



# House of Representatives

General Assembly

**File No. 597**

February Session, 2014

Substitute House Bill No. 5588

*House of Representatives, April 16, 2014*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING BAIL BONDS.**

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

1 Section 1. Section 54-65 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) Any surety in a recognizance in criminal proceedings, who  
4 believes that [his] such surety's principal intends to abscond, shall  
5 apply to a judge of the Superior Court, produce [his] such surety's bail  
6 bond or evidence of [his] being a surety, and verify the reason of [his]  
7 such surety's application by oath or otherwise. Thereupon, the judge  
8 shall immediately grant a mittimus, directed to a proper officer or  
9 indifferent person, commanding [him] such officer or indifferent  
10 person immediately to arrest the principal and commit [him] the  
11 principal to a community correctional center. The Community  
12 Correctional Center Administrator shall receive the principal and  
13 retain [him] the principal in a community correctional center until  
14 discharged by due order of law. The surrender of the principal shall be  
15 a full discharge of the surety upon [his] such surety's bond or

16 recognizance.

17 (b) If the principal of a surety in a recognizance in criminal  
18 proceedings absconds, such surety may apply, prior to six months  
19 after the date the bond is ordered forfeited, to a judge of the Superior  
20 Court to be released from such bond. The judge may release such  
21 surety from such bond for good cause shown.

22 Sec. 2. Section 54-65a of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2014*):

24 (a) (1) Whenever an arrested person is released upon the execution  
25 of a bond with surety in an amount of five hundred dollars or more  
26 and such bond is ordered forfeited because the principal failed to  
27 appear in court as conditioned in such bond, the court shall, at the time  
28 of ordering the bond forfeited: [(1)] (A) Issue a rearrest warrant or a  
29 capias directing a proper officer to take the defendant into custody,  
30 [(2)] (B) provide written notice to the surety on the bond that the  
31 principal has failed to appear in court as conditioned in such bond,  
32 except that if the surety on the bond is an insurer, as defined in section  
33 38a-660, the court shall provide such notice to such insurer and not to  
34 the surety bail bond agent, as defined in section 38a-660, and [(3)] (C)  
35 order a stay of execution upon the forfeiture for six months. The court  
36 may, in its discretion and for good cause shown, extend such stay of  
37 execution. A stay of execution shall not prevent the issuance of a  
38 rearrest warrant or a capias.

39 (2) When the principal whose bond has been forfeited is returned to  
40 custody pursuant to the rearrest warrant or a capias within six months  
41 [of] after the date such bond was ordered forfeited or, if a stay of  
42 execution was extended, within the time period inclusive of such  
43 extension of the date such bond was ordered forfeited, the bond shall  
44 be automatically terminated and the surety released and the court shall  
45 order new conditions of release for the defendant in accordance with  
46 section 54-64a.

47 (3) When the principal whose bond has been forfeited returns to

48 court voluntarily within five business days [of] after the date such  
49 bond was ordered forfeited, the court may, in its discretion, and after  
50 finding that the defendant's failure to appear was not wilful, vacate the  
51 forfeiture order and reinstate the bond. [Such stay of execution shall  
52 not prevent the issuance of a rearrest warrant or a capias.]

53 (4) When the principal whose bond has been forfeited returns to  
54 court voluntarily more than five business days and less than six  
55 months after the date such bond was ordered forfeited, the bond shall  
56 be automatically terminated and the surety released and the court shall  
57 order new conditions of release for the defendant in accordance with  
58 section 54-64a.

59 (b) Whenever an arrested person, whose bond has been forfeited, is  
60 returned to the jurisdiction of the court within one year [of] after the  
61 date such bond was ordered forfeited, the surety on such bond shall be  
62 entitled to a rebate of that portion of the forfeited amount as may be  
63 fixed by the court or as may be established by a schedule adopted by  
64 rule of the judges of the court.

65 Sec. 3. Section 54-66 of the general statutes is repealed and the  
66 following is substituted in lieu thereof (*Effective October 1, 2014*):

67 (a) (1) In any criminal case in which a bond is allowable or required  
68 and the amount [thereof] of such bond has been determined, the  
69 accused person, or any person [in] on the accused person's behalf, [(1)]  
70 (A) may deposit, with the clerk of the court having jurisdiction of the  
71 offense with which the accused person stands charged or any assistant  
72 clerk of such court who is bonded in the same manner as the clerk or  
73 any person or officer authorized to accept bail, a sum of money equal  
74 to the amount called for by such bond, or [(2)] (B) may pledge real  
75 property, the equity of which is equal to the amount called for by such  
76 bond, provided the person pledging such property is the owner of  
77 such real property, and such accused person shall thereupon be  
78 admitted to bail.

