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HOUSE JOINT RESOLUTION 4

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

William "Bill" R. Rehm

A JOINT RESOLUTION

PROPOSING AMENDMENTS TO ARTICLE 2, SECTION 13 OF THE  
CONSTITUTION OF NEW MEXICO THAT WILL ALLOW CONDITIONS FOR  
DENIAL OF BAIL TO BE SET BY THE LEGISLATURE, REMOVE THE  
REQUIREMENT THAT BAIL DENIAL DECISIONS BE MADE 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 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

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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~~] pretrial release pursuant to  
17 this section shall [~~not~~] be detained solely because of  
18 financial inability to post a money or property bond. [A  
19 ~~defendant who is neither a danger nor a flight risk and who has~~  
20 ~~a financial inability to post a money or property bond may file~~  
21 ~~a motion with the court requesting relief from the requirement~~  
22 ~~to post bond. The court shall rule on the motion in an~~  
23 ~~expedited manner.]"~~

24 **SECTION 2.** The amendment proposed by this resolution  
25 shall be submitted to the people for their approval or

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1 rejection at the next general election or at any special  
2 election prior to that date that may be called for that  
3 purpose.

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