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# 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.

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

**Report Title:**

Bail; Release; Detention; Bail Report Interview;  
Videoconference; PSD

**Description:**

Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to certain exclusions. Requires the department of public safety to take steps to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference. (CD1)

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

