



# AMERICAN BAIL COALITION

Justice for All

March 23, 2016

## Statement in Opposition to Bail Reform Provisions Contained in S.B. 18

The bill, as introduced, requires all persons to post bail by posting 10% cash to the Court rather than having the option of using a bail agent. This is harmful to defendants, reduces accountability, and will virtually eliminate bail agents in the State of Connecticut. Requiring the posting of cash removes the ability of a defendant or a third party to obtain a payment plan. This will increase the number of persons who cannot post bail, thereby increasing incarceration. Second, a premium on a surety bond is only 7% over \$5,000, thus further harming defendants by requiring them to pay more for their release.

In regards to accountability, it has been claimed that deposit bail, 10% to the Court, is effective and should be expanded. That claim is false. The City of Philadelphia implemented such a program, and the result was that 1 out of 3 defendants failed to appear, and the City had over \$1 billion in uncollected forfeitures. In addition, in a study published in the University of Chicago Journal of Law and Economics using 15 years of national data, the conclusion was that deposit bail is about as effective as no bail at all and falls far short in effectiveness as compared to surety bail bonds or cash bail in the full amount.<sup>1</sup> In addition, to assert that the expansion of deposit bail is a national trend is also false—it was a national trend a generation ago.

It is our understanding that the Administration will be requesting an amendment to S.B. 18 to remove the mandatory deposit bail provision. We do welcome language that would preserve the very defendant choice the Administration asserts is important. Nonetheless, the State should not increase the use of 10% bail under the false premise that it provides a “powerful” incentive because the cash will be returned.

Regarding eliminating bail largely for misdemeanor cases, this is not an evidence-based move and will over-rule in statute the judicial discretion that would have otherwise found that such person was too dangerous or too big of a flight risk to release without that person posting a bail. These are serious crimes in many cases.<sup>2</sup> The national trend is instead toward providing better information for judges in these cases to sort out who is too risky and who is not and also not making bail decisions based solely on the charge. Here, this is exactly what the bill does—it says if you are charged with a particular crime, there is no requirement to post a bail. That is not a national best practice.

We conducted a survey using a professional on-line polling service, who polled 100 Connecticut residents regarding this bill. Overwhelmingly, the public does not support this legislation. 95% of the public does not support getting rid of bail for Class A Misdemeanors. 82% were against the mandatory 10% to the Court provision. Finally, not a single respondent out of 100 said that bail reform was an issue in the criminal justice system that most concerned them.

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<sup>1</sup> “Defendants released on surety bond are 28 percent less likely to fail to appear than similar defendants released on their own recognizance, and if they do fail to appear, they are 53 percent less likely to remain at large for extended periods of time. **Deposit bonds perform only marginally better than release on own recognizance.**”

<sup>2</sup> For example, criminally negligent homicide, assault of an elderly person, stalking, etc.