

SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO BAIL; PROHIBITING RELEASE OF AN ACCUSED PERSON ON A
CASH DEPOSIT WITH A COURT OR PERSONAL RECOGNIZANCE UNDER
CERTAIN CONDITIONS; PROVIDING FOR A DETERMINATION OF AN ACCUSED
PERSON'S INDIGENCY.

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

SECTION 1. Section 31-3-1 NMSA 1978 (being Laws 1972,
Chapter 71, Section 8) is amended to read:

"31-3-1. DESIGNEE TO ACCEPT BAIL--EXCEPTIONS--TERMS OF
RELEASE--INDIGENCY.--

A. Any statutory provision or rule of court
governing the release of an accused may be carried out by a
responsible person designated by the court, except that a
designated person shall not authorize release on personal
recognizance and shall require security in the form of cash,

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1 property or bail bond to be posted for an accused who:

2 (1) was previously convicted of the crime with
3 which the accused is being charged;

4 (2) is being charged with murder, criminal
5 sexual penetration in the first, second or third degree,
6 robbery, burglary or a violation of probation, parole or bail;

7 (3) previously failed to appear in court
8 pursuant to the terms of recognizance or a bail bond;

9 (4) resides outside New Mexico, as shown on
10 the accused's driver's license or government-issued photo
11 identification card;

12 (5) chooses to be released on surety bail;

13 (6) has been incarcerated for fewer than
14 seventy-two hours; or

15 (7) based on consideration of any other
16 circumstance or condition, poses a risk:

17 (a) of failing to appear before the
18 court; or

19 (b) to public safety.

20 B. An accused shall not be released on a cash
21 deposit with a court in an amount less than the amount set for
22 bond.

23 C. If an accused requests release on personal
24 recognizance based on indigency, the court shall determine
25 whether the accused is a needy person and may consider the

1 accused person's income, property owned and outstanding
2 obligations and the number and ages of the person's
3 dependents."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2017.

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