

Amendment to HB 592-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, III(a)(2) to
4 read as follows:

5 (2)[(A)] If a person is charged with any other criminal offense, and the court or
6 magistrate determines by clear and convincing evidence that release will endanger the safety of that
7 person or the public, the court or magistrate may:

8 [(i)] **(A)** Order preventive detention without bail;

9 [(ii)] **(B)** Order the defendant to comply with restrictive conditions;

10 [(iii)] **(C)** Order electronic monitoring and supervision where the defendant has
11 been accepted for electronic monitoring and supervision by the county; or

12 [(iv)] **(D)** Any combination thereof.

13 ~~[(B) In determining whether release will endanger the safety of that person or~~
14 ~~the public, the court or magistrate may consider all relevant factors presented pursuant to~~
15 ~~paragraph IV.]~~

16 **(3) In making a decision as to the existence of clear and convincing evidence**
17 **under RSA 597:2, III(a), the bail commissioner, magistrate, or judge shall consider the**
18 **following factors, in addition to other factors the court may find relevant:**

19 **(A) Any prior criminal convictions of the defendant.**

20 **(B) Any prior felony convictions of the defendant.**

21 **(C) Any prior criminal convictions of the defendant for violent crimes.**

22 **(D) Any pending felony charges of the defendant, including whether such**
23 **pending charge is one involving violence and/or a deadly weapon.**

24 **(E) Whether the person is the sole income producer for dependents.**

25 **(F) Whether the person is the parent and sole caretaker of a child and**
26 **whether, as a result, such child would become the responsibility of the division of children,**
27 **youth, and families.**

28 **(G) Whether the defendant is employed.**

29 2 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, III(b)(2) to
30 read as follows:

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1 (2) If the court or magistrate determines by a preponderance of the evidence that a
2 person has failed to appear on any previous matter charged as a felony, class A misdemeanor, or
3 driving or operating while impaired, or a reasonably equivalent offense in an out-of-state
4 jurisdiction, [3] 2 or more times within the past 3 years, or twice on the present case, there shall be a
5 rebuttable presumption that release will not reasonably assure the appearance of the person as
6 required, and the person shall be detained. At the bail hearing, the defendant shall be permitted to
7 present evidence and the court or magistrate shall decide whether such person has rebutted the
8 presumption that release will not reasonably assure the appearance of the person as required.

9 3 Effective Date. This act shall take effect January 1, 2026.

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AMENDED ANALYSIS

This bill adds factors for a bail commissioner, magistrate, or judge to consider in determining whether there is clear and convincing evidence that a defendant's release will endanger the safety of the person or public, and modifies the amount of failures to appear needed to trigger a rebuttable presumption that release will not reasonably assure the appearance of the defendant.