

Judiciary Committee Public Hearing
RAISED BILL NO. 1031
AN ACT CONCERNING BAIL AMOUNTS SET BY JUDGES
March 13, 2015

**TESTIMONY OF JON L. SCHOENHORN, FORMER PRESIDENT OF THE
CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION, IN SUPPORT OF
RAISED BILL NO. 1031**

Chairman Coleman, Chairman Tong, Distinguished Members of the Judiciary Committee:

Persons accused of crime possess a constitutional right to bail in all cases in this state except capital ones. However, there remains a lack of consistency in the setting of bail amounts, particularly on misdemeanor charges and motor vehicle violations, that constitute the majority of cases in the Part B or Geographical Area courthouses. Bail should not be greater than necessary to ensure the appearance of the accused for trial. For nearly 33 years, I have represented clients and observed countless court proceedings where bonds are set without regard to individual circumstances of the accused, depending on the predilections of the police, bail commissioners and, unfortunately, some judges, both experienced and inexperienced.

I know of many cases, including defendants charged only with breach of peace and interfering with an officer, where bail was set between \$20,000.00 and \$50,000.00, without regard to whether the accused has ever failed to appear in court. There are many misdemeanor cases where courts (and police departments) set \$10,000.00 bonds without giving a reason. It appears that media coverage of an arrest, or the previous appearance in court of a particular defendant, impacts the amount of bail, along with vocal advocacy groups, or past interaction with the police. If an accused cannot afford a bondsman, he or she may sit in pre-trial custody for longer than the maximum sentence permitted under the statute, unless a speedy trial motion is filed after four months. Even if an accused pays a bondsman for release, that often exhausts financial resources that would otherwise be used to hire a private attorney, and burdens the public defender's office, not to mention taxpayers who foot the bill for incarceration. While an appellate procedure called a "motion for review" exists to challenge excessive bail amounts, it is a cumbersome and lengthy process and seldom results in reduction in the amount because a judge's discretion is almost limitless, particularly since no reason need be given.

This bill does not preclude the setting of bail in any reasonable amount, based upon the specific circumstances of the case, nor does it take away the discretion of bail commissioners. It merely requires that those officials set forth a rationale, either in writing or on the record in court, before setting bonds greater than \$5,000.00. That is the least that should be required before taking away the liberty of a person charged with a minor offense. Moreover, this bill does not suggest that \$5,000.00 is the appropriate or "reasonable" amount to be set for most misdemeanor and violation cases. Under present law, the least restrictive measures should be imposed to guarantee appearance in court, including written promises to appear, non-surety bonds or surety bonds in lesser amounts.

Raised Bill No. 1031 also fails to address the setting of bail before the court arraignment, and I think it should. Currently there is no procedure to challenge the amount of bail set in a warrant, or by police, until the arraignment, that first occurs on the next business day. An accused arrested on a misdemeanor could remain incarcerated for up to four days over holiday weekends without an opportunity to argue for release. I recommend that this bill include provisions that would apply to these earlier stages after an arrest, set forth in Connecticut General Statutes §§ 54-63c and 54-63d, and require police and bail commissioners to set forth a reason for a high misdemeanor bail amount.

