

HOUSE JOINT RESOLUTION 22

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT A COURT OF RECORD MAY DENY BAIL FOR A PERSON CHARGED WITH A FELONY OFFENSE IF THE PROSECUTING AUTHORITY PROVES BY CLEAR AND CONVINCING EVIDENCE THAT RELEASE CONDITIONS WILL NOT REASONABLY PROTECT ANY OTHER PERSON OR THE COMMUNITY AND TO ALLOW THE LEGISLATURE TO DESIGNATE BY LAW DANGEROUS OR VIOLENT FELONY OFFENSES FOR WHICH A COURT OF RECORD MAY PRESUME THAT RELEASE CONDITIONS WILL NOT REASONABLY PROTECT ANY OTHER PERSON OR THE COMMUNITY AND DENY BAIL UNLESS THE PERSON CHARGED WITH A DANGEROUS OR VIOLENT FELONY REBUTS THE PRESUMPTION BY THE PREPONDERANCE OF THE EVIDENCE.

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:

.231008.2

underscoring material = new
[bracketed material] = delete

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[bracketed material] = delete

1 "A. All persons shall, before conviction, be
2 bailable by sufficient sureties, except for persons charged
3 with capital offenses when the proof is evident or the
4 presumption great and in situations in which bail is
5 specifically prohibited by this section.

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~~] person charged with a felony offense if
11 the prosecuting authority requests a hearing and proves by
12 clear and convincing evidence that [~~no~~] release conditions will
13 not reasonably protect the safety of any other person or the
14 community. If a person is charged with a felony offense
15 designated by law as a dangerous or violent felony offense, a
16 court of record may presume that release conditions will not
17 reasonably protect the safety of any other person or the
18 community and deny bail unless the person charged rebuts the
19 presumption by the preponderance of the evidence. An appeal
20 from an order denying bail shall be given preference over all
21 other matters.

22 D. A person who is not detainable on grounds of
23 dangerousness nor a flight risk in the absence of bond and is
24 otherwise eligible for bail shall not be detained solely
25 because of financial inability to post a money or property

.231008.2

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~~[bracketed material] = delete~~

1 bond. A [~~defendant~~] person who is neither a danger nor a
2 flight risk and who has a financial inability to post a money
3 or property bond may file a motion with the court requesting
4 relief from the requirement to post bond. The court shall rule
5 on the motion in an expedited manner."

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