

1 HOUSE JOINT RESOLUTION 9

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Alan T. Martinez

5
6
7
8
9
10 A JOINT RESOLUTION

11 PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF
12 NEW MEXICO TO ALLOW CONDITIONS FOR DENIAL OF BAIL AND FOR
13 PRETRIAL DETENTION, REMOVE THE REQUIREMENT THAT BAIL DENIAL BE
14 MADE ONLY BY A COURT OF RECORD, REMOVE THE LIMITATION OF BAIL
15 DENIAL TO PERSONS CHARGED WITH A FELONY AND ALLOW BAIL DENIAL
16 FOR A PERSON WHO HAS PREVIOUSLY FAILED TO APPEAR BEFORE THE
17 COURT AND IS A FLIGHT RISK.

18
19 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. It is proposed to amend Article 2, Section 13
21 of the constitution of New Mexico to read:

22 "A. All persons shall, before conviction, be
23 bailable by sufficient sureties, except for capital offenses
24 when the proof is evident or the presumption great and in
25 situations in which bail is specifically prohibited by this

.229268.1

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 section.

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

5 C. Bail may be denied [~~by a court of record~~] and a
6 person may be detained pending trial [~~for a defendant charged~~
7 ~~with a felony~~] if, after the prosecuting authority requests a
8 hearing, [~~and proves~~] the court finds by clear and convincing
9 evidence that [~~no~~] the person is dangerous and that release
10 conditions will not reasonably protect the safety of any other
11 person or the community, that the person is a flight risk or
12 that the person has previously failed to appear before a court
13 as required. An appeal from an order denying bail shall be
14 given preference over all other matters.

15 D. A person who is not detainable on grounds of
16 dangerousness, [~~nor~~] is not a flight risk in the absence of
17 bond, has not previously failed to appear before a court as
18 required and is otherwise eligible for bail shall not be
19 detained solely because of financial inability to post a money
20 or property bond.

21 E. A [~~defendant~~] person who is [~~neither a danger~~
22 ~~nor~~] not detainable on grounds of dangerousness, is not a
23 flight risk, has not previously failed to appear before a court
24 as required and [~~who~~] has a financial inability to post a money
25 or property bond may file a motion with the court requesting

.229268.1

1 relief from the requirement to post bond. The court shall rule
2 on the motion in an expedited manner."

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

8 - 3 -
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25