

PA13-158

HB6689

House	6461-6477	17
Judiciary	2786, 2788-2790, 2827- 2836, 3111-3120, 3356- 3366	35
Senate	4143-4144	2
		54

H – 1168

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 19
6233 – 6539**

The bill passes as amended. Will the Clerk
please call Calendar 516.

THE CLERK:

On page 22, 516, favorable report of the joint
standing Committee on Judiciary, substitute House Bill
6689, AN ACT CONCERNING BAIL BONDS.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Good evening, Madam Speaker. I move acceptance
of the joint committee's favorable report and passage
of the bill.

DEPUTY SPEAKER SAYERS:

The question is on acceptance of the joint
committee's favorable report and passage of the bill.
Representative Ritter, you have the floor.

REP. RITTER (1st):

Thank you, Madam Speaker. There will be an
amendment but I would like to summarize the underlying
bill which essentially remains intact except for one
section. We're just making some -- some small changes
to the -- to bail bonds as the title sort of alludes
to. A couple things basically which I consider sort
of clean up and technical.

We will reduce -- allow -- allow assurity under certain circumstances of a principle of assurity to apply to court to be released from said bond if the -- if the convicted person or the person that they're -- the assurity is related to absconds. If a -- if the person who -- who the bond was taken out for for example was held by U.S. Immigrations and Customs or things like that the bond also would then go away.

It also specifies that a bond is automatically terminated when a defendant is sentenced by a court. That would then terminate immediately when the sentence were to begin. So there's a couple of changes in that summary related to bond bails on the underlying bill.

But I do believe that the Clerk has an amendment in his possession. I would ask that he please call LCO number 7786 and I be granted leave to summarize, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Will the Clerk please call LCO number 7786 which will be designated House Amendment Schedule A.

THE CLERK:

House Amendment A, LCO number 7786 introduced by Representatives Ritter and Fox et al.

DEPUTY SPEAKER SAYERS:

The Representative seeks of leave of the Chamber. Is there any objection to summarization? Is there any objection? Hearing none, Representative Ritter, you may proceed with summarization.

REP. RITTER (1st):

Thank you, Madam Speaker. As I alluded to in my earlier comments we're striking section one in its entirety and replying it with a taskforce language.

And essentially this taskforce will examine methods for reducing costs incurred to extradite an individual to the State with respect to criminal proceedings against such individual and the feasibility of permitting a court to vacate an order related to a bail bond when a professional bondsman or assurity pays the cost of extraditing the principal on the forfeited bail bond.

And that is the amendment. Through you, Madam Speaker. And I certainly move its adoption, Madam Speaker.

DEPUTY SPEAKER SAYERS:

the question before the Chamber is on adoption of House Amendment Schedule A. Will you remark on the amendment? Representative Rebimbas of the 70th.

REP. REBIMBAS (70th):

Thank you, Madam Speaker, and good evening.

Through you, Madam Speaker, a few questions to the proponent of the amendment.

DEPUTY SPEAKER SAYERS:

Please frame your questions, Madam.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. To the proponent of the amendment that's here before us, I notice the -- as the summarization had indicated that a taskforce is being formed. And my understanding is that was not a provision in the underlying bill.

If the proponent of the amendment wouldn't mind articulating the purpose of the taskforce and why we're doing it on this bill. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through -- through you Madam Speaker. And I thank the good Ranking Member of Judiciary for the question. Essentially there's been some concerns for the cost that are incurred to extradite an individual back to the State of Connecticut in certain instances.

And so there was some testimony in Judiciary Committee about this. There was an attempt to try to go after this through State statute but I think when all the parties got involved the thought was to really talk about this in the extradition context.

So that's what the taskforce is for and you can see it's a pretty broad makeup. We will have people in the bail bondmen industry. We will have people at the Chief State's Attorney on there, A U.S. Marshal representative and things like that and see if we can't come up with some -- some better law before we just dive right into it. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And I thank the Representative for his explanation. And I do rise in support of the amendment. This is a very good taskforce and I know very often here in the legislative body we form taskforce for a variety of different purposes.

And this is one that the bail bondsmen just the whole process of the interaction between the bail bondsmen and the court and the expenses of retrieving

these people when they are out of state or they're simply just no shows has been a very confusing one and certainly a costly one for our Judicial Branch.

I do support this taskforce which will look at cost savings that the Judicial Branch could incur. And through you, Madam Speaker, just for clarification purposes on this amendment, when will that taskforce be making any type of findings or recommendations if there is an exact date that they need to report that. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. It's line 47 makes reference to January 15, 2014 or if they finish their report earlier. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And through you, Madam Speaker, just for clarification purposes I notice in the amendment that those findings will then be reported to the committee of cognizance in the General Assembly.

If the Gentleman wouldn't mind just highlighting what those committees might be in light of the facts of some of the findings that we're having the taskforce do. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. I believe the bill contemplates the bill going back to the Judiciary Committee which I look forward to reviewing with the good Ranking Member but it could see certainly this somehow entangling other committees. I think of insurance and things like that. So as we deal with this next year we may be bringing other committees. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And I'd like to thank the Representative for his summarization on the amendment and answering all of my questions. I do rise in support of the amendment. And I will reserve my further questioning for the underlying bill. Thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Thank you, Madam. Will you remark further on the amendment that is before us? Will you remark further? If not, let me try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER SAYERS:

Those opposed, nay. The ayes have it. The amendment passes. The amendment is adopted. Will you remark further on the bill as amended? Will you remark further on the bill as amended? Representative Rebimbas of the 70th.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And the Representative did a wonderful job in summarization of the amendment earlier but just a few more clarifications of questions if I may. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. Through you, Madam Speaker. If the Representative can highlight what the concern or issue was that brought this bill before us.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. I think some of the concern was particularly for the principles of the assurances there were just some examples where the feeling was the -- the bonds should be released. One of the examples I think in testimony was again where they could show that their -- a judge could find there was good cause to release it.

It was -- I think it was just giving a little more wiggle room to courts to look at these situations again when a -- when a defendant or someone like that was actually arrested or retained by ICE or things like that. The feeling was that some of this stuff should be done automatically as important to having to have -- go through the court process for it.

So I guess I would say that the testimony reflects that this would make a little easier in rare instances but hopefully it doesn't put the principle of the assurance always having to have the burden in every single instance to keep bringing actions through the courts to get that bond released. Through you,

law/gbr
HOUSE OF REPRESENTATIVES

411
May 23, 2013

Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And through you, Madam Speaker. This bill that's here before us does that allow the court to extend the required six month stay for a bond? Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. I believe the good -
- I -- a little difficult to hear but the question was
) require the court the answer would be no. I think it
has the court's discretion. Through you, Madam
Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And through the
discretion of the court what is the standard that the
court needs to find in order to then extend that time
period? Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. It's always that lovely phrase good cause. So I think again we would leave that up to the -- the parties to make their -- plead their case before a judge. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And I thank Representative for his response regarding the standard of the good cause. And I also was curious as to what happens if the person who has been bonded voluntarily appears? What are the consequences in that situation? Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. That need -- in this case, and this is one of the changes. And I appreciate the good Ranking Member for the question. It would automatically terminate the bond. So if the person who absconded, showed up -- sometimes I wonder

why that would happen but it could, then it would automatically terminate. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. I will just assume maybe the person realized that they missed the beautiful State of Connecticut and wanted to return. Hopefully that's the case. Through you, Madam Speaker. Is there any type of specific timeline that would allow for when the person automatically voluntarily comes back?

