1	HOUSE JOINT RESOLUTION 5
2	53rd legislature - STATE OF NEW MEXICO - second session, 2018
3	INTRODUCED BY
4	William "Bill" R. Rehm
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10	A JOINT RESOLUTION
11	PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE
12	CONSTITUTION OF NEW MEXICO TO PROVIDE ADDITIONAL GROUNDS ON
13	WHICH A COURT MAY DENY A PERSON'S RELEASE ON BAIL PENDING
14	TRIAL, REMOVE THE REQUIREMENT THAT BAIL HEARINGS BE HELD BY A
15	COURT OF RECORD AND REDUCE THE STANDARD OF PROOF FOR DENIAL OF
16	BAIL FROM CLEAR AND CONVINCING EVIDENCE TO PROBABLE CAUSE.
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18	BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
19	SECTION 1. It is proposed to amend Article 2, Section 13
20	of the constitution of New Mexico to read:
21	" <u>A.</u> All persons shall, before conviction, be
22	bailable by sufficient sureties except for:
23	(1) persons who have failed to appear for a
24	scheduled court appearance on any pending criminal charge;
25	(2) persons charged with:
	.209466.4

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1	(a) capital offenses when the proof is
2	evident or the presumption <u>is</u> great; [and]
3	(b) violent offenses;
4	(c) felony offenses if the person
5	charged with the offense was previously convicted of two or
6	more felony offenses, each of which arose out of separate
7	transactions; or
8	(d) felony offenses, if at the time the
9	person committed the act on which the charged felony offense is
10	based, the person was serving a period of probation or parole,
11	or the person had been released pending trial for a separate
12	felony charge; and
13	(3) in situations in which bail is
14	specifically prohibited by this section.
15	<u>B.</u> Excessive bail shall not be required, nor
16	excessive fines imposed, nor cruel and unusual punishment
17	inflicted.
18	<u>C.</u> Bail may be denied by a court [of record]
19	pending trial for a defendant charged with a felony if the
20	prosecuting authority [requests a hearing and proves by clear
21	and convincing evidence] provides probable cause that no
22	release conditions will reasonably protect the safety of any
23	other person or the community <u>or that the defendant presents a</u>
24	flight risk. An appeal from an order denying bail shall be
25	given preference over all other matters.
	.209466.4

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1 D. A person who is [not detainable on grounds of 2 dangerousness nor a flight risk in the absence of bond and is] otherwise eligible for bail shall not be detained solely 3 because of financial inability to post a money or property 4 5 bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property 6 7 bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the 8 motion in an expedited manner." 9 SECTION 2. The amendment proposed by this resolution 10 shall be submitted to the people for their approval or 11 12 rejection at the next general election or at any special election prior to that date that may be called for that 13 14 purpose. - 3 -15 16 17 18 19 20 21 22 23 24 25 .209466.4

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