
A BILL FOR AN ACT

RELATING TO PAYMENT OF BAIL.

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

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

13 The legislature further finds that, in recent years,
14 several other states have significantly reformed their bail
15 processing and other criminal pretrial practices and procedures,
16 including Alaska, Arizona, Colorado, Kentucky, Maryland, Nevada,
17 New Jersey, New Mexico, and Utah. In 2017, the judiciary



1 convened a task force at the request of the legislature to
2 examine and make recommendations regarding criminal pretrial
3 practices and procedures to maximize public safety, court
4 appearances, and pretrial release of the accused and presumed
5 innocent who do not pose a danger or flight risk.

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



1 administrative barrier requiring that bail or bond be payable
2 only during normal business days and hours.

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

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

10 "§804-7 Release after bail. [~~When bail is offered and~~
11 ~~taken the prisoner shall be discharged from custody or~~
12 ~~imprisonment.] Any defendant for whom a monetary amount of bail
13 has been set by the police, other law enforcement agency, or the
14 court, shall be permitted to post the bail amount at the police
15 department, law enforcement agency, or community correctional
16 center where the defendant is detained. The monetary bail shall
17 be payable seven-days-a-week on a twenty-four-hour basis. Upon
18 posting or payment of bail, the defendant or the defendant's
19 representative or agent shall be provided a bail receipt, and
20 the defendant shall be released from custody."~~



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 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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