

August 20, 2019

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Initiative No. 0019-06 – Amendment # 1

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 0019-06. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,



Thomas W. Hiltachk

AMENDMENT #1

Section 1. Statement of Findings and Declaration of Purpose

A. A person is presumed innocent until proven guilty in a court of law and the opportunity for a person to obtain speedy release from custody following an arrest and before trial must be guaranteed, except when necessary to protect the safety of the victims of crime or the public.

B. Bail is an efficient and speedy way for a person charged with a crime to obtain release from custody, allowing that person to get back to work and to support his or her family. Bail also creates a strong financial incentive for a person charged with a crime to show up to court. The proper use of bail schedules, set by the superior courts in each county, helps to relieve jail overcrowding, save taxpayers money, and assist the courts in reducing the number of pre-trial hearings so that those who cannot afford bail can secure expedited hearings to obtain their release more quickly. Yet, the peoples' access to bail is threatened by the Legislature and the courts.

C. Excessive bail, whether set by schedule or by a judge, is unfair to everyone and especially discriminates against the poor. Excessive bail must not be permitted, and options to obtain pre-trial release, other than bail, may be provided by the Legislature, so long as everyone's right to bail is protected.

D. Therefore, the People hereby enact the "Bail Reform Act."

Section 2. Section 12 of Article I of the Constitution is amended to read (added text shown in underlined type and deleted text shown in ~~strikeout type~~):

Sec. 12(a) A person arrested and held in custody shall be eligible for pre-trial release, as provided herein ~~A person shall be released on bail by sufficient sureties, except for persons arrested for:~~

~~(1a) Capital crimes when the facts are evident or the presumption great;~~

~~(2b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or~~

~~(3e) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.~~

(b) A person eligible for pre-trial release from custody shall have the choice to seek pre-trial release that includes:

(1) The right to a speedy hearing before a judge or magistrate for release on his or her own recognizance, including imposition of court ordered conditions for such release;

(2) The right to obtain release at all times before trial by posting bail; and

(3) Any other process for pre-trial release from custody prior to a hearing conducted pursuant to either subdivision (b)(1) or subdivision (d), enacted by the Legislature and consistent with the requirements of this article.

(c) Excessive bail may not be required.

(d) The amount of bail required to obtain pre-trial release shall be set by a speedy hearing before a judge or magistrate. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the person eligible for pre-trial release defendant and the probability of his or her appearing at trial or hearing of the case, and the amount reasonably necessary to ensure the eligible person's personal appearance in court when his or her attendance is legally required. In addition, prior to the hearing provided for in subdivision (b)(1) or this subdivision, an eligible person may choose to post bail set by a pre-hearing bail schedule adopted by the superior court of each county. The bail schedule shall take into consideration the seriousness of the offense charged, shall not be excessive, and shall take into account such other factors that the court deems appropriate.

(e) For purposes of this article, the term "bail" means the security, whether by: (i) cash, (ii) bonds of the United States or the State of California (iii) real property, or (iv) bond posted by a licensed bail agent on behalf of a licensed surety company, to obtain the release of a person eligible for pre-trial release, and to ensure the personal appearance of such person in court when his or her appearance is legally required.

(f) The Legislature may provide for the implementation of this section. However, except for subdivision (b)(3), this section is intended to be self-executing.

~~A person may be released on his or her own recognizance in the court's discretion.~~

Section 3. General Provisions

(a) The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid application.

(b) If any other measure amending the Constitution regarding bail is approved by the voters at the same election that this act is approved by the voters, the provisions of the other measure shall be deemed to be in conflict with this act. This act is intended to be comprehensive regarding the subject of bail. In the event that this act receives a greater number of votes than the other measure, the provisions of this act shall prevail in their entirety and the provisions of the other measure shall be null and void.