



GOV. MSG. NO. 1385

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 12, 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB1567 HD1 SD1 CD1, without my approval and with the statement of objections relating to the measure.

HB1567 HD1 SD1 CD1

RELATING TO CRIMINAL PRETRIAL REFORM.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 12, 2022

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1567

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 1567, entitled "A Bill for an Act Relating to Criminal Pretrial Reform."

The purpose of this bill is to eliminate the use of monetary bail and require the courts to release defendants on their own recognizance for traffic offenses, violations, nonviolent petty misdemeanor offenses, nonviolent misdemeanor offenses, and nonviolent class C felony offenses, subject to certain exclusions.

This bill is objectionable because there has not been sufficient time since the Legislature made changes by Act 179, Session Laws of Hawaii 2019, to the State's criminal pretrial system to fully assess the effect of the changes; the bill does not adequately address a number of important interests, including the need to secure the appearance of defendants; and the addition of class C felony offenses to the list of offenses for which release is mandated under the bill poses a potential threat to the safety of the public.

For the foregoing reasons, I am returning House Bill No. 1567 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

VETO

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 1567
H.D. 1
S.D. 1
C.D. 1

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. One way to address this
4 issue is through bail reform.

5 Accordingly, the purpose of this Act is to:

- 6 (1) Eliminate the use of monetary bail and require
- 7 defendants to be released on their own recognizance
- 8 for traffic offenses, violations, nonviolent petty
- 9 misdemeanor offenses, nonviolent misdemeanor offenses,
- 10 or nonviolent class C felony offenses; and
- 11 (2) Allow defendants the option to participate in a bail
- 12 report interview via videoconference.

13 SECTION 2. Chapter 804, Hawaii Revised Statutes, is
14 amended by adding two new sections to be appropriately
15 designated and to read as follows:

16 "§804- Monetary bail; nonviolent offenders. (a)

17 Except as otherwise provided in this section, any defendant



1 arrested, charged, and held for a traffic offense, violation,
2 nonviolent petty misdemeanor offense, nonviolent misdemeanor
3 offense, or nonviolent class C felony offense shall be ordered
4 by the court to be released on the defendant's own recognizance
5 at arraignment and plea, conditioned upon:

6 (1) The general conditions of release on bail set forth in
7 section 804-7.4; and

8 (2) Any other least restrictive, non-monetary condition
9 necessary to:

10 (A) Ensure the defendant's appearance in court; and

11 (B) Protect the public.

12 (b) This section shall not apply if:

13 (1) The offense involves:

14 (A) Assault;

15 (B) Terroristic threatening;

16 (C) Sexual assault;

17 (D) Abuse of family or household members;

18 (E) Violation of a temporary restraining order;

19 (F) Violation of an order for protection;

20 (G) Violation of a restraining order or injunction;



- 1 (H) Operating a vehicle under the influence of an
- 2 intoxicant;
- 3 (I) Negligent homicide;
- 4 (J) A minor;
- 5 (K) Unauthorized entry into a dwelling;
- 6 (L) Promoting a dangerous drug in the third degree;
- 7 (M) Habitual property crime; or
- 8 (N) Any other crime of violence; or
- 9 (2) One or more of the following apply:
- 10 (A) The defendant has a history of non-appearance in
- 11 the last twenty-four months;
- 12 (B) The defendant has at least one prior conviction
- 13 for a misdemeanor crime of violence or felony
- 14 crime of violence within the last eight years;
- 15 (C) The defendant was pending trial or sentencing at
- 16 the time of arrest;
- 17 (D) The defendant was on probation, parole, or
- 18 conditional release at the time of arrest;
- 19 (E) The defendant is also concurrently charged with a
- 20 violent petty misdemeanor, a violent misdemeanor,



1 or any felony offense arising from the same or
2 separate incident; or

3 (F) The defendant presents a risk of danger to any
4 other person or to the community, or a risk of
5 recidivism.

6 (c) If any of the exclusions in subsection (b) apply, bail
7 may be set in a reasonable amount pursuant to section 804-9,
8 based upon all of the available information including the
9 defendant's financial ability to afford bail. If the defendant
10 is unable to post the amount of bail set, the defendant shall be
11 entitled to a prompt hearing as set forth in section 804-7.5.

12 (d) This section shall neither preclude a law enforcement
13 agency from setting an initial bail amount before arraignment,
14 nor prevent a court from determining bail or conditions of
15 release at arraignment if an initial bail amount was set by a
16 law enforcement agency before arraignment.

17 §804- Bail report interview; videoconference. (a)
18 Notwithstanding any other law to the contrary, a defendant shall
19 be allowed to participate in a bail report interview via
20 videoconference.

1 (b) If a defendant chooses to participate in a bail report
2 interview via videoconference, the department of public safety
3 shall comply with, and make any necessary arrangements to
4 implement, the defendant's selection."

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

8 SECTION 4. New statutory material is underscored.

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

10

APPROVED this day of , 2022

GOVERNOR OF THE STATE OF HAWAII



HB No. 1567, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 3, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.


President of the Senate


Clerk of the Senate