



SB-1133 Bail. (2023-2024)

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ENROLLED AUGUST 29, 2024

PASSED IN SENATE MAY 21, 2024

PASSED IN ASSEMBLY AUGUST 27, 2024

AMENDED IN SENATE MAY 16, 2024

AMENDED IN SENATE APRIL 22, 2024

AMENDED IN SENATE APRIL 04, 2024

AMENDED IN SENATE MARCH 18, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1133

Introduced by Senator Becker

February 13, 2024

An act to amend Section 1270.2 of, and to add Section 1289.1 to, the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SB 1133, Becker. Bail.

Existing law entitles a person detained in custody on a criminal charge for want of bail to an automatic review of the order fixing the amount of bail by the judge or magistrate.

This bill would require the court at that review to also review, among other things, whether there exists clear and convincing evidence of a risk to public safety or the victim, or a risk of flight, and that no less restrictive alternative can address that risk.

Existing law authorizes a court, after the defendant has been admitted to bail, to, upon good cause shown, either increase or reduce the amount of bail. Existing law authorizes the court, if the amount of bail is increased, to order the defendant be committed to actual custody unless the defendant gives bail in the increased amount.

The bill would make a defendant who has a nonmonetary condition of release, other than a protective order or statutorily mandated condition, entitled to an automatic review of those conditions at the next regularly scheduled court date after the defendant has been in compliance with those conditions for 60 full days. The bill would create a rebuttable presumption at that review that the conditions are no longer necessary and shall be removed if the person has remained in compliance with the

condition or conditions for 60 days, and would make that presumption rebuttable by clear and convincing evidence that the conditions remain necessary to mitigate risk to public safety or to the victim, or to mitigate risk of flight, and that no less restrictive alternative can address that risk.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Reasonable Reconsideration Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) According to the Committee on Revision of the Penal Code:

(1) Pretrial detention is often the single best predictor of case outcomes. It increases the likelihood of a conviction and the severity of a conviction and sentence while reducing future employment and access to social safety nets.

(2) Rates of pretrial detention are higher on average for people of color and bail amounts are also consistently higher for Black and Latino defendants.

(3) The severity of pretrial detention and cascading negative consequences from being incarcerated can often exert undue pressure on people held in custody to plead guilty.

(b) According to the Prison Policy Initiative, pretrial detention has negative consequences for public safety. Any time spent in pretrial detention beyond 23 hours is associated with a consistent and significant increase in the likelihood of future rearrest.

(c) According to Advancing Pretrial Policy and Research, excessive conditions of pretrial release do not appear to reduce rearrest rates, but instead unnecessarily subject people to technical violations and revocation of bail.

SEC. 3. Section 1270.2 of the Penal Code is amended to read:

1270.2. When a person is detained in custody on a criminal charge prior to conviction for want of bail, that person is entitled to an automatic review of the order fixing the amount of the bail by the judge or magistrate having jurisdiction of the offense. At that hearing, the court shall review the considerations required by Section 1275 and determine whether there exists clear and convincing evidence of a risk to public safety or the victim, or a risk of flight, and that no less restrictive alternative can reasonably protect against that risk. That review shall be held not later than five days from the time of the original order fixing the amount of bail on the original accusatory pleading, unless the defendant agrees to a later hearing. The defendant may waive this review.

SEC. 4. Section 1289.1 is added to the Penal Code, to read:

1289.1. When a court has imposed upon a defendant a nonmonetary condition or conditions of release, other than a protective order or statutorily mandated conditions, that person is entitled to an automatic review of those conditions at the next regularly scheduled court date after the defendant has been in compliance with those conditions for 60 full days. At that review, there shall be a rebuttable presumption that the conditions are no longer necessary and shall be removed if the person has remained in compliance with the condition or conditions for 60 days. The district attorney may rebut this presumption by establishing clear and convincing evidence that the condition or conditions remain necessary to mitigate risk to public safety or to the victim, or to mitigate risk of flight, and that no less restrictive alternative can address that risk. An automatic review under this section shall occur at the next regularly scheduled court date after every 60-day period during which the defendant has been in compliance with all nonmonetary conditions of release, other than a protective order or statutorily mandated conditions. This section does not replace any other existing opportunity for review of nonmonetary conditions of release.