



General Assembly

January Session, 2017

Raised Bill No. 7287

LCO No. 5302



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
CONNECTICUT SENTENCING COMMISSION CONCERNING
PRETRIAL RELEASE AND DETENTION.***

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

1 Section 1. Subsection (a) of section 54-64a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2017*):

4 (a) (1) Except as provided in subdivision (2) of this subsection and
5 subsection (b) of this section, when any arrested person is presented
6 before the Superior Court, said court shall, in bailable offenses,
7 promptly order the release of such person upon the first of the
8 following conditions of release found sufficient to reasonably ensure
9 the appearance of the arrested person in court: (A) Upon his execution
10 of a written promise to appear without special conditions, (B) upon his
11 execution of a written promise to appear with nonfinancial conditions,
12 (C) upon his execution of a bond without surety in no greater amount
13 than necessary, (D) upon his execution of a bond with surety in no
14 greater amount than necessary. In addition to or in conjunction with

15 any of the conditions enumerated in subparagraphs (A) to (D),
16 inclusive, of this subdivision the court may, when it has reason to
17 believe that the person is drug-dependent and where necessary,
18 reasonable and appropriate, order the person to submit to a urinalysis
19 drug test and to participate in a program of periodic drug testing and
20 treatment. The results of any such drug test shall not be admissible in
21 any criminal proceeding concerning such person.

22 (2) If the arrested person is charged with no offense other than a
23 misdemeanor, the court shall not impose financial conditions of release
24 on the person unless the person requests such financial conditions or
25 the court makes a finding on the record that (A) if the misdemeanor is
26 not a family violence crime, as defined in section 46b-38a, without such
27 financial conditions there is a serious risk that the arrested person will
28 fail to appear as required in court, or (B) if the misdemeanor is a family
29 violence crime, as defined in section 46b-38a, without such financial
30 conditions there is a serious risk that (i) the arrested person will fail to
31 appear as required in court, (ii) the arrested person will obstruct or
32 attempt to obstruct justice, or threaten, injure or intimidate or attempt
33 to threaten, injure or intimidate a prospective witness or juror, or (iii)
34 the arrested person will engage in conduct that threatens the safety of
35 another person.

36 [(2)] (3) The court may, in determining what conditions of release
37 will reasonably ensure the appearance of the arrested person in court,
38 consider the following factors: (A) The nature and circumstances of the
39 offense, (B) such person's record of previous convictions, (C) such
40 person's past record of appearance in court after being admitted to
41 bail, (D) such person's family ties, (E) such person's employment
42 record, (F) such person's financial resources, character and mental
43 condition, and (G) such person's community ties.

44 Sec. 2. Section 54-53a of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective July 1, 2017*):

46 (a) No person who has not made bail may be detained in a
47 [community correctional center] correctional facility pursuant to the
48 issuance of a bench warrant of arrest or for arraignment, sentencing or
49 trial for an offense not punishable by death, for longer than forty-five
50 days, unless at the expiration of the [forty-five days he] forty-five-day
51 period the person is presented to the court having cognizance of the
52 offense. On each such presentment, the court may reduce, modify or
53 discharge the bail, or may for cause shown remand the person to the
54 custody of the Commissioner of Correction. On the expiration of each
55 successive forty-five-day period, the person may again by motion be
56 presented to the court for such purpose.

57 (b) Notwithstanding the provisions of subsection (a) of this section,
58 any person who has not made bail and is detained in a [community
59 correctional center] correctional facility pursuant to the issuance of a
60 bench warrant of arrest or for arraignment, sentencing or trial for an
61 offense classified as a class D or E felony or as a misdemeanor, except a
62 person charged with a crime in another state and detained pursuant to
63 chapter 964 or a person detained for violation of [his] parole pending a
64 parole revocation hearing, shall be presented to the court having
65 cognizance of the offense [within] not later than thirty days [of] after
66 the date of [his] the person's detention, unless such presentment is
67 waived by the person. On such presentment, the court may reduce,
68 modify or discharge the bail or may for cause shown remand the
69 person to the custody of the Commissioner of Correction. On the
70 expiration of each successive thirty-day period, the person shall again
71 be presented to the court for such purpose.

