



# House of Representatives

General Assembly

**File No. 652**

*January Session, 2007*

Substitute House Bill No. 7391

*House of Representatives, April 30, 2007*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING PREVENTIVE DETENTION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) and (b) of section 54-64a of the general  
2 statutes are repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2007*):

4 (a) (1) Except as provided in subsection (b) of this section, when any  
5 arrested person is presented before the Superior Court, said court  
6 shall, in bailable offenses, promptly order the release of such person  
7 upon the first of the following conditions of release found sufficient to  
8 reasonably assure the appearance of the arrested person in court: (A)  
9 Upon his execution of a written promise to appear without special  
10 conditions, (B) upon his execution of a written promise to appear with  
11 nonfinancial conditions, (C) upon his execution of a bond without  
12 surety in no greater amount than necessary, or (D) upon his execution  
13 of a bond with surety in no greater amount than necessary. In addition  
14 to or in conjunction with any of the conditions enumerated in  
15 subparagraphs (A) to (D), inclusive, of this subdivision, the court may,  
16 when it has reason to believe that the person is drug-dependent and

17 where necessary, reasonable and appropriate, order the person to  
18 submit to a urinalysis drug test and to participate in a program of  
19 periodic drug testing and treatment. The results of any such drug test  
20 shall not be admissible in any criminal proceeding concerning such  
21 person.

22 (2) The court may, in determining what conditions of release will  
23 reasonably assure the appearance of the arrested person in court,  
24 consider the following factors: (A) The nature and circumstances of the  
25 offense, (B) such person's record of previous convictions, (C) such  
26 person's past record of appearance in court after being admitted to  
27 bail, (D) such person's family ties, (E) such person's employment  
28 record, (F) such person's financial resources, character and mental  
29 condition, and (G) such person's community ties.

30 (b) (1) When any arrested person charged with the commission of a  
31 class A felony, a class B felony, except a violation of section 53a-86 or  
32 53a-122, a class C felony, except a violation of section 53a-87, 53a-152  
33 or 53a-153, or a class D felony under sections 53a-60 to 53a-60c,  
34 inclusive, section 53a-72a, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136  
35 or 53a-216, or a family violence crime, as defined in section 46b-38a, is  
36 presented before the Superior Court, said court shall, in bailable  
37 offenses, promptly order the release of such person upon the first of  
38 the following conditions of release found sufficient to reasonably  
39 assure the appearance of the arrested person in court and that the  
40 safety of [any other person] the public will not be endangered: (A)  
41 Upon such person's execution of a written promise to appear without  
42 special conditions, (B) upon such person's execution of a written  
43 promise to appear with nonfinancial conditions, (C) upon such  
44 person's execution of a bond without surety in no greater amount than  
45 necessary, or (D) upon such person's execution of a bond with surety  
46 in no greater amount than necessary. In addition to or in conjunction  
47 with any of the conditions enumerated in subparagraphs (A) to (D),  
48 inclusive, of this subdivision, the court may, when it has reason to  
49 believe that the person is drug-dependent and where necessary,  
50 reasonable and appropriate, order the person to submit to a urinalysis

51 drug test and to participate in a program of periodic drug testing and  
52 treatment. The results of any such drug test shall not be admissible in  
53 any criminal proceeding concerning such person.

54 (2) The court may, in determining what conditions of release will  
55 reasonably assure the appearance of the arrested person in court and  
56 that the safety of [any other person] the public will not be endangered,  
57 consider the following factors: (A) The nature and circumstances of the  
58 offense, (B) such person's record of previous convictions, (C) such  
59 person's past record of appearance in court after being admitted to  
60 bail, (D) such person's family ties, (E) such person's employment  
61 record, (F) such person's financial resources, character and mental  
62 condition, (G) such person's community ties, (H) the number and  
63 seriousness of charges pending against the arrested person, (I) the  
64 weight of the evidence against the arrested person, (J) the arrested  
65 person's history of violence, (K) whether the arrested person has  
66 previously been convicted of similar offenses while released on bond,  
67 and (L) the likelihood based upon the expressed intention of the  
68 arrested person that such person will commit another crime while  
69 released.

70 (3) When the court imposes conditions of release in accordance with  
71 this subsection that will reasonably assure the appearance of the  
72 arrested person in court and that the safety of the public will not be  
73 endangered, it shall state for the record the factors under subdivision  
74 (2) of this subsection that it considered and shall make findings as to  
75 the danger the arrested person poses to the safety of the public that  
76 determined the specific conditions of release that it imposed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	54-64a(a) and (b)

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

---

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill is not anticipated to substantially alter the courts' decisions regarding conditions of release or the workload of the Judicial Department. Consequently, there is no fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 7391*****AN ACT CONCERNING PREVENTIVE DETENTION.*****SUMMARY:**

The law requires the court to release a person arrested for certain bailable crimes (see BACKGROUND) on the first condition sufficient to ensure that (1) the person will appear in court and (2) no one's safety will be endangered. The bill instead requires considering the safety of the public.

The law requires the court to consider specific factors when determining which conditions to set. The bill requires the court to also (1) state for the record the factors it considered and (2) make findings on the danger the person poses to public safety that led to the condition's imposition.

EFFECTIVE DATE: October 1, 2007

**BACKGROUND*****Crimes Subject to Release Provisions***

By law, anyone arrested for one of the following crimes is subject to these release provisions:

1. a class A felony;
2. a class B felony, except 1<sup>st</sup> degree promoting prostitution and 1<sup>st</sup> degree larceny;
3. a class C felony, except 2<sup>nd</sup> degree promoting prostitution, bribing a juror, or bribe receiving by a juror;
4. a class D felony for 2<sup>nd</sup> degree assault (with or without a firearm), 2<sup>nd</sup> degree assault of an elderly, blind, disabled,

pregnant, or mentally retarded person (with or without a firearm), 3<sup>rd</sup> degree sexual assault, 1<sup>st</sup> degree unlawful restraint, 3<sup>rd</sup> degree burglary (with or without a firearm), reckless burning, 3<sup>rd</sup> degree robbery, or criminal use of a firearm or electronic defense weapon; or

5. a family violence crime.

***Factors the Court Must Consider***

For someone arrested for one of these crimes, the law permits the court to consider the following factors when determining which conditions will reasonably assure the person’s appearance in court and public safety:

1. the nature and circumstances of the offense;
2. the person’s record of previous convictions and past record of court appearances after bail;
3. the person’s family ties, community ties, employment record, financial resources, and character and mental condition;
4. the number and seriousness of the pending charges;
5. the weight of the evidence;
6. the person’s history of violence;
7. previous convictions of similar offenses while released on bond; and
8. likelihood based on the person’s express intentions that he or she will commit another crime while released.

***Release Options***

The court can release someone on a (1) written promise to appear, without special conditions or with non-financial conditions or (2) bond, without surety or with surety in an amount no greater than necessary.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 4 (04/13/2007)