Is there a certain timeline that the court will take into consideration for any type of bond forfeiture order? Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. Between five days and six months after the bond forfeiture. Through you.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And if the person does not realize before the six months that he or she made the mistake of not returning to the beautiful State of Connecticut, what happens then? Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. I think the judge would reissue that I believe is what would happen. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And my understanding of the underlying bill that it now also articulates some circumstances for which a bond can be vacated. So the professional bondsmen could be released.

If the Representative wouldn't mind just highlighting what those circumstances are. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. A+ couple examples might be when the principle absconds and again there was reasons to -- circumstances that the court felt that release should be granted.

Again I've given this example a few times is in the bill if a federal agency or -- or ICE or someone like that was to hold the principle that might lead to that automatic release of the bond.

And again when -- if that inmate was actually sentenced and began to serve their term that might trigger it as well. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. And I thank the Representative for his response in that regard. I do notice that the bill did pass the Judiciary Committee unanimously but certainly there was some -- in the dialogue back and forth there was some concerns and we were very sensitive to listening to the testimony.

And there was some testimony and opposition for -
- from several different interested parties one of which was the division of criminal justice also had some concerns regarding the bill.

If the Representative wouldn't mind just indicating whether or not those positions of opposition to the bill has in any way been addressed. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Ritter.

REP. RITTER (1st):

Through you, Madam Speaker. And -- and it was a unanimous from the Judiciary Committee and a lot of wise minds on that committee. Through you, Madam Speaker. But also I would say that yes, of course we were involved negotiations and I think also too the taskforce helped to get at some of these issues as well. So again we try to accommodate all concerns and issues the best that we can. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Madam Speaker. Now I know I was placed on the Judiciary Committee. I feel honored, more so than I already did. With that, Madam Speaker. I do notice that the JFS language regarding the taskforce and other -- other modifications have

addressed at least most of the concerns.

And with this new enumeration and articulation regarding what the courts are able to do, not necessarily mandated to do but what they're able to as well as the bondsmen and vacating any type of bond and things of that nature of being released. I think this is a good passageway to test out what's in the bill and hopefully then this is a new process that will work and certainly if not I'm sure we'll be hearing from them in the future.

And if there's any modifications that need to be addressed to make this good bill even better I'm certain that the wise minds of the Judiciary Committee will listen closely to it as well. So, Madam Speaker, as I stand here today I do support the bill as amended that's before us.

DEPUTY SPEAKER SAYERS:

Will you remark? Will you remark further on the bill as amended? If not, will staff and guests please come to the well of the House. Will the members take their seat and the machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will

members please return to the Chamber immediately.

DEPUTY SPEAKER SAYERS:

Have all the members voted? Have all the members voted? Please check the board to see that your vote has been properly cast. If all the members then the machine will be locked and the Clerk will take a tally. The Clerk will announce the tally.

THE CLERK:

Substitute House Bill 6689 as amended by House A.

Total Number Voting 131

Necessary for Adoption 66

Those voting aye 131

Those voting nay 0

Absent and not voting 19

DEPUTY SPEAKER SAYERS:

The bill as amended passes. Will the Clerk please call Calendar 521.

THE CLERK:

On page 49, Calendar 521, favorable report of the joint standing Committee on Approps., substitute House Bill 6699, AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.

DEPUTY SPEAKER SAYERS:

Representative Fox.

S - 665

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 14
4130 - 4472**

Calendar page 29, Calendar 653, substitute for House Bill Number 6699. And, finally, Madam President, on Calendar page 31, Calendar 664, substitute for House Bill Number 6689.

I would like to add those items to our Consent Calendar and, and now call for a, I would ask the Clerk to list all of the items on the Consent Calendar and then proceed to a vote on that first Consent Calendar.

Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

Today's first Consent Calendar, on page 5, Calendar 341, House Bill 6364; Calendar 343, House Bill 5425; Calendar 346, House Bill 6322; Calendar 347, House Bill 6547; and on page 6, Calendar 349, House Bill 5513; page 9, Calendar 450, Senate Bill 921; on page 13, Calendar 506, House Bill 6491; Calendar 515, House Bill 6235.

On page 14, Calendar 524, House Bill 6380; on page 16, Calendar 559, House Bill 6508; page 17, Calendar 563, House Bill 5617; Calendar 569, House Bill 6485; and on page 19, Calendar 588, House Bill 6549; on page 23, Calendar 614, House Bill 6587; Calendar 616, House Bill 6678; page 25, Calendar 629, House Bill 6662; on page 26, Calendar 633, House Bill 6576; and on page 27, Calendar 640, House Bill 6550; on page 28, Calendar 650, House Bill 6659.

And on Page 29, Calendar 653, House Bill 6699; Calendar 655, House Bill 6339; page 31, Calendar 664, House Bill 6689; Calendar 665, House Bill 6355; page 34, Calendar 201, Senate Bill 911; and on page 40, Calendar 514, House Bill 5725.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote on the first Consent Calendar. And the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call in the Senate on the first Consent Calendar of the day.

THE CHAIR:

Yeah, thank you. Good. There we go.

If all members have voted, all members have voted, the machine will be closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

On the first Consent Calendar,

Total Number Voting 34

Necessary for Adoption 18

Those voting Yea 34

Those voting Nay 0

Those absent and not voting 2

THE CHAIR:

Consent Calendar passes.

Senator Looney.

SENATOR LOONEY:

Madam President.

THE CHAIR:

Senator Looney.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 9
2774 - 3140**

2013

Commissioner Dowling, no response.

Kevin Kane.

CHIEF STATE'S ATTORNEY KEVIN KANE: Thank you
Senator Coleman, Representative Fox and
Representative Rebimbas and members of the
committee. I'm here to testify on behalf of
the Division of Criminal Justice concerning
several bills that are -- that are on the
agenda today.

HB6660 HB6676
HB6689

We have submitted written testimony on -- on
all but one of the ones that I'm going to
testify about, and I just want to remark about
one of the others. And I'll be brief about --
about -- I think about most of them.

First of all, 1151, AN ACT CONCERNING RECORDING
TELEPHONE CONVERSATIONS, the Division is
opposed to that, it -- it's -- it's ambiguous,
confusing. The language is -- seems to be
subject to multiple interpretations. It's
vague and we do already have a good statute in
place which seems to deal with the problems and
concerns about recording telephone
conversations.

6639 is the bill dealing with license plate
readers. The most serious concern in that bill
-- and the Division is opposed to that and
we've submitted written testimony as we've had
with regarding to the telephone conversation
bill -- the most serious concern with the
license plate readers is the 14-day
restriction. These -- these license plate
readers are invaluable in solving extremely
serious crimes. They're also invaluable in
protecting the public in many ways. You're
going to hear more testimony about that and how
they're used from the police.

defense attorneys, traditionally introduce and -- and offer at sentencing.

And it seems -- it doesn't make sense, at least to the state, why -- why we would have to have a statutory requirement and a restriction on that when it's already inherent in the -- the courts do hear and consider that information.

6676, we did not submit testimony on it.

Conceptually, it's a very good idea. It's -- it's a bill that would -- would make -- encourage, I guess, OPM to make Project Longevity available on a statewide basis. Project Longevity is something that works very well in New Haven. If Project Longevity is meant to be a generic term, this is -- these are law enforcement efforts to combat and deal with violence, both in the law enforcement side and the -- and also on the prevention side.

