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HOUSE JOINT RESOLUTION

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

DISCUSSION DRAFT

A JOINT RESOLUTION

PROPOSING AMENDMENTS TO ARTICLE 2, SECTION 13 OF THE
CONSTITUTION OF NEW MEXICO TO ALLOW CONDITIONS FOR DENIAL OF
BAIL TO BE SET BY THE LEGISLATURE, REMOVE THE REQUIREMENT THAT
BAIL DENIAL DECISIONS BE MADE ONLY BY A COURT OF RECORD, REMOVE
THE LIMITATION OF BAIL DENIAL TO DEFENDANTS CHARGED WITH A
FELONY, CLARIFY THAT BAIL MAY BE DENIED IF NO RELEASE
CONDITIONS WILL REASONABLY ENSURE THE APPEARANCE OF THE PERSON
AS REQUIRED AND REMOVE CERTAIN COURT PROCEDURAL DIRECTIONS.

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
bailable by sufficient sureties, except for capital offenses
when the proof is evident or the presumption great and in

underscored material = new
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1 situations in which bail is specifically prohibited by this
2 section or statute.

3 B. Excessive bail shall not be required, nor
4 excessive fines imposed, nor cruel and unusual punishment
5 inflicted.

6 C. Bail may be denied [~~by a court of record~~]
7 pending trial [~~for a defendant charged with a felony~~] if [~~the~~
8 ~~prosecuting authority requests~~] after a hearing [~~and proves~~]
9 the court finds by clear and convincing evidence that no
10 release conditions will reasonably ensure the appearance of the
11 person as required or protect the safety of any other person or
12 the community. An appeal from an order denying bail shall be
13 given preference over all other matters. [A]

14 D. No person who is [~~not detainable on grounds of~~
15 ~~dangerousness nor a flight risk in the absence of bond and is~~
16 ~~otherwise~~] eligible for bail shall [~~not~~] be detained solely
17 because of financial inability to post a money or property
18 bond. A defendant who is neither a danger nor a flight risk
19 and who has a financial inability to post a money or property
20 bond may file a motion with the court requesting relief from
21 the requirement to post bond. The court shall rule on the
22 motion in an expedited manner."

23 **SECTION 2.** The amendment proposed by this resolution
24 shall be submitted to the people for their approval or
25 rejection at the next general election or at any special

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1 election prior to that date that may be called for that
2 purpose.

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