79 (2) When cash bail is offered, such bond shall be executed and the

80 money shall be received in lieu of a surety or sureties upon such bond.  
81 Such cash bail shall be retained by the clerk of such court until a final  
82 order of the court disposing of the same is passed, [~~;~~ provided,] except  
83 that if such bond is forfeited, the clerk of such court shall pay the  
84 money to the payee named therein, according to the terms and  
85 conditions of the bond. When cash bail in excess of ten thousand  
86 dollars is received for a person accused of a felony, where the  
87 underlying facts and circumstances of the felony involve the use,  
88 attempted use or threatened use of physical force against another  
89 person, the clerk of such court shall prepare a report that contains (A)  
90 the name, address and taxpayer identification number of the accused  
91 person, (B) the name, address and taxpayer identification number of  
92 each person offering the cash bail, other than a person licensed as a  
93 professional bondsman under chapter 533 or a surety bail bond agent  
94 under chapter 700f, (C) the amount of cash received, and (D) the date  
95 the cash was received. Not later than fifteen days after receipt of such  
96 cash bail, the clerk of such court shall file the report with the  
97 Department of Revenue Services and mail a copy of the report to the  
98 state's attorney for the judicial district in which the court is located and  
99 to each person offering the cash bail.

100 [(b)] (3) When real property is pledged, the pledge shall constitute a  
101 lien on the real property upon the filing of a notice of lien in the office  
102 of the town clerk of the town in which the real property is located. The  
103 lien shall be in an amount equal to the bond set by the court. The  
104 notice of lien shall be on a form prescribed by the Office of the Chief  
105 Court Administrator. Upon order of forfeiture of the underlying bond,  
106 the state's attorney for the judicial district in which the forfeiture is  
107 ordered shall refer the matter to the Attorney General and the  
108 Attorney General may, on behalf of the state, foreclose such lien in the  
109 same manner as a mortgage. The lien created by this subsection shall  
110 expire six years after the forfeiture is ordered unless the Attorney  
111 General commences an action to foreclose it within that period of time  
112 and records a notice of lis pendens in evidence thereof on the land  
113 records of the town in which the real property is located. If the bond  
114 has not been ordered forfeited, the clerk of the court shall authorize the

115 recording of a release of such lien upon final disposition of the  
116 criminal matter or upon order of the court. The release shall be on a  
117 form prescribed by the Office of the Chief Court Administrator.

118 [(c)] (b) (1) Whenever an accused person is released upon the  
119 deposit by a person on behalf of the accused person of a sum of money  
120 equal to the amount called for by such bond or upon the pledge by a  
121 person on behalf of the accused person of real property, the equity of  
122 which is equal to the amount called for by such bond, and such bond is  
123 ordered forfeited because the accused person failed to appear in court  
124 as conditioned in such bond, the court shall, at the time of ordering the  
125 bond forfeited: [(1)] (A) Issue a rearrest warrant or a capias directing a  
126 proper officer to take the accused person into custody, [(2)] (B) provide  
127 written notice to the person who offered cash bail or pledged real  
128 property on behalf of the accused person that the accused person has  
129 failed to appear in court as conditioned in such bond, and [(3)] (C)  
130 order a stay of execution upon the forfeiture for six months. The court  
131 may, in its discretion and for good cause shown, extend such stay of  
132 execution. A stay of execution shall not prevent the issuance of a  
133 rearrest warrant or a capias.

134 (2) When the accused person whose bond has been forfeited is  
135 returned to custody pursuant to the rearrest warrant or a capias within  
136 six months of the date such bond was ordered forfeited or, if a stay of  
137 execution was extended, within the time period inclusive of such  
138 extension of the date such bond was ordered forfeited, the bond shall  
139 be automatically terminated and the person who offered cash bail or  
140 pledged real property on behalf of the accused person shall be released  
141 from such obligation and the court shall order new conditions of  
142 release for the accused person in accordance with section 54-64a.

143 (3) When the accused person whose bond has been forfeited returns  
144 to court voluntarily within five business days of the date such bond  
145 was ordered forfeited, the court may, in its discretion, and after finding  
146 that the accused person's failure to appear was not wilful, vacate the  
147 forfeiture order and reinstate the bond. [Such stay of execution shall

148 not prevent the issuance of a rearrest warrant or a capias.]

149 Sec. 4. Section 54-65c of the general statutes is repealed and the  
150 following is substituted in lieu thereof (*Effective October 1, 2014*):

151 A court shall vacate an order forfeiting a bail bond and release the  
152 professional bondsman, as defined in section 29-144, or the surety bail  
153 bond agent and the insurer, as both terms are defined in section 38a-  
154 660, if (1) the principal on the bail bond (A) is detained or incarcerated  
155 (i) in another state, territory or country, or (ii) by a federal agency, or  
156 (B) has been removed by United States Immigration and Customs  
157 Enforcement, and (2) the professional bondsman, the surety bail bond  
158 agent or the insurer provides satisfactory proof of such detention, [or]  
159 incarceration or removal to the court and the state's attorney  
160 prosecuting the case, and (3) the state's attorney prosecuting the case  
161 declines to seek extradition of the principal.

