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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- BAIL AND RECOGNIZANCE

Introduced By: Senators Mack, Acosta, Kallman, Bell, Valverde, McKenney, and Euer

Date Introduced: March 30, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-13-1 and 12-13-1.3 of the General Laws in Chapter 12-13 entitled
2 "Bail and Recognizance" are hereby amended to read as follows:

3 **12-13-1. Right to release pending trial on giving of recognizance.**

4 (a) Felony cases. Every person who is held on any criminal process to answer to any
5 indictment, information, or complaint against him or her shall be released upon giving recognizance
6 with sufficient surety or sureties before a justice of the supreme or superior court or before a justice
7 of the district court, when the complaint is pending in that court or the person is held to answer to
8 that court, in the sum named in the process, if any has been named in it, and if none is named, then
9 in any sum that the justice shall deem reasonable, to appear before the court where the indictment,
10 information, or complaint is pending against him or her, or to which he or she may be bound over
11 to appear, to answer to the indictment, information, or complaint, and to answer to it whenever
12 called upon so to do, and abide the final order of the court, and in the meantime keep the peace and
13 be of good behavior. Any justice may take the recognizance in any place within the state, and the
14 recognizance shall be returned to the court to which the accused has recognized to appear.

15 (b) Misdemeanor cases:

16 (1) Every person who is subject to any misdemeanor criminal process shall be released
17 without bail, but on their own recognizance and an order to abide by any conditions set by the court.

18 (2) Release on non-monetary conditions shall be applied to ensure the presence of the
19 accused in court as required and to protect the safety of the community.

1 **12-13-1.3. Pretrial release.**

2 (a) Unless otherwise provided, a detainee shall be eligible for pretrial release or reduced
3 bail if he or she fails to post bail.

4 (b) “Pretrial release” means release of a defendant without bail but upon an order to abide
5 by the conditions as set by the court. Release on non-monetary conditions shall be applied to secure
6 the presence of the accused and protect the safety of the community.

7 (c) The department of corrections shall collect information concerning the background and
8 circumstances of the pretrial detainee. The department’s investigation shall include the following
9 information and any other factors as shall be appropriate to the case:

10 (1) Marital status.

11 (2) Name and address of dependents.

12 (3) Past and present employment, including place of employment, position held and length
13 of employment.

14 (4) Whether the defendant is under the care of a licensed physician or uses medication
15 prescribed by a licensed physician.

16 (5) Any physical or mental condition affecting the defendant’s behavior.

17 (6) Education.

18 (7) Prior criminal record, including facts indicating that the defendant is likely to be a
19 danger to the community if released without restrictions.

20 (8) Prior court appearances and record of appearance or non-appearance.

21 (9) Ties to this community and to other communities.

22 (10) Financial resources.

23 (d) If, as a result of this investigation, the department of corrections concludes that the
24 pretrial detainee is an appropriate candidate to be considered by the court for pretrial release or
25 reduced bail, the department shall present its findings to the court.

26 (e) Upon a determination by the court that a defendant is suitable for release on
27 recognizance subject to conditions set by the court, the court in its discretion may also impose the
28 least onerous of the following conditions necessary to assure the defendant’s appearance in court:

29 (1) Imposition of condition of release involving field supervision with or without special
30 conditions. Field supervision shall require notification to defendants released prior to trial of their
31 court dates.

32 (2) Imposition of condition of release involving placement of defendant on intensive
33 supervision, with or without special conditions. Intensive supervision shall require contact with the
34 officials designated by the courts and prompt notification to the court of all apparent violations of

1 pre-trial release conditions or arrest of persons released to its custody.

2 (3) Imposition of a condition of release involving placement of the defendant on
3 community confinement pursuant to § 42-56-20.2.

4 (f) This section shall not be construed to preclude review by the court of a defendant's bail
5 status at any time.

6 (g) Effective January 1, 2024, notwithstanding the provisions of this section or any general
7 or special law to the contrary:

8 (1) When fixing the amount of bail under this chapter, the court shall not set a financial
9 condition of release based on a pre-established bail schedule, such as a schedule of bond amounts
10 fixed according to the nature of the charge.

11 (2) If the court determines that a defendant will be released other than on personal
12 recognizance or an unsecured bond without special conditions, the court shall impose on the
13 defendant the least onerous condition or combination of conditions of release that will reasonably
14 ensure the appearance of the defendant and the safety of each alleged victim, other persons, and the
15 community.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO CRIMINAL PROCEDURE -- BAIL AND RECOGNIZANCE

1 This act would amend the conditions of bail and recognizance to permit the release of a
2 person charged with a misdemeanor without financial conditions and prohibit the use of a fixed
3 bail schedule.

4 This act would take effect upon passage.

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