

IMPACT OF AMENDMENT TO ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO

Under New Mexico's Constitution, judges cannot deny release to a defendant known to be a danger to the community or a substantial flight risk. Dangerous defendants who can post bond are released. Poor defendants who are neither a danger to the community or a substantial flight risk remain in jail.

The proposed constitutional amendment authorizes judges to deny bail and detain dangerous defendants if, *"after a hearing, the court finds by clear and convincing evidence that no release conditions will reasonably ensure the appearance of the person as required or protect the safety of any other person or the community."* The amendment also ensures that no person eligible for pretrial release *"shall be detained solely because of financial inability to post a money or property bond."*

The amendment will increase public safety, reduce recidivism and detention costs.

Increase Public Safety

- Judges currently cannot deny release to a defendant known to be a danger to the community or substantial flight risk.
- Dangerous defendants who are able to post bond are repeatedly arrested and released to commit new crimes.

The amendment gives judges the authority to detain dangerous defendants and keep them from endangering the community while they await trial.

Reduce Recidivism

- The average length of pre-trial detention in New Mexico is 55 days.
- Low risk defendants held 8-14 days "are 51% more likely to commit another crime within two years after completion of their cases than equivalent defendants held no more than 24 hours." (*"The Hidden Costs of Pretrial Detention," November 2013, the Laura and John Arnold Foundation*)
- "When held 2-3 days, low-risk defendants are almost 40 percent more likely to commit new crimes before trial than equivalent defendants held no more than 24 hours." Those detained 31 or more days are 1.74 times more likely to commit a new crime before trial. (*Hidden Costs of Pretrial Detention*)

- “Detained defendants are over four times more likely to be sentenced to jail and over three times more likely to be sentenced to prison than defendants who are released at some point pending trial.” (*Investigating the Impact of Pretrial Detention on Sentencing Outcomes*” November 2013, *The Laura and John Arnold Foundation*)
- “Sentences for detained defendants are also significantly longer: Jail sentences are nearly three times as long, and prison sentences are more than twice as long.” (*Investigating the Impact of Pretrial Detention*)

Reduce Detention Costs

The amendment will decrease the use of jail space, county resources, and taxpayer dollars to house, feed, provide medical care for, transport, and guard accused persons who do not need to be detained.

- The Judiciary’s case management data shows that an estimated 40% of defendants are detained pending trial because they cannot post a bond.
- Statewide, the average daily population in New Mexico’s detention facilities is 7,305 of which an estimated 2,922 (40%) are pretrial detainees.
- The average cost to house an inmate per day is \$72.03 or \$210,472 statewide, per day, for pretrial detainees ($\$72.03 \times 2,922$).
- In jurisdictions where pretrial detention of dangerous defendants is permitted approximately 15% of all defendants are detained.
- Assuming: (1) New Mexico’s experience will be similar to that of other jurisdictions that detain about 15% of dangerous defendants, and (2) the 40% of defendants who are currently detained in pretrial in New Mexico are detained because they cannot afford to post bond:
 - New Mexico detention centers should see an estimated 62.5% drop in pretrial detainees after adoption of the proposed amendment (detained population reduced from 40% to 15%).
 - Resulting in a reduction in the daily population of pretrial detainees from 2,922 to 1096 (-1,826 daily).
 - And an estimated statewide savings of \$131,527 ($1,826 \times \72.03) per day at detention centers, on which the counties spend not less than \$275 million annually.