

HOUSE JOINT RESOLUTION 2

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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10 A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT A COURT OF RECORD MAY DENY BAIL FOR A PERSON CHARGED WITH A FELONY OFFENSE IF THE PROSECUTING AUTHORITY PRESENTS CLEAR AND CONVINCING EVIDENCE THAT RELEASE CONDITIONS WILL NOT REASONABLY PROTECT ANY OTHER PERSON OR THE COMMUNITY OR THAT THE PERSON IS A FLIGHT RISK; ALLOWING THE COURT TO PRESUME THAT RELEASE CONDITIONS WILL NOT REASONABLY PROTECT ANY OTHER PERSON OR THE COMMUNITY IF THE PERSON IS CHARGED WITH A FELONY OFFENSE DESIGNATED BY LAW AS A DANGEROUS OR VIOLENT FELONY OFFENSE; PROVIDING THAT A PERSON CHARGED WITH A DANGEROUS OR VIOLENT FELONY OFFENSE MAY REBUT A COURT'S PRESUMPTION BY A PREPONDERANCE OF THE EVIDENCE.

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

SECTION 1. It is proposed to amend Article 2, Section 13

.232755.2

wunderscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 of the constitution of New Mexico to read:

2 "A. All persons shall, before conviction, be
3 bailable by sufficient sureties, except for persons charged
4 with capital offenses when the proof is evident or the
5 presumption great and in situations in which bail is
6 specifically prohibited by this section.

7 B. Excessive bail shall not be required, nor
8 excessive fines imposed, nor cruel and unusual punishment
9 inflicted.

10 C. Bail may be denied by a court of record pending
11 trial for a [defendant] person charged with a felony offense if
12 the prosecuting authority [requests a hearing and proves by]
13 presents clear and convincing evidence that [no] release
14 conditions will not reasonably protect the safety of any other
15 person or the community or that the person is a flight risk.
16 If the person is charged with a felony offense designated by
17 law as a dangerous or violent felony offense, the court may
18 presume that release conditions will not reasonably protect the
19 safety of any other person or the community and may deny bail
20 unless the person charged rebuts the presumption by a
21 preponderance of the evidence. An appeal from an order denying
22 bail shall be given preference over all other matters.

23 D. A person who is [not detainable on grounds of
24 dangerousness nor a flight risk in the absence of bond and is
25 otherwise] eligible for bail shall not be detained solely

.232755.2

1 because of financial inability to post a money or property
2 bond. A [defendant] person who is [neither a danger nor a
3 ~~flight risk~~] eligible for bail and who has a financial
4 inability to post a money or property bond may file a motion
5 with the court requesting relief from the requirement to post
6 bond. The court shall rule on the motion in an expedited
7 manner."

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

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