

Senate File 63 - Introduced

SENATE FILE 63

BY MATHIS

A BILL FOR

1 An Act relating to the determination of conditions for pretrial
2 release of a defendant.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 811.2, subsection 2, Code 2021, is
2 amended to read as follows:

3 2. *Determination of conditions.* In determining which
4 conditions of release will reasonably assure the defendant's
5 appearance and the safety of another person or persons, the
6 magistrate ~~shall~~ may, on the basis of available information,
7 take into account the nature and circumstances of the offense
8 charged, the defendant's family ties, employment, financial
9 resources, character and mental condition, the length of the
10 defendant's residence in the community, the defendant's record
11 of convictions, ~~including the defendant's failure to pay any~~
12 ~~fine, surcharge, or court costs,~~ and the defendant's record
13 of appearance at court proceedings or of flight to avoid
14 prosecution or failure to appear at court proceedings.

15 EXPLANATION

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

18 This bill relates to the determination of conditions for
19 pretrial release of a defendant.

20 Current Code section 811.2(2) requires the magistrate, in
21 determining which conditions of release will reasonably assure
22 a bailable defendant's appearance and the safety of another
23 person or persons, after release from custody pending judgment
24 or entry of deferred judgment, to take into account the nature
25 and circumstances of the offense charged, the defendant's
26 family ties, employment, financial resources, character and
27 mental condition, the length of the defendant's residence in
28 the community, the defendant's record of convictions, including
29 the defendant's failure to pay any fine, surcharge, or court
30 costs, and the defendant's record of appearance at court
31 proceedings or of flight to avoid prosecution or failure to
32 appear at court proceedings.

33 The bill strikes the defendant's failure to pay any fine,
34 surcharge, or court costs from the elements that a magistrate
35 may consider in determining which conditions of release will

1 reasonably assure the defendant's appearance and the safety
2 of another person or persons. Current law provides that
3 the magistrate shall consider, on the basis of available
4 information, all the elements listed.