

1 SENATE JOINT MEMORIAL 14

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Richard C. Martinez

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9  
10 A JOINT MEMORIAL

11 REQUESTING THE NEW MEXICO SUPREME COURT TO RESCIND CERTAIN  
12 RULES OF CRIMINAL PROCEDURE REGARDING BAIL.

13  
14 WHEREAS, in 2016, the voters of New Mexico adopted an  
15 amendment to Article 2, Section 13 of the constitution of New  
16 Mexico, providing that a defendant who is neither a danger nor  
17 a flight risk and who has a financial inability to post a money  
18 or property bond may file a motion with the court requesting  
19 relief from the requirement to post bond to obtain pretrial  
20 liberty; and

21 WHEREAS, the New Mexico supreme court, by Order Number  
22 17-8300-005, which was adopted on June 5, 2017 and became  
23 effective on July 1, 2017, amended Rules 5-106, 5-204, 5-401,  
24 5-402, 5-403, 5-405 and 5-406 of the Rules of Criminal  
25 Procedure for the District Courts; Rules 6-401, 6-403, 6-406,  
.212906.1

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1 6-506 and 6-703 of the Rules of Criminal Procedure for the  
2 Magistrate Courts; Rules 7-401, 7-403, 7-406, 7-506 and 7-703  
3 of the Rules of Criminal Procedure for the Metropolitan Courts;  
4 and Rules 8-401, 8-403, 8-406, 8-506 and 8-703 of the Rules of  
5 Criminal Procedure for the Municipal Courts; and

6 WHEREAS, the supreme court's rules do not include the  
7 constitutional requirement to file a motion to request relief  
8 from the requirement to post bond; and

9 WHEREAS, Section 38-1-1 NMSA 1978 provides that when the  
10 supreme court promulgates rules for judicial proceedings, "Such  
11 rules shall not abridge, enlarge or modify the substantive  
12 rights of any litigant."; and

13 WHEREAS, the adoption of the above-referenced rules by the  
14 supreme court impacted the substantive rights of individuals  
15 appearing in New Mexico courts as litigants to obtain pre-  
16 arraignment and pretrial release through the offering of  
17 monetary bail;

18 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
19 STATE OF NEW MEXICO that the New Mexico supreme court be  
20 requested to immediately rescind the above-referenced  
21 amendments to the rules; and

22 BE IT FURTHER RESOLVED that copies of this memorial be  
23 transmitted to members of the New Mexico supreme court.