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Good afternoon Senator Coleman, Representative Tong and members of Judiciary Committee. My name is Andrew Marocchini, President of the Bail Association of Connecticut (BAC). I am here today to voice opposition to SB 18 AAC A Second Chance Society. For background, I have been a licensed surety bail bondsman since 1998, as well as a bail enforcement agent, owner of BailCo LLC and the Connecticut Bail Academy.

Throughout my tenure as a surety bondsman my company and staff have provided our pre-trial services to thousands of defendants and their families. These services include the release, supervision and if needed apprehension of criminal defendants while they navigate their way through our judicial system. We have done this at no cost to the tax payers of Connecticut while providing 1,000 much needed professionally licensed jobs.

The industry's primary concerns with this legislation are the potential unintended consequences it may have on our state's public safety, the ability to ensure that an arrested person will be released on reasonable terms, and the devastating impact it will have on our industry and the 1,000 people we employ.

As you are all aware, prior to the start of this year's legislative session, Governor Malloy requested that the Connecticut Sentencing Commission examine the state's current bail system and the possibility of its reform. The focus of the Governor's request was the concern that a significant number of indigent defendants were incarcerated only because they could not afford a minimal amount of bond for their release.

We believe that the Governor's approach to the Sentencing Commission was a prudent one and one which affords these very complicated issues the time and attention they deserve. We were a bit surprised that the Administration then proposed SB 18, which attempts to implement some of the key reforms he asked the Sentencing Commission to review.

For Example:

1. The first change proposed is in regard to the automatic release on a promise to appear (PTA) given to anyone accused of a misdemeanor, except where someone is accused of a failure to appear (FTA) or a family violence crime.

I would like to point out that BAC agrees with the issue raised by the Governor pertaining to the example of an arrested indigent and supports addressing this session. However, we respectfully ask that

the committee amend this section within SB 18 to include anyone that is arrested on a violent crime as well as include that if the court makes finding on the record that the arrested person would pose a risk to themselves or of another person upon release. Misdemeanor charges may seem somewhat mild relative to felonies on a cursory look. Nevertheless, when you look at some of the crimes categorized as misdemeanors you will see that many have violent aspects to them and are not victimless crimes. Such as assault, reckless endangerment, abuse, etc. We are suggesting that crimes of violent nature should not automatically be given a PTA and should continue to allow for the courts review, consideration and discretion.

## 2. The exclusive use of 10% bonds

This particular language eliminates the need for surety bondsman as currently before you. BAC believes that there is no need for a 10% option because the courts currently have other types of bonds at their disposal which have the same effect without elimination of our industry and the 1,000 jobs that will go with it. If the intention of this bill is to provide a less costly option for indigents, a 10% cash bond would not accomplish this goal and in fact be more costly in bonds above \$5000. This would also take away the ability for defendant's to utilize the flexible payment plan options my industry provides.

This language would also raise public safety concerns related to how the process is played out within the scenario of a family or friend posting a 10% cash bail and assuming all of the financial risk. If the defendant fails to appear in court, the entity that posted the cash bail not only forfeits the 10% but is also liable for the entire bail amount. Family and friends will have to find the individual they posted cash bail for on their own as bail bonds professionals will have no incentive to do so. The public safety will also be negatively affected as those potentially dangerous individuals who benefit from a cash bail can fail to appear and no one will work to find them and bring them back to face court.

As an industry we agree that there are changes that need to be made in our judicial system but should not be hastily made. Proof of our concern can be seen with New Jerseys attempt at reform and the unexpected cost of \$500 million dollars anticipated to implement them. This administration has wisely tasked the Sentencing Commission to study and report on the best ways to deal with these issues and we believe that any reform in excess of that directly related to the example of the indigent should be postponed until their work is completed. The Bail Association of Connecticut would like to participate in these discussions and believe that we can help provide solutions that achieve the goals while minimizing the cost to the state.

In closing please keep in mind not only is there 1,000 jobs that will be lost if the bail industry is eliminated. Commercial Bail is the only form of pretrial release that does not cost Connecticut's taxpayers anything. To put this in perspective, surety bondsman posted approximately 29,000 bonds in 2015 at no cost to the state and we could do a lot more.

Please consider our attached proposed JFS language and we look forward to the opportunity to work with this committee as you consider SB 18.

Thank you for your consideration,  
Andrew Marocchini  
President, Bail Association of Connecticut

# ***Proposed JFS Language to Section 28 of SB 18 AN ACT CONCERNING A SECOND CHANCE SOCIETY***

Sec. 28. Section 54-64a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) (1) Except as provided in [subsection (b)] subsections (b) and (c) of this section, when any arrested person is presented before the Superior Court, said court shall, in bailable offenses, promptly order the release of such person upon the first of the following conditions of release found sufficient to reasonably ensure the appearance of the arrested person in court: (A) Upon [his] such person's execution of a written promise to appear without special conditions, (B) upon [his] such person's execution of a written promise to appear with nonfinancial conditions, (C) upon [his] such person's execution of a bond without surety in no greater amount than necessary, or (D) upon [his] such person's execution of a bond with surety in no greater amount than necessary. In addition to or in conjunction with any of the conditions enumerated in subparagraphs (A) to (D), inclusive, of this subdivision, the court may, when it has reason to believe that the person is drug-dependent and where necessary, reasonable and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such person.

