

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**James E. Timilty**

*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 passage of the accompanying bill:

An Act relative to improving the bail review and rendition processes.

PETITION OF:

NAME: James E. Timilty	DISTRICT/ADDRESS: Bristol and Norfolk
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# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT RELATIVE TO IMPROVING THE BAIL REVIEW AND RENDITION PROCESSES.

*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 10 of the General Laws, as appearing in the 2006 Official Edition, is  
2 hereby amended by inserting at the end thereof the following section:-

3

4 Section 75. (a) As used in this section the following words shall, unless the context clearly  
5 requires otherwise, have the following meanings:

6

7 “Board”, the commonwealth rendition board established pursuant to subsection (c).

8

9 “Fund” the commonwealth rendition fund established pursuant to subsection (b).

10

11 “Prosecuting officer”, the attorney general or a district attorney.

12

13 (b) There shall be established and set upon the books of the commonwealth a fund to be known  
14 as the Commonwealth Rendition Fund. The fund shall be credited any appropriations, bond

15 proceeds or other monies authorized by the general court and specifically designated to be  
16 credited thereto, such additional funds as are subject to the direction and control of the board  
17 established pursuant to subsection (c) including all money, bonds or bank books ordered  
18 forfeited under section 80 of chapter 276. Notwithstanding section 81 of chapter 276, any  
19 revenues, deposits, receipts, or funds received through the receipt of royalties, interest or  
20 dividends shall be deposited in the fund, and shall be available to the board for the purposes  
21 described in this section, without further appropriation. All available moneys in the fund that are  
22 unexpended at the end of each fiscal year shall not revert to the General Fund and shall be  
23 available for expenditure in the subsequent fiscal year.

24

25 The fund shall be held and applied by the board for the purposes of rendition of criminal  
26 defendants who have defaulted on the commonwealth court cases in such manner as directed by  
27 the board. No expenditure made from the fund shall cause the fund to become deficient at any  
28 point during a fiscal year.

29

30 (c) There shall be established within the executive office of public safety and security a  
31 commonwealth rendition board consisting of the secretary of the executive office of public safety  
32 and security or his designee, the attorney general or his designee, a chief of police appointed by  
33 the Massachusetts chiefs of police association, and two district attorneys appointed by the  
34 Massachusetts District Attorneys Association. Each member shall serve for a term of 2 years.  
35 Members shall be eligible for reappointment and serve without compensation. The board shall  
36 meet at least bi-annually, but shall meet as often as the members shall determine. The board  
37 shall be responsible for the administration and oversight of the commonwealth rendition fund

38 established pursuant to this section including, but not limited to, the administration and approval  
39 of reimbursement to prosecuting officers for the costs associated with the rendition of criminal  
40 defendants who have defaulted on court appearances and against whom default warrants have  
41 been issued.

42  
43 The board shall establish guidelines for use of the fund including, but not limited to, a list of  
44 priority cases, based upon the seriousness of the offense alleged, for automatic approval of  
45 rendition reimbursement from the fund. Said guidelines shall include an application process to  
46 access the fund, reimbursement procedures, and a process for approving requests for non-priority  
47 case renditions.

48  
49 Nothing in this section shall prohibit a prosecuting officer from incurring rendition costs,  
50 reimbursable or otherwise, for the return of a defaulted criminal defendant.

51  
52 SECTION 2. Section 86 of Chapter 221 of the General Laws as so appearing is hereby amended  
53 by adding at the end thereof the following : —

54  
55 Payment of transcription costs shall be made as provided in section 88 of chapter 221.

56  
57 SECTION 3. Section 88 of Chapter 221, as so appearing , is hereby amended in line 11 by  
58 striking the words “commonwealth upon voucher approved by him,” and inserting thereof the  
59 following: — administrative office of the trial court upon a voucher approved by the judge,

60

61 Said section 88 is further amended by adding at the end thereof the following : —

62

63 If a judge orders that a statement given to the police be transcribed, all parties shall receive a  
64 copy, and payment therefore shall be at the same rate and made by the administrative office of  
65 the trial court upon a voucher approved by the judge.

