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HOUSE JOINT RESOLUTION

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

INTRODUCED BY

DISCUSSION DRAFT

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 PROVES BY 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

.232589.1

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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 clear and convincing evidence that [~~no~~] release conditions will  
14 not reasonably protect the safety of any other person or the  
15 community or that the person is a flight risk. If the person  
16 is charged with a felony offense designated by law as a  
17 dangerous or violent felony offense, the court may presume that  
18 release conditions will not reasonably protect the safety of  
19 any other person or the community and may deny bail unless the  
20 person charged rebuts the presumption by a preponderance of the  
21 evidence. An appeal from an order denying bail shall be given  
22 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

.232589.1

underscoring material = new  
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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.