

1 HOUSE JOINT RESOLUTION 13  
2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY  
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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 PROTECT COMMUNITY SAFETY BY  
13 GRANTING COURTS NEW AUTHORITY TO DENY RELEASE ON BAIL PENDING  
14 TRIAL IN FELONY CASES FOR DANGEROUS DEFENDANTS AND TO ENSURE A  
15 DEFENDANT'S APPEARANCE.  
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17 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "A. All persons shall, before conviction, be  
21 bailable by sufficient sureties, except for capital offenses  
22 when the proof is evident or the presumption great and in  
23 situations in which bail is specifically prohibited by this  
24 section. Excessive bail shall not be required, nor excessive  
25 fines imposed, nor cruel and unusual punishment inflicted.

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1            B. Bail may be denied by ~~[the district court for a~~  
2 ~~period of sixty days after the incarceration of the defendant~~  
3 ~~by an order entered within seven days after the incarceration,~~  
4 ~~in the following instances:~~

5            ~~A.~~ the defendant is accused of a felony and has  
6 previously been convicted of two or more felonies, within the  
7 state, which felonies did not arise from the same transaction  
8 or a common transaction with the case at bar;

9            ~~B.~~ the defendant is accused of a felony involving  
10 the use of a deadly weapon and has a prior felony conviction,  
11 within the state. The period for incarceration without bail  
12 may be extended by any period of time by which trial is delayed  
13 by a motion for a continuance made by or on behalf of the  
14 defendant] a court of record pending trial for a defendant  
15 charged with a felony if the prosecuting authority requests a  
16 hearing and proves by clear and convincing evidence that no  
17 release conditions will reasonably:

18                    (1) ensure the appearance of the defendant;

19            and

20                    (2) protect the safety of any other person or  
21 the community.

22            C. An appeal from an order denying bail shall be  
23 given preference over all other matters."

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

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underscoring material = new  
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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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