

JAN 20 2022

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 through the adoption of
4 certain recommendations made by the criminal pretrial task force
5 regarding pretrial detention and release through bail reform.

6 House Concurrent Resolution No. 134, H.D. 1 (2017),
7 requested the judiciary to convene a criminal pretrial task
8 force to:

- 9 (1) Examine and, as needed, recommend legislation and
10 revisions to criminal pretrial practices and
11 procedures to increase public safety while maximizing
12 pretrial release of those who do not pose a danger or
13 a flight risk; and
14 (2) Identify and define best practices metrics to measure
15 the relative effectiveness of the criminal pretrial
16 systema and establish ongoing procedures to take such
17 measurements at appropriate time intervals.



1 Although a substantial number of the task force's
2 recommendations were subsequently enacted by Act 179, Session
3 Laws of Hawaii 2019 (Act 179), two critical recommendations were
4 not included. These recommendations would substantially change
5 the process for pretrial determinations and would offer the
6 greatest potential to maximize pretrial release. The
7 legislature accordingly intends to implement certain
8 recommendations of the criminal pretrial task force that were
9 accompanied by proposed legislation authored by the task force.

10 The purpose of this Act is to amend chapter 804, Hawaii
11 Revised Statutes, to:

- 12 (1) With certain exceptions, eliminate the use of monetary
13 bail and require defendants to be released on their
14 own recognizance for traffic offenses, traffic
15 violations, nonviolent petty misdemeanor offenses,
16 nonviolent misdemeanor offenses, and nonviolent class
17 C felony offenses; and
- 18 (2) Allow defendants the option to participate in a bail
19 report interview via videoconference.



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

4 "§804- Monetary bail; nonviolent offenders. (a) Any
5 defendant arrested and charged with a traffic offense, traffic
6 violation, nonviolent petty misdemeanor offense, nonviolent
7 misdemeanor offense, or nonviolent class C felony offense shall
8 be released on the defendant's own recognizance conditioned
9 upon:

10 (1) The defendant's appearance in court; and
11 (2) Any other least restrictive, non-financial condition
12 necessary to:

13 (A) Ensure the defendant's appearance in court; and
14 (B) Protect the public.

15 (b) This section shall not apply if:

16 (1) The offense involves:
17 (A) Assault;
18 (B) Terroristic threatening;
19 (C) Sexual assault;
20 (D) Abuse of family or household members;
21 (E) Violation of a temporary restraining order;



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- 1 (F) Violation of an order for protection;
- 2 (G) Violation of a restraining order or injunction;
- 3 (H) Operating a vehicle under the influence of an
4 intoxicant;
- 5 (I) Negligent homicide;
- 6 (J) A minor;
- 7 (K) Unauthorized entry into a dwelling; or
- 8 (L) Any other crime of violence; or
- 9 (2) One or more of the following apply:
- 10 (A) The defendant has a pattern 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 identifiable person, or persons, or to the
5 community.

6 (c) If any of the exceptions in subsection (b) apply, bail
7 may be set in a reasonable amount pursuant to section 804-9,
8 taking into consideration the defendant's financial ability to
9 afford bail. If the defendant is unable to post the amount of
10 bail, the defendant shall be entitled to a prompt hearing under
11 section 804-7.5.

12 §804- Bail report interview; videoconference. (a)
13 Notwithstanding any law to the contrary, a defendant shall be
14 allowed to participate in a bail report interview via
15 videoconference.

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



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Report Title:

Bail; Reform; Release; Detention; Bail Report Interview'
Videoconference; Department of Public Safety

Description:

Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for traffic offenses; traffic violations; and nonviolent petty misdemeanor, misdemeanor, and class C felony offenses, with certain exceptions. Requires the Department of Public Safety to provide videoconferencing to a defendant who chooses to participate in a bail report interview via videoconference.

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