66

67 SECTION 4. Section 24 of Chapter 262 of the General Laws, as so appearing, is hereby  
68 amended in lines, 10 through 20, by striking subsection (c) and inserting thereof the following:--

69

70 (c) A Bail Compensation Fund is hereby created under this chapter. All sums received under  
71 section 24 (a) of this chapter shall be paid into Bail Compensation Fund, under the direction of  
72 the treasury of the Commonwealth, and shall be credited as follows:-

73

74 (1) Any and all fees paid by the person seeking bail or release on personal  
75 recognizance in the case of a person arrested for any misdemeanor or felony shall be paid  
76 directly into the Bail Compensation Fund. All such revenue collected by the person authorized  
77 to take bail shall be deposited in and credited to the Bail Compensation Fund during the fiscal  
78 year in which it is received. In the event that a question arises as to the correct year to credit the  
79 receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and  
80 the determination of the comptroller shall be conclusive.

81 (2) Any person authorized to take bail or to release on personal recognizance in the  
82 case of a person arrested for any misdemeanor or felony, and who goes to the place of detention  
83 where the prisoner is held, shall be receive a daily stipend. The stipend shall be of a fixed

84 amount and shall not be dependent upon the authorization of bail or the release on personal  
85 recognizance of the prisoner.

86 (3) The balance remaining after crediting the amounts required under section (2) shall  
87 be credited to the General Fund.

88

89 Said Section 24 is hereby further amended by adding at the end thereof the following new  
90 section:--

91

92 (d) Stipend splitting arrangements are prohibited. No person authorized to take bail shall  
93 administer by telephone, or otherwise than in the physical presence of the affiant, any oath or  
94 affirmation required in the course of taking bail or releasing on personal recognizance. No  
95 person authorized to take bail shall delegate the setting or taking of bail or the setting of taking of  
96 release on personal recognizance to any other person.

97

98 SECTION 5. Section 58 of Chapter 276, as so appearing, is hereby amended in line 105 by  
99 adding a paragraph break after the words “reasonably possible.”

100

101 Said section 58 is further amended in line 114 by striking the words “by telephone” and inserting  
102 thereof the following words:--

103

104 by writing delivered in hand or by facsimile that same day

105

106 Said section 58 is further amended in lines 133 to 139 by striking the words “on the same day the  
107 petition shall have been filed, unless the district court or detaining authority shall determine that  
108 such appearance and hearing on the petition cannot practically take place before the adjournment  
109 of the sitting of said superior court for that day and in which event, the petitioner shall be caused  
110 to be brought before said court for such hearing during the morning of the next business day of  
111 the sitting of said superior court.” and inserting thereof the following words:--

112

113 on the third business day of the sitting of said superior court after the petition shall have been  
114 filed, unless said superior or district court orders otherwise for good cause shown.

115

116 Said section 58 is further amended by striking the paragraph at lines 150 to 161 and inserting  
117 thereof the following:--

118

119 The justice of the superior court shall review the order of the district court and the reasons given  
120 by the district court. Unless the justice of the superior court determines that the district court  
121 committed a clear error of law or fact, or set a clearly excessive bail, the justice shall remand the  
122 prisoner in accordance with the terms of the process by which he was ordered committed by the  
123 district court. If the justice of the superior court determines that the district court committed a  
124 clear error of law or fact, or set a clearly excessive bail, the justice shall consider the standards  
125 set forth in the first paragraph of this section and may order that the petitioner be released on bail  
126 on his personal recognizance without surety, or, in his discretion, make any other order of bail or  
127 recognizance.

128

129 SECTION 6. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby amended in  
130 line 96 by deleting the words “held under arrest” and inserting thereof the words:-- charged with

131

132 SECTION 7. Section 63 of Chapter 276, as so appearing, is hereby amended by striking in line 2  
133 the words “any fee or” and in line 5 the words “statutory fees therefor” and inserting in each  
134 place the following:--

135

136 stipend therefore, as set forth in section (c)(2) of chapter 262.

137



138 SECTION 8. Section 80 of chapter 276, as so appearing, is hereby amended by striking, in lines  
139 4, 8, and 10, inclusive, the words “state treasurer” and inserting in place thereof the following  
140 words:--

141

142 the Commonwealth Rendition Fund established pursuant to section 75 of chapter 10

143