

HOUSE JOINT RESOLUTION 3

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO REMOVE THE REQUIREMENTS THAT ONLY COURTS OF RECORD MAY DENY BAIL AND THAT ONLY PROSECUTING AUTHORITIES MAY REQUEST A HEARING TO DETERMINE WHETHER BAIL IS DENIED, TO ALLOW COURTS TO DENY BAIL FOR ALL TYPES OF CRIMINAL OFFENSES, TO ALLOW COURTS TO DENY BAIL UPON A FINDING BY CLEAR AND CONVINCING EVIDENCE THAT RELEASE CONDITIONS WILL NOT REASONABLY ENSURE THE APPEARANCE OF THE PERSON AS REQUIRED OR PROTECT THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY AND TO ALLOW FOR CONDITIONS FOR DENIAL OF BAIL TO BE PROVIDED BY LAW.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 2, Section 13 of the constitution of New Mexico to read:

"A. All persons shall, before conviction, be

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1 bailable by sufficient sureties, except for capital offenses
2 when the proof is evident or the presumption great, and in
3 situations in which bail [~~is specifically prohibited by this~~
4 ~~section~~] may be denied as provided by this section or otherwise
5 by law.

6 B. Excessive bail shall not be required, nor
7 excessive fines imposed, nor cruel and unusual punishment
8 inflicted.

9 C. Bail may be denied [~~by a court of record pending~~
10 ~~trial for a defendant charged with a felony if the prosecuting~~
11 ~~authority requests~~] if, after a hearing [~~and proves~~], the court
12 finds by clear and convincing evidence that [~~no~~] release
13 conditions will not reasonably ensure the appearance of the
14 person as required or protect the safety of any other person or
15 the community. An appeal from an order denying bail shall be
16 given preference over all other matters.

17 D. A person who is [~~not detainable on grounds of~~
18 ~~dangerousness nor a flight risk in the absence of bond and is~~
19 ~~otherwise eligible for bail~~] bailable shall not be detained
20 solely because of financial inability to post [~~a money or~~
21 ~~property bond~~] sufficient sureties. A [~~defendant~~] person who
22 is [~~neither a danger nor a flight risk~~] bailable and who has a
23 financial inability to post [~~a money or property bond~~]
24 sufficient sureties may file a motion with the court requesting
25 relief [~~from the requirement to post bond~~]. The court shall

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1 rule on the motion in an expedited manner."

2 SECTION 2. The amendment proposed by this resolution
3 shall be submitted to the people for their approval or
4 rejection at the next general election or at any special
5 election prior to that date that may be called for that
6 purpose.