

1 HOUSE JOINT RESOLUTION 5
2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY
4 William "Bill" R. Rehm
5
6
7
8
9

10 A JOINT RESOLUTION
11 PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE
12 CONSTITUTION OF NEW MEXICO TO PROVIDE ADDITIONAL GROUNDS ON
13 WHICH A COURT MAY DENY A PERSON'S RELEASE ON BAIL PENDING
14 TRIAL, REMOVE THE REQUIREMENT THAT BAIL HEARINGS BE HELD BY A
15 COURT OF RECORD AND REDUCE THE STANDARD OF PROOF FOR DENIAL OF
16 BAIL FROM CLEAR AND CONVINCING EVIDENCE TO PROBABLE CAUSE.

17
18 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

21 "A. All persons shall, before conviction, be
22 bailable by sufficient sureties except for:

23 (1) persons who have failed to appear for a
24 scheduled court appearance on any pending criminal charge;

25 (2) persons charged with:

underscored material = new
[bracketed material] = delete

1 (a) capital offenses when the proof is
2 evident or the presumption is great; ~~[and]~~

3 (b) violent offenses;

4 (c) felony offenses if the person
5 charged with the offense was previously convicted of two or
6 more felony offenses, each of which arose out of separate
7 transactions; or

8 (d) felony offenses, if at the time the
9 person committed the act on which the charged felony offense is
10 based, the person was serving a period of probation or parole,
11 or the person had been released pending trial for a separate
12 felony charge; and

13 (3) in situations in which bail is
14 specifically prohibited by this section.

15 B. Excessive bail shall not be required, nor
16 excessive fines imposed, nor cruel and unusual punishment
17 inflicted.

18 C. Bail may be denied by a court ~~[of record]~~
19 pending trial for a defendant charged with a felony if the
20 prosecuting authority ~~[requests a hearing and proves by clear~~
21 ~~and convincing evidence]~~ provides probable cause that no
22 release conditions will reasonably protect the safety of any
23 other person or the community or that the defendant presents a
24 flight risk. An appeal from an order denying bail shall be
25 given preference over all other matters.

.209466.4

