

1 HOUSE BILL 203

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Gregg Schmedes

5
6
7
8
9
10 AN ACT

11 RELATING TO BAIL; SPECIFYING THE STANDARD TO BE EMPLOYED FOR
12 PRETRIAL RELEASE HEARING; REQUIRING POSTING OF BOND IF A
13 DEFENDANT IS ON RELEASE FOR ANOTHER MATTER; PROHIBITING COURTS
14 FROM RELYING ON RISK ASSESSMENT TOOLS OR PROGRAMS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of Chapter 31, Article 3 NMSA
18 1978 is enacted to read:

19 "[NEW MATERIAL] ELIGIBILITY OF DEFENDANTS FOR PRETRIAL
20 RELEASE.--

21 A. A court shall not excuse a defendant from
22 posting bail unless the defendant motions for a hearing in
23 which the defendant proves that the defendant lacks the
24 financial means necessary to post bail. For purposes of this
25 subsection, the court shall employ the indigency standard

.216539.2

underscored material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 pursuant to Section 34-6-46 NMSA 1978 in determining whether
2 the defendant lacks the financial means necessary to post bail.

3 B. A defendant who has been released on the
4 defendant's own recognizance for a prior offense shall not be
5 eligible for release upon the defendant's recognizance in
6 another matter unless the defendant posts a secured bond in the
7 other matter. A defendant is not eligible for release upon the
8 defendant's recognizance if the defendant is currently on
9 conditions of release in two other pending matters.

10 C. A court shall consider a defendant who commits a
11 crime while the defendant is awaiting trial for a prior offense
12 as a danger to the community and require that the defendant
13 post a secured bond for the current matter. A court shall
14 consider a defendant who commits a crime while the defendant is
15 awaiting trial for more than one other pending matter as a
16 flight risk and danger to the community, and the court shall
17 deny the defendant pretrial release.

18 D. A court shall exercise discretion in determining
19 the eligibility of a defendant for pretrial release and in
20 setting the monetary and non-monetary conditions of release. A
21 court shall not rely upon a risk assessment tool or program
22 created by or provided by a third party that is not a state
23 entity or a political subdivision of the state."

24 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2020.

.216539.2