### A BILL FOR AN ACT

RELATING TO BAIL.

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

- 1 SECTION 1. The legislature finds that the inability to
- post bail has caused increased overcrowding in our prison
- 3 system. Studies indicate upwards of 50% of pretrial detainees
- 4 are incarcerated due to their inability to post bail.
- 5 The legislature finds that substituting bail for a
- 6 promissory note system, also known as an "IOU", can ease our
- 7 prison system from increased overcrowding and expenses, which
- 8 presently costs Hawaii taxpayers \$259 per day per prisoner in
- 9 Hawaii.
- 10 The legislature also finds that SB192 passed by the 2019
- 11 Hawaii State Legislature, later becoming Act 277, authorized for
- 12 defendants to be released on unsecured financial bonds under
- 13 certain circumstances. Yet, adoption of this alternative has
- 14 been slow at best, and even without seeing its efficacy, has
- 15 already been overshadowed by attempts to pass more extreme
- 16 policies, such as no cash bail.
- 17 The purpose of this Act is to strengthen the implementation
- 18 of unsecured financial bonds for financially challenged
- 19 defendants who meet certain qualifications.

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1	SECTION 2. Chapter 804, Hawaii Revised Statutes, is amended		
2	by adding a new section to be appropriately designated and to		
3	read as follows:		
4	" <u>\$804-</u> <u>Unsecured bail.</u> (a) For financially challenged		
5	defendants, the court shall order the defendant released upon		
6	the execution of an unsecured financial bond for all or part of		
7	the bail amount by the defendant and any additional obligors as		
8	may be required by the court, upon the deposit of cash or other		
9	security as described in section 804-11.5 for any remaining bail		
10	amount not covered by the unsecured financial bond, and subject		
11	to any other conditions of release that will reasonably assure		
12	the appearance of the defendant in court as required and protect		
13	the public.		
14	(b) In the event that a defendant fails to appear in court		
15	as required or breaches any other condition of release, the		
16	court shall enter an order of forfeiture of the unsecured		
17	financial bond.		
18	(c) In granting or denying unsecured bail, the court shall		
19	consider:		
20	(1) The defendant's:		
21	(A) Employment status and history;		
22	(B) Family relationships, specifically the nature		
23	and extent of those relationships:		

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1		(C) Past and present residences;
2		(D) Character and reputation;
3		(E) Ties to the community;
4		(F) Financial circumstances; and
5		(G) Prior criminal record, if any, and any prior
6		failures to appear in court;
7	(2	) The agreement of any person to assist the defendant to
8		appear in court when required and to satisfy the
9		conditions of release;
10	(3	) The results of an empirical and validated pretrial
11		risk assessment;
12	(4	) The offense charged and potential sentence; and
13	(5	) Any other facts the court finds relevant to the
14		defendant's likelihood to appear and court and satisfy
15		the conditions of release."
16	SI	ECTION 3. This Act does not affect the rights and duties
17	that ma	atured, penalties that were incurred, and proceedings that
18	were be	egun before its effective date.
19	SI	ECTION 4. New statutory material is underscored.
20	SI	ECTION 5. This Act shall take effect upon its approval.
21		7 1,20
		INTRODUCED BY:
		JAN 2 4 2023

### H.B. NO. 1172

### Report Title:

Unsecured Bail; Conditions of Release

#### Description:

Authorizes the court to release a defendant in custody on unsecured bail.

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