It's a very good concept in New Haven. If the only purpose of it is to extend exactly what's being done in New Haven on a statewide basis to the degree that extension of other initiatives in this effort. And there are other initiatives it's not quite like project longevity, but different, going on in Hartford, New Haven -- I mean Hartford and Bridgeport -- and parts of it are a part of the Longevity Project in Hartford. Dealing with extending those projects around the state are a very, very, very good idea if it's going to be restricted to just Project Longevity as it is presently defined in New Haven that seems to me to be a little too restrictive. I'm not sure what the purpose of that bill, though, was but, obviously, it's well intended.

The next one in 6689, bail bonds. We have submitted our testimony in opposition to that at length. That bail bond bill contains

several provisions in it which would transfer the risk of nonappearance from the bondsman to the State. It would provide in -- in one section that if they defendant appears more than five days after forfeiture, the surety shall be released from the bond and the re-arrest warrant shall be vacated but that ignores -- that means that the defendant could come back anytime after a year and have automatically the -- the surety would be discharged and the -- the bail bond, the arrest warrant would be vacated.

The problem a lot of times with nonappearance is not just the failure to appear in court but the failure to appear at the time required. We have defendants who abscond just before trial. It's important and one of the purposes of bond is to ensure that the defendant will appear in court at the time his or her case is called. That's important because that's when everybody is ready to proceed, not only the court, but the State with its witnesses; and having no restrictions on that, a defendant could just disappear for awhile. I'll go, I'll disappear, I'll come back and then I'll hide for eight months, I'll come back, and my -- my re-arrest warrant will automatically be vacated. The bond will be terminated. I may be subject to a new bond that the court imposes, but I really have no arrest because I was nonappearing. Things look bad. The witnesses are there against me. I'll disappear and so what? As long as I'm not caught and can come back to the court before I am caught, my bond will get -- the surety will be released and it'll transfer the obligation of the surety to be careful about who the surety chooses to post bail for. And impose that -- that risk and the -- the surety will be free of that.

We have had some bail reforms in the past that are -- are some reforms that appear to -- to be workable but this is an area that really needs a hard, hard look at before we go into reforms of that -- this nature that are opposed by this bill.

Thank you very much.

SENATOR COLEMAN: Thank you Attorney Kane.

Are there questions from members of the committee?

Representative O'Dea.

REP. O'DEA: Thank you very much, Mr. Chair.

Thank you for your testimony.

On -- on the license plate reader, 6639, I understand you're opposed to the 14 days. What -- what limit would you put on there? Thirty, 60, 90, what?

CHIEF STATE'S ATTORNEY KEVIN KANE: There are limits that have been imposed by other states that you'll hear more about, but I think New York has five years -- and -- and California may have five years. That's reasonable.

These crimes -- as long as -- to me, the most important thing the Legislature should be concerned about is making sure that these aren't subject to misuse. This information isn't subject to misuse. It can be subject to criminal penalties if police officers misuse it. It can be restricted with regard to accessibility to freedom of information. So that -- so that information like that isn't used improperly by -- by the public, but it's too important for law enforcement to be able to

And it's something that just hangs over people for a long period of time.

I think we need to make sure that the real cases make it through and people who are victims of a mistake in this case -- this court -- in this state rather, get their day in court. There's no question about that, but as a -- as a policy making body, we need to spend some time and think about those people who are going to get sued, and we need to think about making the system as best as possible.

I'd much rather be sitting here today talking about health courts or talking about, you know, medical malpractice reform in this state instead of doing band aid fixes, like this, but I appreciate the time being here. And I just want to make sure I said my peace as we move forward. I hope to be part of the dialogue.

Thank you very much.

SENATOR COLEMAN: Thank you, Representative.

Are there questions for Representative Carter?

If not, thank you for your testimony.

Senator Martin Looney.

Is Anne Melissa Dowling here?

If not --

ANNE MELISSA DOWLING: Good morning.

SENATOR COLEMAN: Good morning.

ANNE MELISSA DOWLING: I'm Anne Melissa Dowling, deputy commissioner for the Department of Insurance, and I've brought a couple colleagues

HB 6689

with me, if you have any questions on my remarks.

Senator Coleman, Representative Fox and members of the Judiciary Committee, the Insurance Department does appreciate the opportunity to provide testimony regarding Raised Bill 6689, AN ACT CONCERNING BAIL BONDS.

The Department strongly opposes section 1 of this bill and would respectfully urge the committee to consider rejecting the bill in its entirety or amending it to delete section 1. Section 1 of Raised Bill 6689 would remove the most important current provisions regarding payment plans extended by surety bail bond agents to defendants. This would seriously -- seriously undermine the Department's ability to ensure that proper premiums are collected when a defendant is bonded out, thus, increasing the potential for abuse within the bail bond industry.

By eliminating the requirements to pursue collection of payments within a mandated time frame, surety bail bond agents could use that mechanism to subtly engage in an unfair method of competition called undercutting. Undercutting is the term used when surety bail bond agents attempt to take away business from their competitors by charging premiums lower than the rates required by law. Unscrupulous surety bond bail agents seeking to circumvent statutory prohibition against rebates, which currently prevent agents from giving to their clients valuable consideration as an inducement to insurance, will collect an initial fee for a bond with the understanding that part or all the balance due will not be collected.

In years past, this practice created significant problems for the courts and for

honest, law abiding surety bail bond agents. Legislation was enacted in 2011 to address this issue, among others, in response to the decay in the bail bond process which bordered on lawlessness caused, in major part, by the practice of undercutting.

In particular, the provisions in section 1 of Raised Bill 6689 seeks to delete were formulated in response to a few high-profile murders which occurred after defendants were released from custody after posting bonds where the surety bail bond agent charged little or no money to place a bond, thus, enabling the defendant to be released without appropriate security. Further, the provisions sought to be deleted were previously negotiated with the Legislature and all interested parties after several lengthy meetings.

In the past, the practice of undercutting caused numerous fights in courthouses as competing surety bond bail agents would approach defendants trying to outbid -- bid each other with lower rates. This practice was unsure -- unfair for surety bail bond agents as it forced them to compete on an unlevel playing field and for defendants who would end up paying premiums that were not reflective of the two -- the true value of a bond.

In addition, defendants and their family members frequently had to deal with aggressive tactics by surety bail bond agents engendered by the practice.

Passage of Raised Bill 6689 as currently drafted will result in a return to previous problems with the bail bond process and would cause harm not only to honest surety bail bond agents but also to the public exposing it to possible danger.

In short, Raised Bill 6689 would undermine the ability of the Department to properly enforce the laws relating to surety bail bond agents and would create an unfair advantage for unscrupulous surety bail bond agents and would create hardships for defendants and their families. So the Department would strongly urge the committee to oppose this legislation as written.

Thank you for the opportunity to speak in front of you.

SENATOR COLEMAN: Are there questions for the Deputy Commissioner?

Seeing none, thank you.

ANNE MELISSA DOWLING: Thank you.

SENATOR COLEMAN: Oh, I'm sorry, Representative Dillon appears to --

ANNE MELISSA DOWLING: Oh, hi.

SENATOR COLEMAN: -- have a question.

REP. DILLON: Hi.

Just as long as you're here --

ANNE MELISSA DOWLING: Oh, boy.

REP. DILLON: And this is not on point and so it would really be so for an outside conversation. I've been concerned about some concerns about oversight of the mental health parity.

ANNE MELISSA DOWLING: Uhm.

