
A BILL FOR AN ACT

RELATED TO BAIL HEARINGS.

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

1 SECTION 1. 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 the
7 defendant's release or detention and whether any condition or
8 combination of conditions will reasonably assure the defendant's
9 appearance as 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 serious risk that the defendant will
15 obstruct or attempt to obstruct justice, or injure or
16 intimidate, or attempt to injure or intimidate, a
17 prospective witness or juror;



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

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

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

15 SECTION 2. 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 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on March 15, 2094.



Report Title:

Criminal Pretrial Practices; Right to Prompt Bail Hearing

Description:

Codifies the right to a prompt bail hearing upon formal charge and detention. Establishes right to counsel at the bail hearing. (SB1539 HD1)

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