

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 174

3 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

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10 AN ACT

11 RELATING TO BAIL; SPECIFYING THE STANDARD TO BE EMPLOYED FOR
12 PRETRIAL RELEASE HEARINGS; REQUIRING POSTING OF BOND IF A
13 DEFENDANT IS ON RELEASE FOR ANOTHER MATTER.

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

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

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

20 A. A court shall not excuse a defendant from
21 posting bail unless the defendant motions for a hearing in
22 which the defendant proves that the defendant lacks the
23 financial means necessary to post bail. For purposes of this
24 subsection, the court shall employ the indigency standard
25 pursuant to Section 34-6-46 NMSA 1978 in determining whether

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underscored material = new
[bracketed material] = delete

1 the defendant lacks the financial means necessary to post bail.

2 B. There is a rebuttable presumption, which the
3 court shall consider under its discretion, that a defendant who
4 has been released on the defendant's own recognizance for a
5 prior felony offense is a danger to the community and shall not
6 be eligible for release upon the defendant's recognizance in
7 another matter unless the defendant posts a secured bond in the
8 new matter.

9 C. There is a rebuttable presumption, which the
10 court shall consider under its discretion, that a defendant who
11 is currently on conditions of release in any other pending
12 felony matter is a danger to the community and is not eligible
13 for release upon the defendant's recognizance, if the defendant
14 is charged with murder in the first degree."

15 SECTION 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2023.