162 Sec. 5. Section 54-66a of the 2014 supplement to the general statutes  
163 is repealed and the following is substituted in lieu thereof (*Effective*  
164 *October 1, 2014*):

165 Any bail bond posted in any criminal proceeding in this state shall  
166 be automatically terminated and released whenever the defendant: (1)  
167 Is granted accelerated rehabilitation pursuant to section 54-56e; (2) is  
168 granted admission to the pretrial alcohol education program pursuant  
169 to section 54-56g; (3) is granted admission to the pretrial family  
170 violence education program pursuant to section 46b-38c; (4) is granted  
171 admission to the community service labor program pursuant to section  
172 53a-39c; (5) is granted admission to the pretrial drug education and  
173 community service program pursuant to section 54-56i; (6) has the  
174 complaint or information filed against such defendant dismissed; (7) is  
175 acquitted; (8) is sentenced by the court; (9) is granted admission to the  
176 pretrial school violence prevention program pursuant to section 54-56j;  
177 (10) is charged with a violation of section 29-33 and prosecution has  
178 been suspended pursuant to subsection (h) of section 29-33; or (11) is  
179 granted admission to the supervised diversionary program for persons  
180 with psychiatric disabilities, or persons who are veterans, pursuant to

181 section 54-56l.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	54-65
Sec. 2	<i>October 1, 2014</i>	54-65a
Sec. 3	<i>October 1, 2014</i>	54-66
Sec. 4	<i>October 1, 2014</i>	54-65c
Sec. 5	<i>October 1, 2014</i>	54-66a

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes various changes to rules concerning bail bonds and does not result in a fiscal impact.

**The Out Years****State Impact:** None**Municipal Impact:** None

**OLR Bill Analysis**

**sHB 5588**

***AN ACT CONCERNING BAIL BONDS.***

**SUMMARY:**

This bill makes numerous changes relating to bail bonds in criminal cases, including:

1. allowing a surety to apply to the court to be released from a bond after a principal absconds;
2. allowing a court to extend, for good cause, the required six-month stay of execution on a bond forfeiture order when an accused fails to appear in court;
3. automatically terminating a bond and releasing a surety when an accused voluntarily returns between five business days and six months after a bond forfeiture order; and
4. requiring the court to vacate a bond and release a professional bondsman or surety bail bond agent and insurer upon satisfactory proof that the accused is held by a federal agency or removed by U.S. Immigration and Customs Enforcement (ICE), if the prosecutor does not seek extradition.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2014

**ABSCONDING PRINCIPAL**

The law requires a surety to apply to the Superior Court when he or she believes the principal on the bond will abscond, and the court must issue an order to take the person into custody. The principal's surrender discharges the bond. The bill allows (1) the surety to apply

to the court in writing to be released from a bond after a principal absconds and within six months of a bond forfeiture order and (2) a judge to release a surety for good cause.

### **EXTENDING STAY OF FORFEITURE ORDER**

When someone deposits cash or pledges real property equal to the amount of a bond or a person posts a surety bond of \$500 or more, the law requires the court to (1) order the bond forfeited if the accused does not appear in court and (2) issue a rearrest warrant. As under existing law, the court must stay execution of the forfeiture for six months and, if the person returns to custody during that period, automatically terminate the bond and release the surety or person who offered cash bail or pledged real property on behalf of the accused.

The bill allows the court to extend the stay of execution for good cause and automatically terminates the bond if the person is returned during this extended period.

### **VOLUNTARY RETURN BY THE ACCUSED**

By law, if an accused person voluntarily returns to court within five days after an order forfeiting a surety bond of \$500 or more, the court can vacate the forfeiture order and reinstate the bond if the failure to appear was not willful.

If the person returns voluntarily more than five business days but less than six months after the forfeiture order, the bill requires the court to (1) automatically terminate the bond, (2) release the surety, and (3) order the person's new conditions of release.

### **ACCUSED HELD BY FEDERAL AGENCY OR REMOVED BY ICE**

By law, the court must vacate a bond forfeiture order and release a professional bondsman or surety bail bond agent and insurer who posted a bond for the accused when the (1) accused is held in another state, territory, or country; (2) bondsman, agent, or insurer provides proof of the accused's detention; and (3) prosecutor does not seek to extradite the accused. The bill also requires the court to vacate a bond forfeiture order and release these individuals if the accused is held by a

federal agency or is removed by ICE.

The bill specifies that the court must find that the proof that one of these circumstances exists is satisfactory before vacating a bond and releasing a bondsman, agent, or insurer.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0 (04/02/2014)