

House File 2505 - Introduced

HOUSE FILE 2505
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 641)

A BILL FOR

- 1 An Act relating to bail and bond amounts and conditions.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 804.21, subsections 2 and 4, Code 2026,
2 are amended to read as follows:

3 2. a. Where ~~When~~ the offense is bailable, the magistrate
4 shall fix bail ~~giving due consideration to the bail at the amount~~
5 ~~endorsed on the warrant or unless the bail set on the warrant~~
6 is less than that specified on the bond schedule, and shall give
7 due consideration to other conditions stipulated on the warrant
8 for the defendant's appearance in the court ~~which~~ that issued the
9 warrant; if such person is not released on bail, the magistrate
10 must redeliver the warrant to the officer, and the officer shall
11 retain custody of the arrested person until the person's removal
12 to appear before the magistrate who issued the warrant.

13 b. In fixing bail, the magistrate shall not set bail at an
14 amount that is less than, or a percentage of, that on the uniform
15 bond schedule, unless the magistrate provides justification,
16 pursuant to section 811.2, subsection 2, for the deviation in
17 writing.

18 ~~4. When the court is not in session, a person arrested and~~
19 ~~placed in jail may be released on the person's own recognizance~~
20 ~~with or without other conditions, by the verbal or written order~~
21 ~~of a judge or magistrate. The verbal order may be communicated~~
22 ~~by telephone. The judge or magistrate may issue such order of~~
23 ~~release only upon the request of an attorney or person believed~~
24 ~~by the judge or magistrate to be reliable~~ A defendant is only
25 eligible to be released on the defendant's own recognizance if
26 the defendant has been charged with a nonviolent, nondrug simple
27 or serious misdemeanor.

28 Sec. 2. Section 804.21, subsection 5, paragraph b, Code 2026,
29 is amended to read as follows:

30 b. The bond schedule shall not be used unless both the
31 following conditions are met:

32 ~~(1) The~~ if the person was arrested for a crime other than a
33 violation of section 708.6, section 724.26, subsection 1, or a
34 forcible felony, and

35 ~~(2) The courts are not in session.~~ In determining any

1 conditions of release, a magistrate shall provide justification
2 pursuant to section 811.2, subsection 2, in writing.

3 Sec. 3. Section 804.22, subsection 2, Code 2026, is amended
4 to read as follows:

5 2. a. In determining conditions of release, a magistrate
6 shall not set bail at an amount that is less than, or a
7 percentage of, that on the uniform bond schedule, or otherwise
8 release a defendant, unless the magistrate provides justification
9 pursuant to section 811.2, subsection 2, in writing.

10 b. This section and the rules of criminal procedure do not
11 affect the provisions of chapter 805 authorizing the release of a
12 person on citation or bail prior to initial appearance, unless
13 the person is charged with manufacture, delivery, possession
14 with intent to manufacture or deliver, or distribution of
15 methamphetamine. The initial appearance of a person so released
16 shall be scheduled for a time not more than thirty days after the
17 date of release.

18 Sec. 4. Section 811.1, subsection 2, unnumbered paragraph 1,
19 Code 2026, is amended to read as follows:

20 ~~All~~ Except as provided in subsection 3, all defendants
21 are bailable both before and after conviction, by sufficient
22 surety, or subject to release upon condition or on their own
23 recognizance, except that the following defendants shall not be
24 admitted to bail:

25 Sec. 5. Section 811.1, Code 2026, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 3. A defendant is only eligible to be
28 released on the defendant's own recognizance if the defendant
29 has been charged with a nonviolent, nondrug simple or serious
30 misdemeanor.

