

JAN 21 2026

---

## A BILL FOR AN ACT

RELATING TO FORFEITURE.

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

1 SECTION 1. The legislature finds that existing law  
2 governing pretrial release and bail requires clarification to  
3 ensure fair, consistent, and constitutional outcomes. The  
4 legislature further finds that recent legislation and litigation  
5 have created uncertainty around the role of sureties and bail  
6 agents, the nature of secured and unsecured release, and the  
7 scope of judicial discretion.

8 Accordingly, the purpose of this Act is to:

9 (1) Extend the filing period for a surety or bail agent to  
10 move to set aside a bond or recognizance of forfeiture  
11 from thirty days to ninety days;

12 (2) Ensure that proper notice of a bail forfeiture  
13 judgment is provided to both the surety and bail  
14 agent;

15 (3) Affirm that a judge may impose financial conditions of  
16 release and maintain full discretion to consider  
17 individual circumstances;



- 1 (4) Ensure that a surety or bail agent may apply to set
- 2 aside a forfeiture, even if a prior motion has been
- 3 filed; and
- 4 (5) Ensure that the bail bond forfeiture procedure is
- 5 subject to Rule 60 of the Hawaii Rules of Civil
- 6 Procedure.

7 SECTION 2. Section 804-51, Hawaii Revised Statutes, is  
8 amended to read as follows:

9                   **"§804-51   Procedure.**   (a)   Whenever the court, in any  
10                   criminal cause, forfeits any bond or recognizance given in a  
11                   criminal cause, the court shall immediately enter up judgment in  
12                   favor of the State and against the principal or principals,  
13                   surety or sureties, [and] surety insurer or surety insurers, and  
14                   bail agent or bail agents on the bond, jointly and severally,  
15                   for the full amount of the penalty thereof, and shall cause  
16                   execution to issue thereon immediately after the expiration of  
17                    ninety days from the date that notice is given via  
18                   personal service or certified mail, return receipt requested, to  
19                   the surety or sureties, [or the] surety insurer or surety  
20                   insurers, or bail agent or bail agents on the bond, of the entry  
21                   of the judgment in favor of the State, unless before the



1 expiration of [thirty] ninety days from the date that notice is  
2 given to the surety or sureties, ~~[or the]~~ surety insurer or  
3 surety insurers, or bail agent or bail agents on the bond of the  
4 entry of the judgment in favor of the State, a motion or  
5 application of the principal or principals, surety or sureties,  
6 surety insurer or surety insurers, bail agent or bail agents, or  
7 any of them, showing good cause why execution should not issue  
8 upon the judgment, is filed with the court. Upon application,  
9 the court may direct that the forfeiture be set aside, in whole  
10 or in part, upon the conditions that the court may impose,  
11 including but not limited to a showing of good cause, proof that  
12 the defendant has been apprehended or has voluntarily  
13 surrendered, or if it appears that justice does not require  
14 enforcement of the forfeiture. If the motion or application,  
15 after a hearing held thereon, is sustained, the court shall  
16 vacate the judgment of forfeiture and, if the principal  
17 surrenders or is surrendered pursuant to section 804-14 or  
18 section 804-41, return the bond or recognizance to the  
19 principal, surety, ~~[or]~~ surety insurer, or bail agent, whoever  
20 shall have given it, less the amount of any cost, as established  
21 at the hearing, incurred by the State as a result of the



1 nonappearance of the principal or other event on the basis of  
2 which the court forfeited the bond or recognizance. If the  
3 motion or application, after a hearing held thereon, is  
4 overruled, execution shall forthwith issue and shall not be  
5 stayed unless the order overruling the motion or application is  
6 appealed from as in the case of a final judgment. If the motion  
7 or application, after a hearing held thereon, is granted, the  
8 State may appeal the order granting the motion or application as  
9 in the case of a final judgment.

10 (b) An application may be filed by the defendant, surety  
11 insurer named on the bond, defendant's attorney, surety, or bail  
12 agent, and the filing of an application shall not preclude the  
13 filings of another by a different party.

14 (c) A proceeding under this section shall be a civil  
15 proceeding subject to rule 60 of the Hawaii rules of civil  
16 procedure, and in addition to an application filed under this  
17 section, the court shall retain jurisdiction to decide motions  
18 in accordance with the Hawaii rules of civil procedure. The  
19 court may also entertain a motion to set aside forfeiture beyond  
20 the ninety-day period on the terms as justice requires in  
21 accordance with the Hawaii rules of civil procedure.



1        (d) Forfeiture shall not be ordered in any felony case;  
2        provided that a National Crime Information Center warrant has  
3        not been issued and entered within thirty days of a defendant's  
4        failure to appear. Notice of the forfeiture shall also be sent  
5        to the surety, licensed bail agent, and the surety insurer named  
6        on the bond.

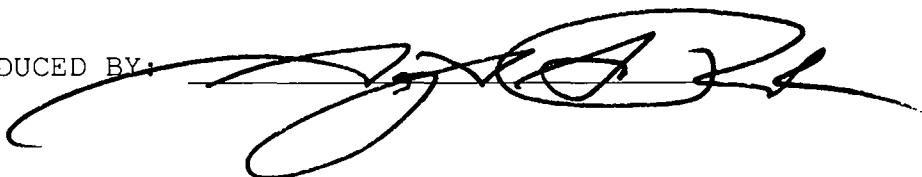
7        (e) This section shall be considered to be set forth in  
8        full in words and figures in, and to form a part of, and to be  
9        included in, each and every bond or recognizance given in a  
10       criminal cause, whether actually set forth in the bond or  
11       recognizance, or not."

12       SECTION 3. Statutory material to be repealed is bracketed  
13       and stricken. New statutory material is underscored.

14       SECTION 4. This Act shall take effect upon its approval.

15

INTRODUCED BY:



# S.B. NO. 2280

**Report Title:**

Forfeiture; Bond or Recognizance; Bail; Crimes and Criminal Proceedings

**Description:**

Extends the period during which a surety, surety insurer, or bail agent may file a motion or application to set aside the bond or recognizance forfeiture from thirty days to ninety days. Ensures that proper notice of a bail forfeiture judgment is provided to a surety or bail agent. Affirms that a judge may impose financial conditions of release and maintain full discretion to consider individual circumstances. Allows a surety or bail agent to apply to set aside a forfeiture, even if a prior motion has been filed. Subjects bail bond forfeiture proceedings to Rule 60 of the Hawaii Rules of Civil Procedure. Prohibits forfeiture from being ordered in any felony case.

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