REP. DILLON: And that's an issue that may or may. Not come up in some of the legislation that's going forward on -- on Wednesday actually. On that, we kind of thrash our way through that issue and sometimes in response to public safety but I'm -- I am -- I wonder if you could -- if you could put your hands on any kind of an update on the efforts that your Department has made to overseeing the mental health parity.

ANNE MELISSA DOWLING: Would you like me to comment. On that now or just submit something to you --

REP. DILLON: Why don't -- why don't you do that separately because --

ANNE MELISSA DOWLING: Okay. I'd be happy to --

REP. DILLON: I know we're sort of taking over -- yeah. Thank you.

ANNE MELISSA DOWLING: Okay. Thank you for the question.

SENATOR COLEMAN: Are there others with questions?

Let me ask one question, in some of your other fields, I think we take the approach that let the market determine what the price should be. Why should that be different with bail bonds?

ANNE MELISSA DOWLING: I'm going to turn it over to those who've been through the ups and downs of this so --

SENATOR COLEMAN: Sure.

ANNE MELISSA DOWLING: So let me just turn it over to Kurt Swan, who runs our market, conduct and fraud; and Tony Caporale, who's the attorney supporting this.

ANTONIO CAPORALE: Good morning members of the committee. My name is Tony Caporale. I'm an attorney with the State of Connecticut Insurance Department, and I appreciate the possibility to provide maybe an answer to your question.

Insurance, especially, as it relates to bail bonds is quite unique in that there is some laws that have been enacted to protect individuals who buy insurance from tactics that would cause this individuals to purchase a product, an insurance product, based not on the feature of the product, of the desirability that this product would do for the person, but rather based on a price competition; and therefore, there were some laws enacted that prohibit rebating in the context of insurance.

We have seen this reasoning time and time again in the field of bail bonds where the practice of rebating or so, in other words, giving some valuable consideration to a person so that person can buy insurance from -- from us has caused a number of problems. It's caused fights in -- in courthouses where individuals who did not abide by the rules, did not observe the true rates that would have to be charged for a specific bond, were trying to compete just based on price. And this has caused fights in the courthouses. It's caused judges to, basically, be unsure of the amount of bond that they would set for a specific defendant.

The amount of bond is reflective of the risk that this person is no -- does not show up for all the hearings. And once a judge sets that amount and then the judgment is undermined by an individual who's willing to place a bond at a reduced price has created a number of problems. Some people were let out of jail and

pay absolutely no money or they pay just a token amount and then what they did they went back and reoffend. They went right back because of the security that they really had to give was inadequate.

There is also another reason why rates, as filed, are a desirable thing because the Insurance Department looks at the rates for a product and taken -- and takes into account all the circumstances surrounding the rate and make sure that the rates are not inadequate or not unfair or not discriminatory. And obviously, if now we let every single person who's selling insurance set, so to speak, his or her own rates, all this protection will be undermined. And the -- the price charged will not reflect all the correct risks that -- that a sane and true and functioning insurance market should reflect.

SENATOR COLEMAN: Interesting response.

Has your Department done any studies or research that correlate a discount in bail bond premiums to an incidence of failure to appear?

ANTONIO CAPORALE: Oh, yes, we had done a number of cases that actually were the impetus for the Department to propose the kind of legislation that eventually was passed a couple of years ago and is currently subject to these challenges. And we -- we have observed firsthand situations in which the defendants where their -- their failure to be -- to appear and their -- their possibility to be able to reoffend were related directly to the fact that they were let out of jail without proper security.

SENATOR COLEMAN: Do you have written studies to that affect?

ANTONIO CAPORALE: No. We don't have written studies, but we have gone through this over the last four or five years and that -- we have observed very strong and empirical evidence that that, in fact, is the case.

SENATOR COLEMAN: Is there something that you could refer me to so that I could get a better understanding of the strength or lack of strength of that correlation?

ANTONIO CAPORALE: Yes. If you like, I can put something together for you and send it to your attention so you can see what the Department has done and some of the cases that the Department has observed.

SENATOR COLEMAN: Okay. I would appreciate that.

And in your response, you mentioned that there is some uncertainty on the part of judges about how much bond to set, and I guess I'll ask the question, bail bonds are a very particular kind of insurance and some would argue it's not insurance at all, but just -- I guess, going with your analysis and we'll -- we'll call it insurance, but in the context of the criminal courts, shouldn't the judge be concerned with whether or not the defendant will reappear at future scheduled dates for that particular case?

ANTONIO CAPORALE: And that is, in fact, the case and based on the risk involved and the correct risk of the -- of the defendant, of the characteristics of the crime, of the -- their roots that the defendant may have in the community and a number of other factors. The judges look at an amount that, in their judgment, would be sufficient to guarantee -- to guarantee that the person attends all the

hearings. They look at all these factors. One of the factors is what is the stake of the defendant in his or her freedom and once they - the value to the defendant, in terms what it cost her or him is a lot lower than anticipated then the judge's judgment is somehow undermined and one of these factors does not represent the correct correlation that was taken into account to set the bond to begin with.

SENATOR COLEMAN: What is the responsibility, in that scenario, of the bail bonds person?

ANTONIO CAPORALE: Of the bail bonds person doesn't have any responsibility. Basically, there is an insurance company that does guarantee the bond and if the person does not show up, ultimately, the insurance company is on the hook for the forfeiture. There is different number of contracts and different kinds of contracts between surety agents and insurance companies as to, ultimately, who's going to be responsible. But for the sake of argument, the insurance company's the ultimate responsible party.

SENATOR COLEMAN: Does the bail bonds have any responsibility to the bail bond company or the insurance company?

ANTONIO CAPORALE: And again, there is a number of contractual relationships. There is some individuals who might be contracted with an insurance company, and they are called liable agents; in other words, whatever the insurance company pays is going to come out of the agent's pocket. There are other agents who are no liable agents; in other words, whatever insurance company pays comes out of the insurance companies pocket so it depends on the circumstances.

SENATOR COLEMAN: Whatever is the contract between the bail bonds person and the insurance company is -- is there any risk that the performance of the bail bonds person will determine whether the contract is renewed or not?

ANTONIO CAPORALE: Without looking at any specific contract, it is difficult to say, but I would say it's possible, yes.

SENATOR COLEMAN: Is there any other members with questions?

If not, thank you, the three of you for your presentation.

ANTONIO CAPORALE: Thank you.

SENATOR COLEMAN: Mike Neubert.

MICHAEL NEUBERT: Good morning, Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Michael Neubert. I'm with the law firm of Neubert, Pepe and Monteith.

Thank you for the opportunity to provide testimony on behalf of the more than 7,000 physicians and physicians in training of the Connecticut State Medical Society in opposition to House Bill 6687, AN ACT CONCERNING THE CERTIFICATE OF MERIT; and House Bill 1154, AN ACT CONCERNING THE ACCIDENTAL FAILURE OF SUIT STATUTE.

To those of you who may have sat on this committee, in 2005, I had the distinct honor to testify before it at that time in support of what was then a proposed bill but has since adopted and became 52-190a. As Dr. Srinivasan alluded to at that time, the Legislature was appropriately concerned about the impact of

MARK MOTUZICK: Good evening, Chairman Coleman and distinguished Members of the Judiciary Committee. My name is Mark Motuzick and I am co-owner of Capitol Bail Bonds located in Hartford.

I'm here to voice my support for House Bill 6689 AN ACT CONCERNING BAIL BONDS. In recent years, legislation has passed that has had unintended consequences on the bail bond industry and hampered our ability to do business in the State of Connecticut. As bail bondsmen, we serve a crucial role in the criminal justice system. Our work is dedicated to help ensure that people accused of crimes appear in court.

