to trial or any conviction that results
18 therefrom."

19 SECTION 15. Chapter 806, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§806- Drug screening; request. At any time before
2 trial, any party representing the defendant, or providing
3 information to the court concerning the defendant, may request
4 that the court order the defendant to undergo a substance abuse
5 assessment and participate in any necessary treatment; provided
6 that this section shall not preclude a request of this nature
7 being made subsequent to trial or any conviction that results
8 therefrom."

9 SECTION 16. Section 353-66, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (b) to read:

12 "(b) No parole shall be revoked and no credits forfeited
13 without cause, which [eause] must be stated in the order
14 revoking the parole[7] but shall not be based solely upon the
15 parolee having tested positive for drug use, or in the order
16 forfeiting the credits after notice to the paroled prisoner of
17 the paroled prisoner's alleged offense and an opportunity to be
18 heard; provided that when a person is convicted in the State of
19 a crime committed while on parole and is sentenced to
20 imprisonment, or when it is shown by personal investigation that
21 a parolee has left the State without permission from the



1 paroling authority and due effort is made to reach the parolee
2 by registered mail directed to the parolee's last known address,
3 no hearing shall be required to revoke the parolee's parole; and
4 provided further that when any duly licensed psychiatrist or
5 licensed psychologist finds that continuance on parole will not
6 be in the best interests of a parolee or the community, the
7 paroling authority, within the limitations of the sentence
8 imposed, shall order the detention and treatment of the prisoner
9 until such time as the prisoner shall be found by any duly
10 licensed psychiatrist or licensed psychologist to be eligible
11 for continuance on parole."

12 2. By amending subsection (d) to read:

13 "(d) The paroling authority may at any time order the
14 arrest and temporary return to custody of any paroled prisoner,
15 as provided in section 353-65, for the purpose of ascertaining
16 whether or not there is sufficient cause to warrant the paroled
17 prisoner's reimprisonment or the revoking of the paroled
18 prisoner's parole or other action provided for by this part[-];
19 provided that a parolee shall not be arrested under this
20 subsection solely because the parolee has tested positive for
21 drug use."



1 SECTION 17. Section 706-625, Hawaii Revised Statutes, is
2 amended by amending subsection (3) to read as follows:

3 "(3) The court shall revoke probation if the defendant has
4 inexcusably failed to comply with a substantial requirement
5 imposed as a condition of the order or has been convicted of a
6 felony[-]; provided that the court shall not revoke probation
7 solely because the defendant has tested positive for drug use.
8 The court may revoke the suspension of sentence or probation if
9 the defendant has been convicted of another crime other than a
10 felony."

11 SECTION 18. Section 706-626, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~706-626 **Summons or arrest of defendant on probation;**
14 **commitment without bail.** [~~A~~] (1) Subject to the restriction
15 in subsection (2), at any time before the discharge of the
16 defendant or the termination of the period of probation:

17 [~~1~~] (a) The court may, in connection with the probation,
18 summon the defendant to appear before it or may issue
19 a warrant for the defendant's arrest;

20 [~~2~~] (b) A probation or law enforcement officer, having
21 probable cause to believe that the defendant has



1 failed to comply with a requirement imposed as a
 2 condition of the order, may arrest the defendant
 3 without a warrant and the defendant shall be held in
 4 custody pending the posting of bail pursuant to a bail
 5 schedule established by the court, or until a hearing
 6 date is set; provided that when the punishment for the
 7 original offense does not exceed one year, the
 8 probation or law enforcement officer may admit the
 9 probationer to bail; or

10 [~~(3)~~] (c) The court, if there is probable cause to believe
 11 that the defendant has committed another crime or has
 12 been held to answer therefor, may commit the defendant
 13 without bail, pending a determination of the charge by
 14 the court having jurisdiction thereof.

15 (2) A defendant shall not be arrested under this section
 16 solely because the defendant has tested positive for drug use."

PART IV

18 SECTION 19. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.



H.B. NO. 1336

1 SECTION 20. This Act shall take effect upon its approval.

2

INTRODUCED BY: Safford

JAN 25 2023



H.B. NO. 1336

Report Title:

Courts; Corrections; Arrests; Bail; Bail Reports; Pretrial Release; Probation; Parole; Revocation

Description:

Part I: Requires officers to issue citations in lieu of making certain arrests. Provides for a 48-hour grace period after a missed initial court appearance. Part II: Establishes a rebuttable presumption that a defendant is entitled to pretrial release. Requires the prosecution to prove by clear and convincing evidence that release of a defendant would be inappropriate, based on certain specified criteria. Requires that bail be set in an amount that the defendant can afford. Prohibits the denial of pretrial release based solely upon certain factors, such as testing positive for drug use. Requires automatic issuance of protective orders in assaultive cases. Requires the prosecution, when seeking to revoke pretrial release, to prove by clear and convincing evidence that the defendant intentionally violated a reasonable condition of release, and requires the court to enter certain findings into the record. Part III: Provides that a request that the defendant be ordered to undergo a substance abuse assessment may be made any time before trial. Prohibits the arrest of a probationer or parolee, or the revocation of probation or parole, solely due to the person having tested positive for drug use.

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

