

REFERENCE TITLE: **prohibited bail; pretrial release presumption**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HCR 2022

Introduced by
Representatives Hernandez A: Abraham, Blackman, Blackwater-Nygren,
Bolding, Cano, Chávez, Meza, Wilmeth, Senator Gonzales

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING
ARTICLE II, SECTIONS 15 AND 22, CONSTITUTION OF ARIZONA; RELATING TO
PRETRIAL DETENTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Article II, section 15, Constitution of Arizona, is proposed to
4 be amended as follows if approved by the voters and on proclamation of the
5 Governor:

6 15. Prohibitions against monetary bail; excessive
7 fines; cruel and unusual punishment

8 Section 15. ~~Excessive~~ MONETARY bail shall not be
9 required, nor excessive fines imposed, nor cruel and unusual
10 punishment inflicted.

11 2. Article II, section 22, Constitution of Arizona, is proposed to
12 be amended as follows if approved by the voters and on proclamation of the
13 Governor:

14 22. Pretrial release eligibility; presumption;
15 exceptions

16 Section 22. A. ~~All persons charged with~~ A PERSON WHO
17 IS TAKEN INTO JAIL CUSTODY FOLLOWING AN ARREST OR A SUMMONS
18 ACCUSING THE PERSON OF COMMITTING A crime ~~shall be bailable by~~
19 ~~sufficient sureties,~~ IS PRESUMED ELIGIBLE FOR PRETRIAL
20 RELEASE. ~~except~~ THE PRESUMPTION OF PRETRIAL RELEASE MAY ONLY
21 BE OVERCOME BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSON'S
22 BEHAVIOR DEMONSTRATES A SIGNIFICANT RISK TO THE PHYSICAL
23 SAFETY OF THE ALLEGED VICTIM OR ANY OTHER PERSON IN THE
24 COMMUNITY.

25 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION,
26 PRETRIAL RELEASE IS NOT PRESUMED FOR A PERSON WHO IS ACCUSED
27 OF ANY OF THE FOLLOWING:

28 1. ~~For~~ A capital ~~offenses~~ OFFENSE, FIRST DEGREE MURDER,
29 sexual assault, sexual conduct with a minor under fifteen
30 years of age or molestation of a child under fifteen years of
31 age ~~when~~ IF the proof is evident or the presumption great.

32 2. ~~For~~ A VIOLENT felony ~~offenses~~ OFFENSE committed when
33 the person ~~charged~~ is already ~~admitted to bail~~ on PRETRIAL
34 RELEASE FOR a separate felony ~~charge~~ ACCUSATION and ~~where~~ IF
35 the proof is evident or the presumption great as to the
36 present ~~charge~~ ACCUSATION.

37 3. ~~For~~ A felony ~~offenses~~ OFFENSE if the person ~~charged~~
38 ~~poses a substantial danger to~~ THREATENS THE PHYSICAL SAFETY OF
39 any other person or the community, if no conditions of release
40 which may be imposed will reasonably ~~assure~~ ENSURE the safety
41 of the other person or the community and if the proof is
42 evident or the presumption great as to the present ~~charge~~
43 ACCUSATION.

44 4. ~~For~~ A serious felony ~~offenses~~ OFFENSE as prescribed
45 by the legislature if the person charged has entered or

1 remained in the United States illegally and if the proof is
2 evident or the presumption great as to the present ~~charge~~
3 ACCUSATION.

4 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION,
5 PRETRIAL DETENTION IS AUTHORIZED IF THE PERSON IS ACCUSED OF A
6 CRIME INCLUDED IN SUBSECTION B OF THIS SECTION AND THE COURT
7 DETERMINES THERE IS CREDIBLE EVIDENCE THAT THE PERSON'S
8 BEHAVIOR POSES A SIGNIFICANT RISK TO THE SAFETY OF THE ALLEGED
9 VICTIM OR ANY OTHER PERSON IN THE COMMUNITY OR IF THERE IS A
10 SIGNIFICANT RISK THAT THE PERSON WILL FLEE FROM THE
11 JURISDICTION OF THE COURT.

12 ~~B. D. The purposes of bail and any conditions of~~
13 ~~release that are set by~~ A judicial officer ~~include:~~

14 1. MAY IMPOSE PRETRIAL RELEASE CONDITIONS THAT ARE
15 NECESSARY TO:

16 ~~1.~~ (a) ~~Assuring~~ ASSURE the appearance of the accused
17 AT FUTURE COURT HEARINGS.

18 ~~2.~~ (b) ~~Protecting~~ PROTECT against the intimidation of
19 witnesses.

20 ~~3.~~ (c) ~~Protecting~~ PROTECT the safety of the victim,
21 any other person or the community.

22 2. MUST USE THE LEAST RESTRICTIVE PRETRIAL RELEASE
23 CONDITIONS THAT ARE NECESSARY TO PROTECT PUBLIC SAFETY AND
24 ENSURE THE APPEARANCE OF THE ACCUSED PERSON.

25 3. MAY NOT REQUIRE THE ACCUSED PERSON TO PAY FOR ANY
26 GOODS OR SERVICES THAT ARE REQUIRED AS A CONDITION OF PRETRIAL
27 RELEASE.

28 3. The Secretary of State shall submit this proposition to the
29 voters at the next general election as provided by article XXI,
30 Constitution of Arizona.