We work with law enforcement to help capture and detain those parties that fail to show up for their court dates.

House Bill 6689 would serve to lessen some of the stringent requirements that currently face our industry, while at the same time ensure that we continue to provide quality service to the residents of the state.

I would like to comment on particular parts of the bill and then I would be happy to answer any questions that you may have regarding the bill in its entirety.

Under Section 1 currently, bail bondsmen are required by statute to file lawsuits against our clients who get behind in their payments who do not pay us in full within 15 months.

I know of no other industry in Connecticut where a company is forced to sue its clients. This law is unfair to our clients and is counter-productive for us. Our clients are required by law to pay down, for example, a

\$12,000 note in 15 months. That works out to be about \$800 each month.

As you can imagine families, especially lower income, have a difficult time coming up with that kind of money every month. If someone financed the purchase of a car, for instance, the installment plan would be at least 36, maybe 60 months or even 72 months.

Additionally, people are losing their jobs, their homes and are under-employed. For these people, it is nearly impossible to keep up with all their bills.

We are a for profit business and have plenty of incentives to seek full payment with the installment plan, but where it is counter-productive for us to sue a client, we should not be forced to sue them.

We have to hire a lawyer, pay attorneys fees, court filing fees, all this despite knowing that the client is out of work with no source of income and no assets.

Under Section 5 there's another point I'd like to touch on. Under current law, when a party is out on bond in Connecticut and they're detained in another state, for example, bail bondsmen are released from their obligation only if the state declines to extradite the party.

However, if the state determines that they want to extradite, then the bail bondsmen are still on the bond. This creates a situation where the state could say that they want to extradite and drag then drag their feet and actually extradite and cause the bond to be forfeited and the bail bondsman would be forced to pay on the bond.

This is inherently unfair because the party is incarcerated in another state and the state will have the opportunity to get the accused back in court when matters are involved in that other state.

The person's whereabouts are known. They pose no risk to Connecticut residents and their appearance will occur upon extradition.

In order to prevent this type of circumstance Section 5 of the new bill relieves bail bondsmen of their obligation on the bond when they provide the court with verifiable proof that a party is incarcerated in another state.

This is fair because if the person is incarcerated, the state can choose not to extradite. However, if they choose to extradite, they can do so and guarantee that the party will show up in court when the matters in the other state are resolved.

And the last section, Section 6 of the new bill, terminates a bond when a court sentences a defendant but then allows the defendant time to clean up their affairs.

Sometimes courts will impose a sentence and then give the defendant a certain amount of time to handle personal affairs before the imposition of the sentence. If the court is willing to engage in this risky behavior, it is our belief the bond should be terminated because the court has unilaterally created a situation where the defendant is a high risk to abscond.

Thank you for the opportunity to address the Committee and I would be happy to answer any questions anybody may have for me.

SENATOR COLEMAN: Are there questions for Mr. Motuzick? There are none. Thank you for your testimony.

MARK MOTUZICK: Thank you very much for your time.

SENATOR COLEMAN: Mark Forschino.

MARK FORSCHINO: Good afternoon, Chairman Fox and Chairman Coleman and distinguished Members of the Judiciary Committee. My name is Mark Forschino. I'm also a co-owner of Capital Bail Bonds located here in Hartford, Connecticut. I'm here to voice my support on House Bill 6689 AN ACT CONCERNING BAIL BONDS.

I'd like to comment on particular part of the bills and then I'd be happy to answer any questions you may have regarding the bill in its entirety.

Section 2, in writing bonds, it is our job to ensure that our clients appear in court and it is our job to financially indemnify the state if the parties abscond.

In order to protect ourselves against the financial liabilities associated with the clients absconding, we perform an in depth background check and perform a risk assessment in our clients to determine whether we are willing to write the specific bonds.

Sometimes despite our thorough background checks, there is certain information that is available to the state or other law enforcement officials to which we do not have access to that if we had known, we would not have written the bond.

Although the state or other law enforcement officials might not be able to share this information with us, it seems unjust for us to be required to pay the state on a forfeit of bond when at the time the bond was signed the state had information that we did not have access to that would demonstrate that a client was a high risk to abscond.

Examples of such information are if the arrestee has multiple aliases, if the arrestee has multiple dates of birth, if the arrestee has multiple passports or is on the terrorist watch list. Therefore, in these types of circumstances if it comes to light that the state has this type of information, it would seem only fair to be let off the bond.

Section 3, line 80 through 86 relieves us from our obligation on the bond when a party comes back to court more than five days after the bond is vacated.

As currently written the law says that if a party returns to court within five days after a failure to appear, the court at its discretion can vacate the re-arrest order and reinstate the bond.

The law also says that when a person fails to appear and the bond is forfeited, a re-arrest is ordered and the six-month stay is put in place.

Bail bondsmen are released from their obligation if the absconding party is returned to custody within a six-month period. However, in practice some courts will vacate the re-arrest and reinstate the bond when a party returns to court more than five days after the five days after the failure to appear and the

re-arrest is ordered.

The proposed bill eliminated a judge's ability to do this and would require them to relieve the bondsmen of their obligation under the original bond and oppose new conditions of release. This provision would demonstrate to those parties who failed to appear the importance of showing up for their court dates and also, if they fail to do so would highlight the importance of them of turning themselves in and reappearing in court in a timely manner.

Thank you very much for the opportunity to testify in support of House Bill 6689. I'm happy to answer any questions that you might have.

SENATOR COLEMAN: Are there questions for Mr. Forschino? Seeing none, thank you, sir.

MARK FORSCHINO: Thank you.

SENATOR COLEMAN: Ruth Biel? Ryan Barry.

RYAN BARRY: Thank you very much. Good evening. My name is Ryan Barry and I represent Accredited Surety and Casualty, Inc. Bruce Field had to jump on a plane at 6:00 o'clock so I'm here testifying in his stead.

HB 6689

I also represent Capitol Bail Bonds, the two prior speakers, and also Afford-a-Bail and the Afford-a-Bail, members of the Afford-a-Bail were here earlier this evening and all day and they also had to leave today.

I'm an attorney practicing with the law firm of Barry and Barall in Hartford and in Manchester. The focus of my practice is criminal law and I practice generally in the Hartford area,

probably in about four different J.D.s and I'm here to support House Bill 6689.

I think it just cleans up some unintended consequences out of the, for the most part out of that 2011 reform bill, bail reform bill that the Legislature enacted.

I know Mr. Motuzickk talked about the requirement of bail bond companies to sue and that really seems remarkable that a government would force a company to sue its clients. I know when I, if I might charge \$5,000 for a DUI case, I might get \$4,500 at the end of the day but I'm not going to go sue the person for the last \$500, especially when the person sends me a letter and says they're three months behind on the mortgage, or, I've seen some letters that my clients gets, you know. One of them was a family of, the victim of someone down in Newtown. They didn't have the funds at the time, more wanting to focusing on these issues and the law says that, you know, if you're 60 days in arrears, you've got to sue them.

Or, if you haven't paid all your payments within 15 months after the bond was made, you have to sue within 75 days after the 15-month period is over.

It doesn't make much sense. These people have enough incentives. They're for profit businesses. They've enough incentive to go out there and collect on their debts, on their bonds, the outstanding amounts on their promissory notes, their payment agreements.

The one section of the bill I just wanted to touch upon is Section 3. It deals with extensions of bond forfeitures, of stays of bond forfeitures and this is an issue that had, I represented some bail bond companies and I

have a couple cases up in the Supreme Court right now where there is a little disagreement between, you know, judiciary, about what the language in the statute means.

