



General Assembly

**House Joint  
Resolution No. 261**

January Session, 2023

LCO No. 6083



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

**RESOLUTION PROPOSING AN AMENDMENT TO THE STATE  
CONSTITUTION TO REVISE REQUIREMENTS RELATING TO THE  
OFFERING OF BAIL OR PRETRIAL RELEASE TO PERSONS  
ACCUSED OF A CRIME.**

Resolved by this Assembly:

1 Section 1. That the following be proposed as an amendment to the  
2 Constitution of the State, which, when approved and adopted in the  
3 manner provided by the Constitution, shall, to all intents and purposes,  
4 become a part thereof:

5 Subsection (a) of article twenty-nine of the amendments to the  
6 Constitution is amended to read as follows:

7 a. In all criminal prosecutions, the accused shall have a right to be  
8 heard by [himself] the accused's self and by counsel; to be informed of  
9 the nature and cause of the accusation; to be confronted by the witnesses  
10 against [him] the accused; to have compulsory process to obtain  
11 witnesses in [his] behalf of the accused; [to be released on bail upon  
12 sufficient security, except in capital offenses, where the proof is evident  
13 or the presumption great;] and in all prosecutions by information, to a  
14 speedy, public trial by an impartial jury. The accused shall be eligible

15 for pretrial release, except the court may deny pretrial release to the  
16 accused if the court finds no conditions of pretrial release reasonably  
17 assure the appearance of the accused in court when required, or protect  
18 the safety of any other person or the community, or prevent the accused  
19 from obstructing or attempting to obstruct the criminal justice process.  
20 The general assembly may provide by law procedures, terms and  
21 conditions applicable to pretrial release and the denial thereof. No  
22 person shall be compelled to give evidence against [himself] such  
23 person's self, nor be deprived of life, liberty or property without due  
24 process of law, nor shall excessive bail be required nor excessive fines  
25 imposed. No person shall be held to answer for any crime, punishable  
26 by [death or] life imprisonment, unless upon probable cause shown at a  
27 hearing in accordance with procedures prescribed by law, except in the  
28 armed forces, or in the militia when in actual service in time of war or  
29 public danger.

30 RESOLVED: That the foregoing proposed amendment to the  
31 Constitution be continued to the next session of the General Assembly  
32 elected at the general election to be held on November 4, 2024, and  
33 published with the laws passed at the present session, or be presented  
34 to the electors at the general election to be held on November 4, 2024,  
35 whichever the case may be, according to article sixth of the amendments  
36 to the Constitution. The designation of said proposed amendment to be  
37 used on the ballots at such election shall be "Shall the Constitution of the  
38 State be amended to permit criminal defendants to be held in pretrial  
39 detention without release under circumstances where no conditions of  
40 pretrial release would (1) reasonably assure the appearance of the  
41 defendant in court when required, (2) protect the safety of any other  
42 person or the community, or (3) prevent the defendant from obstructing  
43 or attempting to obstruct the criminal justice process; and to delete  
44 obsolete language referencing capital offenses and crimes punishable by  
45 death?"