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

[(3) Whenever the court orders the release of any arrested person pursuant to subparagraph (D) of subdivision (1) of this subsection, such release shall be upon deposit with the court of cash bail in an amount equal to ten per cent of the amount of the surety bond set, which may be deposited on behalf of the arrested person by any person other than a professional bondsman licensed under chapter 533 or a surety bail bond agent licensed under chapter 700f, unless the court determines release upon such deposit is not appropriate based on the court's review of factors under subdivision (2) of this subsection. If a court makes such a determination, the court shall state on the record any such factor that it considered to be the reason for such determination.]

[(4)] (3) The court shall place the cash bail deposited pursuant to subdivision [(3)] (1) of this subsection into an interest-bearing account specifically established for the purpose of this subdivision. If the arrested person appears for each court date, the cash bail shall be returned to the person who deposited the cash bail with the court pursuant to said subdivision [(3)] (1). If the arrested person fails to appear for any court date, such cash bail shall be forfeited. The court shall remit, at least quarterly, any forfeited cash bail and interest earned on each deposit made pursuant to this subdivision to an organization designated by the judges of the Superior Court for use in the program established pursuant to section 51-81c, as amended by this act.

(b) (1) When any arrested person charged with the commission of (A) a class A felony, (B) a class B felony, except a violation of section 53a-86 or 53a-122, (C) a class C felony, except a violation of section 53a-87, 53a-152 or 53a-153, [or] (D) a class D felony under sections 53a-60 to 53a-60c, inclusive, section 53a-72a, 53a-95, 53a-103, 53a-103a, 53a-114, 53a-136 or 53a-216, or [a] (E) any family violence crime, as defined in section 46b-38a, is presented before the Superior Court, said court shall, in bailable offenses, promptly order the release of such person upon the first of the following conditions of release found sufficient to reasonably ensure the appearance of the arrested person in court and that the safety of any other person will not be endangered: [(A)] (i) Upon such person's execution of a written promise to appear without special conditions, [(B)] (ii) upon such person's execution of a written promise to appear with nonfinancial conditions, [(C)] (iii) upon such person's execution of a bond without surety in no greater amount than necessary, [(D)] or (iv) upon such person's execution of a bond with surety in no greater amount than necessary. In addition to or in conjunction with any of the conditions enumerated in [subparagraphs (A) to (D), inclusive, of] this subdivision, the court may, when it has reason to believe that the person is drug-dependent and where necessary, reasonable and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such person.

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

(3) When imposing conditions of release under this subsection, the court shall state [for] on the record any factors under subdivision (2) of this subsection that it considered and the findings that it made as to the danger, if any, that the arrested person might pose to the safety of any other person upon the arrested person's release that caused the court to impose the specific conditions of release that it imposed.

(c) Except in the case of an arrested person charged with failure to appear pursuant to section 53a-173, a violent crime, or a family violence crime, as defined in section 46b-38a, or if the court makes a finding on the record that the arrested person would pose a risk to the safety of themselves or of another person upon release, when any arrested person, charged with no crime other than a misdemeanor, is presented before the Superior Court, said court shall promptly order the release of such person upon the first of the following conditions of release found sufficient to reasonably ensure the appearance of the arrested person in court: (1) Upon such person's execution of a written promise to appear without special conditions, or (2) upon such person's execution of a written promise to appear with nonfinancial conditions, or (3) upon such person's execution of a bond without surety in no greater amount than necessary. In addition to or in conjunction with any of the conditions enumerated in subdivisions (1) to (3), inclusive, of this subsection, the court may, when it has reason to believe that the person is drug-dependent and where necessary, reasonable and appropriate, order the person to submit to a urinalysis drug test and to participate in a program of periodic drug testing and treatment. The results of any such drug test shall not be admissible in any criminal proceeding concerning such person.

[(c)] (d) If the court determines that a nonfinancial condition of release should be imposed pursuant to [subparagraph (B) of subdivision (1) of] subsection (a), [or (b)] (b) or (c) of this section, the court shall order the pretrial release of the person subject to the least restrictive condition or combination of conditions that the court determines will reasonably ensure the appearance of the arrested person in court and, with respect to the release of the person pursuant to subsection (b) of this section, that the safety of any other person will not be endangered, which conditions may include an order that the arrested person do one or more of the following: (1) Remain under the supervision of a designated person or organization; (2) comply with specified restrictions on such person's travel, association or place of abode; (3) not engage in specified activities, including the use or possession of a dangerous weapon, an intoxicant or a controlled substance; (4) provide sureties of the peace pursuant to section 54-56f under supervision of a designated bail commissioner or intake, assessment and referral specialist employed by the Judicial Branch; (5) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense; (6) maintain employment or, if unemployed, actively seek employment; (7) maintain or commence an educational program; (8) be subject to electronic monitoring; or (9) satisfy any other condition that is reasonably necessary to ensure the appearance of the person in court

and that the safety of any other person will not be endangered. The court shall state on the record its reasons for imposing any such nonfinancial condition.

[(d)] (e) If the arrested person is not released, the court shall order [him] such person committed to the custody of the Commissioner of Correction until [he] such person is released or discharged in due course of law.

[(e)] (f) The court may require that the person subject to electronic monitoring pursuant to subsection [(c)] (d) of this section pay directly to the electronic monitoring service provider a fee for the cost of such electronic monitoring services. If the court finds that the person subject to electronic monitoring is indigent and unable to pay the costs of electronic monitoring services, the court shall waive such costs. Any contract entered into by the Judicial Branch and the electronic monitoring service provider shall include a provision stating that the total cost for electronic monitoring services shall not exceed five dollars per day. Such amount shall be indexed annually to reflect the rate of inflation.