72 (c) (1) Notwithstanding the provisions of subsection (a) or (b) of this
73 section, any person who has not made bail and is detained in a
74 correctional facility for no offense other than a misdemeanor, except a
75 person charged with a crime in another state and detained pursuant to
76 chapter 964 or a person detained for violation of parole pending a
77 parole revocation hearing, shall be presented to the court having
78 cognizance of the offense not later than fourteen days after the date of

79 the person's arraignment, unless such presentment is waived by the
80 person.

81 (2) If such person is detained for a misdemeanor that is not a family
82 violence crime, as defined in section 46b-38a, on such presentment the
83 court shall remove the financial conditions on the release of the person
84 unless the court makes a finding on the record that, without such
85 conditions, there is a serious risk that the person will fail to appear as
86 required in court.

87 (3) If such person is detained for a misdemeanor that is a family
88 violence crime, as defined in section 46b-38a, on such presentment the
89 court shall remove the financial conditions on the release of the person
90 unless the court makes a finding on the record that, without such
91 conditions, there is a serious risk that (A) the person will fail to appear
92 as required in court, (B) the person will obstruct or attempt to obstruct
93 justice or threaten, injure or intimidate or attempt to threaten, injure or
94 intimidate a prospective juror or witness, or (C) the person will engage
95 in conduct that threatens the safety of another person.

96 (4) If the court does not remove such financial conditions, it may
97 reduce or modify the bail or may for cause shown remand the person
98 to the custody of the Commissioner of Correction.

99 [(c)] (d) Notwithstanding the provisions of subsections (a), [and] (b)
100 and (c) of this section, any person who has not made bail may be heard
101 by the court upon a motion for modification of the bail at any time.

102 Sec. 3. Section 54-66 of the general statutes is repealed and the
103 following is substituted in lieu thereof (Effective July 1, 2017):

104 (a)(1) In any criminal case in which a bond is allowable or required
105 and the amount of such bond has been determined, the accused
106 person, or any person on the accused person's behalf, (A) may deposit,
107 with the clerk of the court having jurisdiction of the offense with which
108 the accused person stands charged or any assistant clerk of such court

109 who is bonded in the same manner as the clerk or any person or officer
110 authorized to accept bail, a sum of money equal to the amount called
111 for by such bond, or (B) may pledge real property, the equity of which
112 is equal to the amount called for by such bond, provided the person
113 pledging such property is the owner of such real property, and such
114 accused person shall thereupon be admitted to bail.

115 (2) When cash bail is offered, such bond shall be executed and the
116 money shall be received in lieu of a surety or sureties upon such bond.
117 Such cash bail shall be retained by the clerk of such court until a final
118 order of the court disposing of the same is passed, except that if such
119 bond is forfeited, the clerk of such court shall pay the money to the
120 payee named therein, according to the terms and conditions of the
121 bond. When cash bail in excess of ten thousand dollars is received for a
122 person accused of a felony, where the underlying facts and
123 circumstances of the felony involve the use, attempted use or
124 threatened use of physical force against another person, the clerk of
125 such court shall prepare a report that contains (A) the name, address
126 and taxpayer identification number of the accused person, (B) the
127 name, address and taxpayer identification number of each person
128 offering the cash bail, other than a person licensed as a professional
129 bondsman under chapter 533 or a surety bail bond agent under
130 chapter 700f, (C) the amount of cash received, and (D) the date the cash
131 was received. Not later than fifteen days after receipt of such cash bail,
132 the clerk of such court shall file the report with the Department of
133 Revenue Services and mail a copy of the report to the state's attorney
134 for the judicial district in which the court is located and to each person
135 offering the cash bail.