31 Sec. 6. Section 811.2, subsection 1, paragraph a, unnumbered
32 paragraph 1, Code 2026, is amended to read as follows:

33 All bailable defendants shall be ordered released from custody
34 pending judgment or entry of deferred judgment on their personal
35 recognizance, except as limited by section 811.1, subsection

1 3, or upon the execution of an unsecured appearance bond in
2 an amount specified by the magistrate unless the magistrate
3 determines in the exercise of the magistrate's discretion,
4 that such a release will not reasonably assure the appearance
5 of the defendant as required or that release will jeopardize
6 the personal safety of another person or persons. When such
7 determination is made, the magistrate shall, either in lieu of
8 or in addition to the above methods of release, impose the first
9 of the following conditions of release ~~which~~ that will reasonably
10 assure the appearance of the person for trial or deferral of
11 judgment and the safety of other persons, or, if no single
12 condition gives that assurance, any combination of the following
13 conditions:

14 Sec. 7. Section 811.2, subsection 1, paragraph a,
15 subparagraph (3), Code 2026, is amended to read as follows:

16 (3) Require the execution of an appearance bond in a
17 specified amount and the deposit with the clerk of the district
18 court or a public officer designated under section 602.1211,
19 subsection 4, in cash or other qualified security, ~~of a sum not~~
20 ~~to exceed ten percent of the amount of the bond,~~ the deposit to
21 be returned to the person who deposited the specified amount with
22 the clerk upon the performance of the appearances as required in
23 section 811.6.

24 Sec. 8. Section 811.2, subsection 1, Code 2026, is amended by
25 adding the following new paragraph:

26 NEW PARAGRAPH. c. If a pretrial release evaluation is
27 completed by the department of corrections for a magistrate to
28 consider prior to the release of a defendant, the evaluator for
29 the department of corrections must verify all of the information
30 contained in the pretrial release evaluation prior to providing
31 it to the magistrate.

32 Sec. 9. JUDICIAL COUNCIL — UNIFORM BOND SCHEDULE. The
33 judicial council shall revise and update the bond schedule
34 to adjust for inflation since the previous update that became
35 effective on July 1, 2017. The revised bond schedule shall be

1 submitted to the supreme court no later than July 1, 2027.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill relates to bail and bond amounts and conditions.

6 The bill provides that when the offense is bailable, the
7 magistrate shall fix bail at the amount endorsed on the warrant
8 unless the bail set on the warrant is less than that specified
9 on the bond schedule. In fixing bail, the magistrate shall not
10 set bail at an amount that is less than, or a percentage of,
11 that on the uniform bond schedule, unless the magistrate provides
12 justification for the deviation in writing.

13 The bill provides that a defendant is only eligible to be
14 released on the defendant's own recognizance if the defendant
15 has been charged with a nonviolent, nondrug simple or serious
16 misdemeanor.

17 The bill provides that the bond schedule promulgated by the
18 judicial council shall not be used if the person was arrested for
19 a violation of Code section 708.6 (intimidation with a dangerous
20 weapon), Code section 724.26, subsection 1 (possession, receipt,
21 transportation, or dominion and control of firearms, offensive
22 weapons, and ammunition by felons and others), or a forcible
23 felony (Code section 702.11). In determining conditions of
24 release, a magistrate may not set bail at an amount that is less
25 than, or a percentage of, that on the uniform bond schedule,
26 or otherwise release a defendant, unless written justification
27 is provided. Current law provides that the bond schedule for
28 release of an arrested person is only used when court is not in
29 session.

30 The bill removes the restriction that the amount of an
31 appearance bond to be deposited with the clerk may not exceed 10
32 percent of the amount of the bond.

33 The bill provides that if a pretrial release evaluation is
34 completed by the department of corrections for a magistrate to
35 consider prior to the release of a defendant, the evaluator for

1 the department of corrections must verify all of the information
2 contained in the pretrial release evaluation prior to providing
3 it to the magistrate.

4 The bill requires the judicial council to revise and update
5 the bond schedule to adjust for inflation since the previous
6 update that became effective on July 1, 2017. The revised bond
7 schedule shall be submitted to the supreme court no later than
8 July 1, 2027.

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