

1 A JOINT RESOLUTION

2 PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE  
3 CONSTITUTION OF NEW MEXICO TO PROTECT COMMUNITY SAFETY BY  
4 GRANTING COURTS NEW AUTHORITY TO DENY RELEASE ON BAIL PENDING  
5 TRIAL FOR DANGEROUS DEFENDANTS IN FELONY CASES WHILE  
6 RETAINING THE RIGHT TO PRETRIAL RELEASE FOR NON-DANGEROUS  
7 DEFENDANTS WHO DO NOT POSE A FLIGHT RISK.

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

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

12 "All persons shall, before conviction, be bailable by  
13 sufficient sureties, except for capital offenses when the  
14 proof is evident or the presumption great and in situations  
15 in which bail is specifically prohibited by this section.  
16 Excessive bail shall not be required, nor excessive fines  
17 imposed, nor cruel and unusual punishment inflicted.

18 Bail may be denied by a court of record pending trial  
19 for a defendant charged with a felony if the prosecuting  
20 authority requests a hearing and proves by clear and  
21 convincing evidence that no release conditions will  
22 reasonably protect the safety of any other person or the  
23 community. An appeal from an order denying bail shall be  
24 given preference over all other matters.

25 A person who is not detainable on grounds of

1 dangerousness nor a flight risk in the absence of bond and is  
2 otherwise eligible for bail shall not be detained solely  
3 because of financial inability to post a money or property  
4 bond. A defendant who is neither a danger nor a flight risk  
5 and who has a financial inability to post a money or property  
6 bond may file a motion with the court requesting relief from  
7 the requirement to post bond. The court shall rule on the  
8 motion in an expedited manner."

9 SECTION 2. The amendment proposed by this resolution  
10 shall be submitted to the people for their approval or  
11 rejection at the next general election or at any special  
12 election prior to that date that may be called for that  
13 purpose. \_\_\_\_\_

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