
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) Any
17 defendant arrested, charged, and held for a traffic offense,



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

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

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

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

10 (B) Protect the public.

11 (b) This section shall not apply if:

12 (1) The offense involves:

13 (A) Assault;

14 (B) Terroristic threatening;

15 (C) Sexual assault;

16 (D) Abuse of family or household members;

17 (E) Violation of a temporary restraining order;

18 (F) Violation of an order for protection;

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

20 (H) Operating a vehicle under the influence of an
21 intoxicant;



- 1 (I) Negligent homicide;
- 2 (J) A minor;
- 3 (K) Unauthorized entry into a dwelling; or
- 4 (L) Any other crime of violence; or
- 5 (2) One or more of the following apply:
- 6 (A) The defendant has a history of non-appearance in
7 the last twenty-four months;
- 8 (B) The defendant has at least one prior conviction
9 for a misdemeanor crime of violence or felony
10 crime of violence within the last eight years;
- 11 (C) The defendant was pending trial or sentencing at
12 the time of arrest;
- 13 (D) The defendant was on probation, parole, or
14 conditional release at the time of arrest;
- 15 (E) The defendant is also concurrently charged with a
16 violent petty misdemeanor, a violent misdemeanor,
17 or any felony offense arising from the same or
18 separate incident; or
- 19 (F) The defendant presents a risk of danger to any
20 other person or to the community, or a risk of
21 recidivism.



1 (c) If any of the exceptions in subsection (b) apply, bail
2 may be set in a reasonable amount pursuant to section 804-9,
3 based upon all of the available information including the
4 defendant's financial ability to afford bail. If the defendant
5 is unable to post the amount of bail set, the defendant shall be
6 entitled to a prompt hearing as set forth in section 804-7.5.
7 If the defendant is unable to post bail in the amount of \$99 or
8 less, the director of public safety shall release the defendant.

9 (d) This section shall neither preclude law enforcement
10 from setting an initial bail before arraignment, nor prevent a
11 court from determining bail or conditions of release at
12 arraignment should an initial bail be set by law enforcement
13 before arraignment.

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

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



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

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on January 1, 2222.



Report Title:

Bail; Release; Detention; Bail Report Interview; Videoconference

Description:

Eliminates the use of monetary bail and requires defendants to be released on their own recognizance for certain nonviolent offenses, subject to exceptions. 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. Effective 1/1/2222. (SD1)

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