

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 8, 2018
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1089 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 2 through 16.
- 2 Page 3, strike lines 1 through 12.
- 3 Renumber succeeding sections accordingly.
- 4 Page 3, strike line 18 and substitute "safety, all counties, ~~and~~ ALL cities
5 and counties, AND ALL MUNICIPALITIES are encouraged to develop a".
- 6 Page 3, strike line 21 and substitute "may be utilized by the ~~district~~ court
7 of such DISTRICT, county, ~~or~~ city and county, OR MUNICIPALITY."
- 8 Page 4, line 14, strike "persons" and substitute "~~persons~~ CASES IN WHICH
9 A PERSON IS".
- 10 Page 4, line 15, strike "persons" and substitute "~~persons~~ CASES IN WHICH
11 A PERSON IS".
- 12 Page 4, line 17, strike "persons" and substitute "~~persons~~ CASES IN WHICH
13 A PERSON IS".
- 14 Page 4, line 23, after "(1)" insert "(a)".
- 15 Page 4, line 26, after "is" insert "FINANCIALLY".

1 Page 4, line 27, strike "bond," and substitute "bond SET,".

2 Page 5, strike lines 13 through 27 and substitute "~~instrument~~ THE COURT,
3 UPON WRITTEN OR ORAL MOTION OF THE PERSON, SHALL PROVIDE THE
4 PERSON A HEARING TO RECONSIDER THE MONETARY CONDITION OF THE
5 BOND. THE COURT SHALL GRANT THE PERSON AT LEAST ONE HEARING ON
6 A MOTION FILED PURSUANT TO THIS SECTION AS SOON AS PRACTICABLE
7 AFTER THE FILING OF THE MOTION. IN RECONSIDERING THE MONETARY
8 CONDITION OF THE BOND, THE COURT SHALL SPECIFICALLY CONSIDER:

9 (I) THE PERSON'S FINANCIAL CIRCUMSTANCES, AS EVIDENCED BY
10 HIS OR HER INABILITY TO PAY A MONETARY CONDITION OF BOND;

11 (II) THE PROPRIETY OF THE CONTINUED DETENTION OF THE PERSON
12 BECAUSE OF EVIDENCE ESTABLISHING HIS OR HER INABILITY TO PAY A
13 MONETARY CONDITION OF BOND; AND

14 (III) WHETHER THE SENTENCE IS LIKELY TO BE A PROBATION
15 SENTENCE OR OTHER COMMUNITY-BASED SENTENCE IF THE PERSON IS
16 FOUND GUILTY.

17 (b) AT ANY HEARING, THE COURT MAY ALSO CONSIDER ANY
18 RELEVANT FACTORS, AS PROVIDED IN SECTION 16-4-103, THAT WERE
19 ORIGINALLY CONSIDERED BY THE COURT IN BOND SETTING AND THE
20 STATEMENT OF ANY VICTIM PROVIDED TO THE COURT PURSUANT TO
21 SECTION 24-4.1-302.5 (1)(d)(I).

22 (2) Nothing in this section ~~shall preclude~~ PRECLUDES OR
23 PROHIBITS a person from filing ~~a motion for relief from~~ AN APPLICATION
24 FOR MODIFICATION OF a monetary condition of bond pursuant to section
25 16-4-109 at any time during the pendency of the case."

26 Page 7, strike lines 2 through 16 and substitute "PERSON WHO IS CHARGED
27 WITH AN OFFENSE THAT IS A CRIME, AS DEFINED IN SECTION 24-4.1-302 (1),
28 OR WHO IS CHARGED WITH ANY COMPARABLE MUNICIPAL CODE
29 VIOLATION, ANY PERSON ALLEGED TO HAVE COMMITTED A MISDEMEANOR,
30 PETTY OFFENSE, OR MUNICIPAL CODE VIOLATION MUST BE RELEASED ON
31 A PERSONAL RECOGNIZANCE BOND WITH NO MONETARY CONDITIONS OF
32 RELEASE. HOWEVER, THE COURT MAY REQUIRE A MONETARY CONDITION
33 OF BOND AS WELL AS OTHER LEAST RESTRICTIVE CONDITIONS OF BOND, AS
34 DESCRIBED IN THIS SECTION, IF THE COURT DETERMINES, IN WRITING OR ON
35 THE RECORD, BY A CLEAR AND CONVINCING STANDARD, AFTER REVIEW OF
36 THE RESULTS OF ANY EMPIRICALLY DEVELOPED RISK ASSESSMENT
37 INSTRUMENT, IF AVAILABLE, OR ANY RECORD OF BEHAVIOR OF THE PERSON
38 DEMONSTRATING SIGNIFICANT PRIOR CRIMINAL CONVICTIONS OR PRIOR

1 FAILURES TO APPEAR FOR COURT, THAT THE PERSON PRESENTS A
2 SUBSTANTIAL RISK:
3 (a) OF FLIGHT FROM PROSECUTION;
4 (b) TO THE SAFETY OF ANOTHER PERSON OR PERSONS, KNOWN OR
5 UNKNOWN; OR
6 (c) TO HARASS OR INTIMIDATE A VICTIM OR WITNESS.
7 (2) THE COURT SHALL REQUIRE ANY PERSON WHO IS GRANTED A
8 PERSONAL RECOGNIZANCE BOND PURSUANT TO THE PROVISIONS OF THIS
9 SECTION TO SIGN AND FILE WITH THE COURT A WRITTEN RELEASE
10 AGREEMENT THAT INCLUDES:".

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