

ACT 166

S.B. NO. 742

A Bill for an Act Relating to Bail.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 804-3, Hawaii Revised Statutes, is amended to read as follows:

“§804-3 Bailable offenses. (a) For purposes of this section, “serious crime” means a class A or B felony, except forgery in the first degree and failing

to render aid under section 291C-12, and "bail" includes release on one's own recognizance[.], supervised release, and conditional release.

(b) Any person charged with a criminal offense shall be bailable by sufficient sureties; provided that [no] bail [shall be allowed] may be denied where the charge is for a serious crime [where the proof is evident and the presumption great], and

[(1) The offense is punishable by imprisonment for life not subject to parole; or

(2) The defendant has been previously convicted of a serious crime within the ten-year period immediately preceding the date of the charge against him; or

(3) The defendant is already on bail on a felony charge; or

(4) The defendant is on parole.

(c) If the defendant has been admitted to bail on any charge, the prosecutor may move at any time for revocation of bail on the grounds set out in subsection (b) above, and bail shall be revoked upon proof thereof.];

(1) There is a serious risk that the person will flee;

(2) There is a serious risk that the person will obstruct or attempt to obstruct justice, or therefore, injure, or intimidate, or attempt to thereafter, injure, or intimidate, a prospective witness or juror;

(3) There is a serious risk that the person poses a danger to any person or the community; or

(4) There is a serious risk that the person will engage in illegal activity.

(c) Under subsection (b)(1) a rebuttable presumption arises that there is a serious risk that the person will flee or will not appear as directed by the court where the person is charged with a criminal offense punishable by imprisonment for life without possibility of parole. For purposes of subsection (b)(3) and (4) a rebuttable presumption arises that the person poses a serious danger to any person or community or will engage in illegal activity where the court determines that:

(1) The defendant has been previously convicted of a serious crime involving violence against a person within the ten year period preceding the date of the charge against the defendant;

(2) The defendant is already on bail on a felony charge involving violence against a person; or

(3) The defendant is on probation or parole for a serious crime involving violence to a person.

(d) If, after a hearing the court finds that no condition or combination of conditions will reasonably assure the appearance of the person required and the safety of any other person or community, bail may be denied."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1985.)