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# A BILL FOR AN ACT

RELATING TO BAIL.

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

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

4           "§804-    Unsecured bail. (a) After an amount of bail is  
5 determined by a justice or judge pursuant to section 804-9, a  
6 defendant in custody may petition the court for unsecured bail.

7 Upon a showing that:

8           (1) Securing the bail bond or obtaining a surety or  
9           sureties to secure the bail bond pursuant to section  
10           804-11.5 would result in significant financial  
11           hardship; and

12           (2) The continued incarceration of the defendant would  
13           jeopardize the defendant's ability to maintain  
14           employment, remain enrolled in any educational or  
15           training program, care for a dependent, continue  
16           medical or therapeutic treatment, or maintain housing;



1 the court may order the defendant released upon the execution of  
2 an unsecured financial bond for all or part of the bail amount  
3 by the defendant and any additional obligors as may be required  
4 by the court, upon the deposit of cash or other security as  
5 described in section 804-11.5 for any remaining bail amount not  
6 covered by the unsecured financial bond, and subject to any  
7 other conditions of release that will reasonably assure the  
8 appearance of the defendant in court as required and protect the  
9 public.

10 (b) In granting or denying a petition for unsecured bail,  
11 the court may consider:

12 (1) The defendant's:

13 (A) Employment status and history;

14 (B) Family relationships, specifically the nature and  
15 extent of those relationships;

16 (C) Past and present residences;

17 (D) Character and reputation;

18 (E) Ties to the community;

19 (F) Financial circumstances; and

20 (G) Prior criminal record, if any, and any prior  
21 failures to appear in court;



- 1        (2) The agreement of any person to assist the defendant to  
2        appear in court when required and to satisfy the  
3        conditions of release;
- 4        (3) The results of an empirical and validated pretrial  
5        risk assessment;
- 6        (4) The offense charged and any potential sentence; and
- 7        (5) Any other facts the court finds relevant to the  
8        defendant's likelihood to appear in court and satisfy  
9        the conditions of release.
- 10       (c) This section shall not apply if the offense involves:
- 11       (1) Assault;
- 12       (2) Terroristic threatening;
- 13       (3) Sexual assault;
- 14       (4) Abuse of family or household members;
- 15       (5) Violation of a temporary restraining order;
- 16       (6) Violation of an order for protection;
- 17       (7) Operating a vehicle under the influence of an  
18       intoxicant;
- 19       (8) Negligent homicide; or
- 20       (9) Any other crime of violence."



1 SECTION 2. 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 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

OHA Package; Office of Hawaiian Affairs; Courts; Unsecured Bail

**Description:**

Authorizes a defendant in custody to petition a court for unsecured bail. (HB175 HD2)

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