Right now, if someone is out on a say, \$50,000 bond and they are out on the bond on February 1st and they're ordered back to court on March 1st, then on March 1st the person doesn't come to court. The defendant just doesn't show up, then the judge would order the bond forfeited and then the judge would probably issue a re-arrest warrant and then there would be this automatic six-month stay of bond forfeiture.

And in that period of time, there's a lot of incentive for my client. I'm sorry, I'm just going here, I'm just going to finish up here.

My client has a lot of incentive to go, in the next six months to get the absconding party, the person that didn't appear, bring him back to court because at the end of the six months as one of the judges I went before one time in the last year said, the stagecoach turns into a pumpkin and you have to pay money back to the state.

So if it's a \$250,000 bond, my clients, the bail bond companies, would have to pay the \$250,000 back to the state.

So there are many instances where an attorney representing these bail bond companies, of course they can't represent themselves because they're companies, as you know, they are formed as LLCs a lot of times, or corporate entities. They can't represent themselves. They have to hire attorneys.

So I would go in and argue that you know, we have information as to the whereabouts of this

individual. We might know where they are because we know exactly the person's in a particular house at a certain address. We've seen the person, but the feds say back off because we're doing some controlled buys of narcotics, so you can't even get the guy and we're restricted by the law from going and getting that person and bringing them back to jail.

Well, the majority of judges, it's good to say, the majority of judges say, if you can show good cause as to why you need an extension of that stay of bond forfeiture, then he'll give you an extra 60 days, 120 days, 6 months. Then you come back and try to show good cause again, or usually it just doesn't go on more than one or two extensions.

But there are a very small minority of judges who say, the statute doesn't give us any flexibility. It doesn't give us any discretion to extend the stay of bond forfeiture and they won't entertain the motion, and that's what's up at the Supreme Court now. But that has a serious effect on my clients because then they're all of a sudden at the end of the six months, even if they have good cause, the reason why they can't bring someone back, they're prevented by law from bringing them back to court. They've got to fork over money to the state.

So those are just two of the issues I wanted to touch upon and I appreciate having been a former member of this Committee for a number of years, I appreciate the fact that you're all here listening to my clients and me talking right now because you have families, you have full-time jobs in addition to this job, so thanks a lot for taking the time to listen and

337
cd/pat/gbr JUDICIARY COMMITTEE

April 1, 2013
10:00 A.M.

obviously, I'd be happy to answer any questions you might have.

SENATOR COLEMAN: Are there any questions for Attorney Barry? No questions. We appreciate your testimony.

RYAN BARRY: Thank you very much. Have a good night.

GREG MARCHAND: My name is Greg Marchand.

SENATOR COLEMAN: Shanita and Nancy Hranek. Did you sign up, sir?

GREG MARCHAND: Yes. I'm on the second on top of the list, the last page.

SENATOR COLEMAN: Greg Marchand?

GREG MARCHAND: Yes.

SENATOR COLEMAN: Okay. I'm sorry. You're next.

GREG MARCHAND: Thank you. (Inaudible).

SENATOR COLEMAN: Can't say as I blame you. Hello, ladies. How are you?

SHANITA TAYLOR: Fine thank you, good evening. Good evening, Chairman Coleman and Chairman Fox and Judiciary Committee. My name is Shanita Taylor and I live in Hartford in an apartment with the Hartford Housing Authority. I work as a bus driver for the Hartford School system.

I am here to oppose House Bill 6661 because it would prevent tenants like me from having their case heard in court. If this had been the law a year ago, I would have been wrongly evicted and my family could have been homeless.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 10
3141 - 3485**

2013



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Judiciary Committee

April 1, 2013

Raised House Bill No. 6689 – An Act Concerning Bail Bonds

Senator Coleman, Representative Fox, and members of the Judiciary Committee, the Insurance Department appreciates the opportunity to provide written testimony regarding Raised Bill 6689, An Act Concerning Bail Bonds. The Department strongly opposes section 1 of this bill and would respectfully urge this Committee to consider rejecting the bill in its entirety or amending it to delete section 1.

Section 1 of Raised Bill 6689 would remove the most important current provisions regarding payment plans extended by surety bail bond agents to defendants. This would seriously undermine the Department's ability to ensure that proper premiums are collected when a defendant is bonded out, thus increasing the potential for abuse within the bail bond industry.

By eliminating the requirement to pursue collection of payments within a mandated timeframe surety bail bond agents could use that mechanism to subtly engage in an unfair method of competition called "undercutting". Undercutting is the term used when surety bail bond agents attempt to take away business from their competitors by charging premiums lower than the rates required by law. Unscrupulous surety bail bond agents seeking to circumvent statutory prohibition against rebates, which currently prevent agents from giving to their clients valuable consideration as an inducement to insurance, will collect an initial fee for a bond with the understanding that part or all of the balance due will not be collected. In years past, this practice created significant problems for the courts and for honest, law abiding surety bail bond agents.

Legislation was enacted in 2011 to address this issue, among others, in response to decay in the bail bond process which bordered on lawlessness, caused in major part by the practice of "undercutting". In particular, the provisions that section 1 of Raised Bill 6689 seeks to delete were formulated in response to a few high profile murders which occurred after defendants

were released from custody after posting bonds where the surety bail bond agent charged little or no money to place the bond, thus enabling the defendant to be released without appropriate security. Further, the provisions sought to be deleted were previously negotiated with the legislature and all interested parties after several lengthy meetings.

Also, in the past the practice of undercutting caused numerous fights in courthouses, as competing surety bail bond agents would approach defendants trying to "outbid" each other with lower rates. This practice was unfair for surety bail bond agents, as it forced them to compete on an unlevelled playing field and for defendants, who would end up paying premium that were not reflective of the true value of a bond. In addition, defendants and their family members frequently had to deal with aggressive tactics by surety bail bond agents engendered by the practice.

Passage of Raised Bill 6689, as currently drafted, will result in a return to the previous problems with the bail bond process, and would cause harm not only to honest surety bail bond agents, but also to the public exposing it to possible danger.

In short, Raised Bill 6689 would undermine the ability of the Department to properly enforce the laws relating to surety bail bond agents, would create an unfair advantage for unscrupulous surety bail bond agents and would create hardship for defendants and their families.

The Department would strongly urge the committee to oppose this legislation as written. Thank you for the opportunity to submit testimony.

TESTIMONY OF MARK MOTUZICK CAPITOL BAIL BONDS, LLC**IN SUPPORT OF:****H.B. 6689: AN ACT CONCERNING BAIL BONDS****JUDICIARY COMMITTEE****APRIL 1, 2013**

Good afternoon Chairman Fox, Chairman Coleman, and distinguished members of the Judiciary Committee. My name is Mark Motuzick, and I am the co-owner of Capitol Bail Bonds, LLC located in Hartford, CT. I'm here to **voice my support** for **H.B. 6689, An Act Concerning Bail Bonds**. In recent years, legislation has been passed that has had unintended consequences on the bail bonds industry and hampered our ability to do business in the State of Connecticut. As bail bondsmen, we serve a crucial role in the criminal justice system. Our work is dedicated to helping assure that people accused of crimes appear in Court. We work with law enforcement to help capture and detain those parties who fail to show up to their Court dates. **H.B. 6689** would serve to lessen some of the stringent requirements that currently face our industry, while at the same time ensure that we continue to provide a quality service to the residents of this state.