136 (3) When real property is pledged, the pledge shall constitute a lien
137 on the real property upon the filing of a notice of lien in the office of
138 the town clerk of the town in which the real property is located. The
139 lien shall be in an amount equal to the bond set by the court. The
140 notice of lien shall be on a form prescribed by the Office of the Chief
141 Court Administrator. Upon order of forfeiture of the underlying bond,

142 the state's attorney for the judicial district in which the forfeiture is
143 ordered shall refer the matter to the Attorney General and the
144 Attorney General may, on behalf of the state, foreclose such lien in the
145 same manner as a mortgage. The lien created by this subsection shall
146 expire six years after the forfeiture is ordered unless the Attorney
147 General commences an action to foreclose it within that period of time
148 and records a notice of lis pendens in evidence thereof on the land
149 records of the town in which the real property is located. If the bond
150 has not been ordered forfeited, the clerk of the court shall authorize the
151 recording of a release of such lien upon final disposition of the
152 criminal matter or upon order of the court. The release shall be on a
153 form prescribed by the Office of the Chief Court Administrator.

154 (b) (1) In any criminal case in which a bond is allowable or required
155 and the amount of such bond has been set at ten thousand dollars or
156 less, the accused person, or any person on the accused person's behalf,
157 other than a person licensed as a professional bondsman under chapter
158 533 or a surety bail bond agent under chapter 700f, may deposit a sum
159 of money equal to ten per cent of the amount called for by such bond.

160 (2) In any criminal case in which a bond is allowable or required
161 and the amount of such bond has been set at more than ten thousand
162 dollars, the accused person, or any person on the accused person's
163 behalf, other than a person licensed as a professional bondsman under
164 chapter 533 or a surety bail bond agent under chapter 700f, may, with
165 the approval of the court, deposit a sum of money equal to ten per cent
166 of the amount called for by such bond.

167 (3) The sum of money equal to ten per cent of the amount of such
168 bond shall be deposited with the clerk of the court having jurisdiction
169 of the offense with which the accused person stands charged or any
170 assistant clerk of such court who is bonded in the same manner as the
171 clerk or any person or officer authorized to accept bail.

172 (4) If such bond is forfeited, the accused person shall be liable for the

173 full amount of the bond. Upon discharge of the bond, the ten per cent
174 cash deposit shall be returned to the person depositing the same.

175 [(b)] (c) (1) Whenever an accused person is released upon the
176 deposit by a person on behalf of the accused person of a sum of money
177 equal to the amount called for by such bond, [or] upon the pledge by a
178 person on behalf of the accused person of real property, the equity of
179 which is equal to the amount called for by such bond, or upon the
180 deposit by a person on behalf of the accused person of ten per cent of
181 the amount called for by such bond, and such bond is ordered forfeited
182 because the accused person failed to appear in court as conditioned in
183 such bond, the court shall, at the time of ordering the bond forfeited:
184 (A) Issue a rearrest warrant or a capias directing a proper officer to
185 take the accused person into custody, (B) provide written notice to the
186 person who offered cash bail, [or] pledged real property or deposited
187 ten per cent of the amount of the bond on behalf of the accused person
188 that the accused person has failed to appear in court as conditioned in
189 such bond, and (C) order a stay of execution upon the forfeiture for six
190 months. The court may, in its discretion and for good cause shown,
191 extend such stay of execution. A stay of execution shall not prevent the
192 issuance of a rearrest warrant or a capias.

193 (2) When the accused person whose bond has been forfeited is
194 returned to custody pursuant to the rearrest warrant or a capias
195 [within] not later than six months [of] after the date such bond was
196 ordered forfeited or, if a stay of execution was extended, within the
197 time period inclusive of such extension of the date such bond was
198 ordered forfeited, the bond shall be automatically terminated and the
199 person who offered cash bail, [or] pledged real property or deposited
200 ten per cent of the amount of the bond on behalf of the accused person
201 shall be released from such obligation and the court shall order new
202 conditions of release for the accused person in accordance with section
203 54-64a, as amended by this act.

204 (3) When the accused person whose bond has been forfeited returns

205 to court voluntarily [within] not later than five business days [of] after
206 the date such bond was ordered forfeited, the court may, in its
207 discretion, and after finding that the accused person's failure to appear
208 was not wilful, vacate the forfeiture order and reinstate the bond.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	54-64a(a)
Sec. 2	<i>July 1, 2017</i>	54-53a
Sec. 3	<i>July 1, 2017</i>	54-66

Statement of Purpose:

To implement the recommendations of the Connecticut Sentencing Commission concerning pretrial release and detention.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]