A BILL FOR AN ACT

RELATING TO PAYMENT OF BAIL.

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

SECTION 1. The legislature finds that, according to the National District Attorneys Association's national prosecution standards, "[a] prosecutor should not seek a bail amount or other release conditions that are greater than necessary to ensure the safety of others and the community and to ensure the appearance of the defendant at trial." Article I, section 12, of the Hawaii State Constitution likewise provides that "[e]xcessive bail shall not be required, nor excessive fines imposed," and further provides, "[t]he court may dispense with bail if reasonably satisfied that the defendant or witness will appear when directed, except for a defendant charged with an offense punishable by life imprisonment."

The legislature further finds that, in recent years, several other states have significantly reformed their bail processing and other criminal pretrial practices and procedures, including Alaska, Arizona, Colorado, Kentucky, Maryland, Nevada, New Jersey, New Mexico, and Utah. In 2017, the judiciary...
convened a task force at the request of the legislature to examine and make recommendations regarding criminal pretrial practices and procedures to maximize public safety, court appearances, and pretrial release of the accused and presumed innocent who do not pose a danger or flight risk.

The legislature additionally finds that one of the task force's recommendations was to expand the timeframe in which bail may be posted and defendants released. The task force's investigations revealed that only the third circuit allows defendants to post cash bail seven-days-a-week on a twenty-four-hour basis. Bail is posted with the Hawaii county police department, and notification is then made to release the defendant from the department of public safety's custody. The task force determined that this option does not exist in other counties, and defendants are frequently unable to post timely cash bail and be released. As a result, defendants must either wait to go to court to request release or contact a bondsman to file a surety bond with the court before they may be released. The task force concluded that defendants who are able to post bail or bond should not be detained simply because of an
administrative barrier requiring that bail or bond be payable only during normal business days and hours.

Accordingly, the purpose of this Act is to permit defendants for whom a monetary amount of bail has been set to pay the bail amount seven-days-a-week on a twenty-four-hour basis and be released from custody upon posting or payment of bail.

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

"§804-7 Release after bail. [When bail is offered and taken the prisoner shall be discharged from custody or imprisonment—] Any defendant for whom a monetary amount of bail has been set by the police, other law enforcement agency, or the court, shall be permitted to post the bail amount at the police department, law enforcement agency, or community correctional center where the defendant is detained. The monetary bail shall be payable seven-days-a-week on a twenty-four-hour basis. Upon posting or payment of bail, the defendant or the defendant's representative or agent shall be provided a bail receipt, and the defendant shall be released from custody."
SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2021.
Report Title:
Bail Posting; Payment; Pre-trial Defendants; Release

Description:
Permits defendants for whom a monetary amount of bail has been set to pay the bail amount seven-days-a-week on a 24-hour basis and be released from custody upon posting or payment of bail. (SB1423 HD1)

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