I would like to comment on particular parts of this bill and then I would be happy to answer any questions that you may have regarding the bill in its entirety.

Section 1

- Currently, bail bondsmen are required by statute to file lawsuits against our clients who get behind on their payments or who do not pay us in full within 15 months. I know of no other industry in Connecticut where a company is forced to sue its client. This law is unfair to our clients and it is counterproductive for us. Our clients are required by law to pay down, for example, a \$12,000 note in 15 months. That works out to \$800.00 each month. As you can imagine, families (especially lower income) have a difficult time coming up with that kind of money every month. If someone financed the purchase of a car, the installment plan would be for at least 36 months, more likely 60 months or even 72 months. Additionally, people who are losing their jobs, their homes, who are underemployed – for these people, it is nearly impossible to keep up with all of their bills. We are a for-profit business and have plenty of incentive to seek full payment of installment plans. But where it is counterproductive for us to sue a client, we should not be forced to sue them. We have to hire a lawyer, pay attorneys fees and pay court filing fees – all of this despite knowing that the client is out of work, with no source of income and no assets.

Section 5

- Under current law, when a party is out on bond in Connecticut, and they are detained in another state, for example, bail bondsmen are released from their obligation only if the State declines to extradite the party. However, if the state determines that they want to extradite, then the bail bondsmen are still on the bond.

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- This creates a situation where the state could say that they want to extradite and then drag their feet in actually extraditing causing the bond to be forfeited and the bail bondsmen to be forced to pay on the bond. This is inherently unfair because the party is incarcerated in another state, and the state will have the opportunity to get the accused back in Court when matters are resolved in another state.
 - The person's whereabouts are known, they pose no risk to CT residents and their appearance will occur upon extradition.
 - In order to prevent this type of circumstance Section 5 of the new bill relieves bail bondsmen of their obligation on a bond when they provide the Court with verifiable proof that a party is incarcerated in another state. This is fair because if the person is incarcerated, the state can choose not to extradite, however if they choose to extradite they can do so and guarantee that the party will show up in Court when their matters in the other state are resolved.

Section 6

- Section 6 of the new bill terminates a bond when a Court sentences a defendant but then allows the defendant time to clean up his or her affairs. Sometimes Courts will impose a sentence and then give the defendant a certain amount of time to handle personal affairs before the imposition of the sentence. If the Court is willing to engage in this risky behavior, it is our belief that the bond should be terminated because the Court has unilaterally created a situation, where the Defendant is a high risk to abscond.

Thank you for the opportunity to address the committee. I would be happy to answer any questions that you might have regarding HB 6689.

Mark Motuzick
860-558-2916

**TESTIMONY OF MARC FORSCHINO
CAPITOL BAIL BONDS, LLC**

**TESTIMONY IN FAVOR OF HB 6689
AN ACT CONCERNING BAIL BONDS**

**Judiciary Committee Public Hearing
April 1, 2013**

Good afternoon Chairman Fox, Chairman Coleman, and distinguished members of the Judiciary Committee. My name is Marc Forschino, and I am the co-owner of Capitol Bail Bonds, LLC located in Hartford, CT. I'm here to **voice my support** for H.B. 6689, An Act Concerning Bail Bonds. In recent years, legislation has been passed that has had unintended consequences on the bail bonds industry and hampered our ability to do business in the State of Connecticut. As bail bondsmen, we serve a crucial role in the criminal justice system. Our work is dedicated to helping assure that people accused of crimes appear in Court. We work with law enforcement to help capture and detain those parties who fail to show up to their Court dates. H.B. 6689 would serve to lessen some of the stringent requirements that currently face our industry, while at the same time ensure that we continue to provide a quality service to the residents of this state.

I would like to comment on particular parts of this bill and then I would be happy to answer any questions that you may have regarding the bill in its entirety.

Section 2

- In writing bonds, it is our job to ensure that our clients appear in Court and it is our job to financially indemnify the state if the party absconds. In order to protect ourselves against the financial liability associated with a client absconding, we perform in depth background checks and perform a risk assessment on our clients to determine whether we are willing to write a specific bond. Sometimes, despite our thorough background checks, there is certain information that is available to the state or other law enforcement officials to which we do not have access, that if we knew about, we would not have written the bond. Although the state or other law enforcement officials might not be able to share this information with us, it seems unjust for us to be required to pay the state on a forfeited bond when, at the time the bond was signed, the State had information that we did not have access to that would demonstrate that a client was a high risk to abscond. Examples of such information are (1) if the arrestee has multiple aliases; (2) if the arrestee has multiple dates of birth; (3) if the arrestee has multiple passports or (4) is on the Terrorist watch list. Therefore, in these types of circumstances if it comes to light that the state had this type of information, it would seem only fair that we be let off the bond.

Section 3

- Section 3 of the bill would give judges the explicit right to extend stay of bond forfeiture beyond the current 6 month period. Extensions beyond the 6 month period are not barred by the statute and the majority of judges already allow for these extensions. However, there are a minority of judges who are unwilling to grant these extensions because the statute doesn't explicitly provide for it. Giving judges the discretion to extend the stay of bond forfeiture beyond the 6 month period for good cause would be beneficial to all parties including the state and the public at large. Many times as the 6 months near we will know where a fugitive is, or have a lead on his whereabouts that we want to go pick him up. By granting us time beyond the 6 month period, this give us the additional time we need to find the fugitive, get him or her off the streets and bring them into custody. In addition, sometimes there are situations where we know where a fugitive is, and the 6 months is nearing, however the police want us to refrain from picking the person up because they're in the midst of investigating the person for another more serious crime. This Section would also allow us to get extensions when these types of situations arise.

- Another part of Section 3 relieves us from our obligation on the bond when a party comes back to Court more than 5 days after a bond is vacated. As currently written the law says that if a party returns to Court within 5 days after a failure to appear, the Court, at its discretion, can vacate the rearrest order and reinstate the bond. The law also says that when a person fails to appear and the bond is forfeited, a rearrest is ordered and the 6 month stay is put in place, bail bondsmen are released from their obligation if the absconding party is returned to custody within that 6 month period. However, in practice some Courts will vacate the rearrest and reinstate the bond when a party returns to Court more than 5 days after the failure to appear and the rearrest is ordered. The proposed bill eliminated a judge's ability to do this and would require them to relieve the bondsmen of their obligation under the original bond and impose new conditions of release. This provision would demonstrate to those parties who failed to appear the importance of showing up for their Court dates and also, if they fail to do so, would highlight the importance of turning themselves in and reappearing in Court in a timely manner.

Thank you very much for the opportunity to testify in support of HB 6689. I am happy to answer any questions that you might have.

**Marc Forschino
860-214-1082 (cell)**



STATE OF CONNECTICUT
JUDICIAL BRANCH

EXTERNAL AFFAIRS DIVISION

231 Capitol Avenue
Hartford, Connecticut 06106
(860) 757-2270 Fax (860) 757-2215

Testimony of Stephen N. Ment
Judiciary Committee Public Hearing
April 1, 2013

House Bill 6689, An Act Concerning Bail Bonds

Thank you for the opportunity to submit written testimony on behalf of the Judicial Branch regarding House Bill 6689, An Act Concerning Bail Bonds. The Branch is opposed to section 3 of the bill.

