

**SENATE . . . . . No. 827**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Cynthia S. Creem*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to review of bail for inability to pay.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/26/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>

**SENATE . . . . . No. 827**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 827) of Cynthia S. Creem, Jason M. Lewis, Denise Provost and Sal N. DiDomenico for legislation to review of bail for inability to pay. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act relative to review of bail for inability to pay.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 276 of the General Laws is hereby amended by inserting after  
2 section 58B the following section:-

3 Section 58C

4 (a) A person who remains in custody 48 hours after being granted bail under sections 57  
5 and 58 of chapter 276 because of inability to meet the conditions of release shall, upon  
6 application, be entitled to have the conditions reviewed by the bail official who imposed them. If  
7 the bail official who imposed the conditions of release is not available, any bail official  
8 authorized by section 57 of chapter 276 may review the conditions. Upon review of the  
9 conditions, the bail official shall revise any conditions of release that have prevented the  
10 defendant from being released unless the bail official finds on the record that there is clear and  
11 convincing evidence that less restrictive release conditions cannot reasonably assure the

12 appearance of the person before the court or will endanger the safety of any other person or the  
13 community.

14 (b) If a person remains in custody after review of conditions by a bail official under (a) of  
15 this section, the person may request a subsequent review of conditions if:

16 (1) The prosecuting authority consents to a subsequent review; or

17 (2) The person has been incarcerated for a period equal to the maximum sentence for the  
18 most serious charge for which the person is being held; or

19 (3) the person provides to the court and the prosecuting authority a written statement that  
20 new information not considered at the previous review will be presented at the hearing. The  
21 statement must include a description of the information and the reason the information was not  
22 presented at a previous hearing. In this subsection, “new information” includes the person’s  
23 inability to post the required bail. However, a person may receive only one bail review hearing  
24 solely for inability to pay.

25 (c) For all subsequent reviews under (b) of this section:

26 (1) at least seven days must have elapsed between the previous review and the time set  
27 for the requested review; and

28 (2) the prosecuting authority and any surety, if applicable, must have at least 48 hours  
29 written notice before the time set for the subsequent review. The defendant shall be responsible  
30 for notifying any surety.