

SENATE JOINT RESOLUTION 1

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Peter Wirth and Antonio "Moe" Maestas

This document reflects the compromise version of the resolution that passed the House on February 15. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

A JOINT RESOLUTION

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

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:

"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 situations in which bail is specifically prohibited by this section. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

.202341.3 Amendments in Context

underscored material = new
[bracketed material] = delete
-language-deleted = deleted by amendment
New amended language = new by amendment

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~~language deleted~~ = deleted by amendment
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Bail may be denied ~~[by the district court for a period of sixty days after the incarceration of the defendant by an order entered within seven days after the incarceration, in the following instances:~~

~~A. the defendant is accused of a felony and has previously been convicted of two or more felonies, within the state, which felonies did not arise from the same transaction or a common transaction with the case at bar;~~

~~B. the defendant is accused of a felony involving the use of a deadly weapon and has a prior felony conviction, within the state. The period for incarceration without bail may be extended by any period of time by which trial is delayed by a motion for a continuance made by or on behalf of the defendant]~~ by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters.

A person who is not ~~a danger~~ detainable on grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property

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bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the motion in an expedited manner."

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

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