Section 3(a)(1) of the bill would allow bondsmen to seek a stay of execution on the bond forfeiture beyond the statutory six-month grace period, for good cause shown. If adopted, the Branch anticipates a significant increase in the number of motions filed for extensions of time, since there will be little for a bondsman to lose; if granted, it would postpone any forfeiture of money. The effect on the Branch is two-fold: not only will increased filings take court and judge time away from other pending criminal cases, but should these motions be granted, all notices must be provided manually because our computer system is not capable of indicating such stays.

The Judicial Branch is also opposed to section 3(a)(4) which would seemingly allow a defendant to voluntarily return to court – even years after they were due in court – with the result being a termination of the bond and the surety released. As members of the Committee may be aware, the point of bond is to ensure that an arrested person shows up for his or her court date. The court's authority is severely diminished if a person can pick and choose when to show up in court without consequence.

Thank you for the opportunity to submit written testimony in opposition to this bill.

Andrew (Drew) Bloom
President of the Bail Association of Connecticut
EVP 3-D Bail Bonds, Inc*
DADs Bail Bonds, Llc*
President of Fugitive Recovery Agency, Inc
57 Fishfry Street, Hartford, CT 06120
860-247-BAIL(2245)

April 1st, 2013

Good Afternoon distinguished Senators and Representatives,

My name is Andrew Bloom. I am a licensed surety bail bondsman, bail enforcement agent, and one of the owners of 3-D Bail Bonds, Inc. which employs about 27 people. I am also one of the owners of DADs Bail Bonds, LLC representing nearly 10,000 bail bonds written a year, a longtime member of The Professional Bail Agents of The United States, and a founding member and current President of the Bail Association of Connecticut. In my career as a Bail Enforcement Agent and as president of the Fugitive Recovery Agency, Inc., I have 1256 defendants arrested.

Bail Bonds is the only form of pretrial release to self monitor and self enforce non-compliance. No other form of pretrial release is held accountable when the principal fails.

As many of you may know, I have been here to testify for many years in support of bail reform. I would now like the opportunity to demonstrate my **support of Raised Senate Bill 6689**.

The bill if front of you today addresses many issues being faced in the bail industry today.

Section 2 part (b) addresses an issue occurring with the courts where the court is aware that the person being bailed out is not the identity being presented to the surety or bail agent.

Section 3 part (a)(1)(C) allows courts to extend a time to catch a fugitive.

Section 3 part (a)(4) stops judges from reinstating bonds on defendants returned to the court more than 5 days after missing court without the permission of the surety or bail agent.

Section 5 stops the court from holding a surety or bail agent responsible for a defendant who is being held by or removed from the country by federal agents.

Taxpaying indemnitors are the victims here as they are the ones being sued, not bail bondsmen.

Section 1 part (b) has a removal of the teeth and enforcement of payment plans. This is bad. This will put the outlaws back in business writing bail with phony payment plans essentially going back to the Wild West atmosphere of charging what they want to steal business from each other. This part would be better served by adding a provision that would allow for an extension of the 15 months if the indemnitor or defendant is making regular payments to be approved on a case by case basis by the DOI.

We have always worked together to get good legislation passed, let's do it again.



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Judiciary Committee

April 1, 2013

Raised House Bill No. 6689 – An Act Concerning Bail Bonds

Senator Coleman, Representative Fox, and members of the Judiciary Committee, the Insurance Department appreciates the opportunity to provide written testimony regarding Raised Bill 6689, An Act Concerning Bail Bonds. The Department strongly opposes section 1 of this bill and would respectfully urge this Committee to consider rejecting the bill in its entirety or amending it to delete section 1.

Section 1 of Raised Bill 6689 would remove the most important current provisions regarding payment plans extended by surety bail bond agents to defendants. This would seriously undermine the Department's ability to ensure that proper premiums are collected when a defendant is bonded out, thus increasing the potential for abuse within the bail bond industry.

By eliminating the requirement to pursue collection of payments within a mandated timeframe surety bail bond agents could use that mechanism to subtly engage in an unfair method of competition called "undercutting". Undercutting is the term used when surety bail bond agents attempt to take away business from their competitors by charging premiums lower than the rates required by law. Unscrupulous surety bail bond agents seeking to circumvent statutory prohibition against rebates, which currently prevent agents from giving to their clients valuable consideration as an inducement to insurance, will collect an initial fee for a bond with the understanding that part or all of the balance due will not be collected. In years past, this practice created significant problems for the courts and for honest, law abiding surety bail bond agents.

Legislation was enacted in 2011 to address this issue, among others, in response to decay in the bail bond process which bordered on lawlessness, caused in major part by the practice of "undercutting". In particular, the provisions that section 1 of Raised Bill 6689 seeks to delete were formulated in response to a few high profile murders which occurred after defendants

were released from custody after posting bonds where the surety bail bond agent charged little or no money to place the bond, thus enabling the defendant to be released without appropriate security. Further, the provisions sought to be deleted were previously negotiated with the legislature and all interested parties after several lengthy meetings.

Also, in the past the practice of undercutting caused numerous fights in courthouses, as competing surety bail bond agents would approach defendants trying to "outbid" each other with lower rates. This practice was unfair for surety bail bond agents, as it forced them to compete on an unlevelled playing field and for defendants, who would end up paying premium that were not reflective of the true value of a bond. In addition, defendants and their family members frequently had to deal with aggressive tactics by surety bail bond agents engendered by the practice.

Passage of Raised Bill 6689, as currently drafted, will result in a return to the previous problems with the bail bond process, and would cause harm not only to honest surety bail bond agents, but also to the public exposing it to possible danger.

In short, Raised Bill 6689 would undermine the ability of the Department to properly enforce the laws relating to surety bail bond agents, would create an unfair advantage for unscrupulous surety bail bond agents and would create hardship for defendants and their families.

The Department would strongly urge the committee to oppose this legislation as written. Thank you for the opportunity to submit testimony.



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN OPPOSITION TO:

H.B. NO. 6689: AN ACT CONCERNING BAIL BONDS

JOINT COMMITTEE ON JUDICIARY
April 1, 2013

The Division of Criminal Justice respectfully recommends the Committee take **NO ACTION** on **H.B. No. 6689, An Act Concerning Bail Bonds**. This legislation would seriously undermine the integrity and purpose of the bail bond system, which is to assure the appearance in court of those facing criminal charges. The bill essentially would allow the professional bondsman or surety bail bond agent and insurer to reap the profits from writing bail bonds with effectively no requirement to produce a defendant who absconds and does not appear in court.

Our specific concerns and objections include:

- The bill provides for the automatic vacating of Failure to Appear (FTA) warrants, interfering with the right and responsibility of the State's Attorney to request a rearrest when appropriate.
- The bill releases bail bonds at the time of sentencing without regard to the issuance of a stay of execution. The practical effect of this would be to eliminate stays of execution.
- The new subsection being added to Section 54-65e would serve to release the bond for various reasons all of which can be construed too broadly. The Division also would question whether this provision is legal to the extent that it seems to require law enforcement to share NCIC information in our possession with individuals potentially bonding defendants out or risk releasing the bond. In other words, we either illegally provide the surety with NCIC information or the surety won't be bound by his bond.
- The bill allows courts to issue indefinite stays, in addition to the current six month stay. This would leave the state unable to ever actually collect on forfeited bonds and, more importantly, frustrates the intent of the six-month provision, which is to give the bondsman or surety agent incentive to quickly apprehend and return the fugitive.

In conclusion, the Division of Criminal Justice strongly opposes H.B. No. 6689 and would respectfully recommend **NO ACTION**. The Division appreciates this opportunity to provide input on this issue and would be happy to provide any additional information or to answer any questions the Committee might have. Thank you.