

HB 1476-FN - AS INTRODUCED

2022 SESSION

22-2058

04/11

HOUSE BILL            ***1476-FN***

AN ACT                relative to persons arrested while out on bail.

SPONSORS:            Rep. Berry, Hills. 44; Rep. Shaw, Hills. 16; Rep. Alexander Jr., Hills. 6; Rep. Ankarberg, Straf. 10; Rep. Hamer, Hills. 17; Rep. Burt, Hills. 39; Rep. Long, Hills. 10; Rep. McLean, Hills. 44

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill provides that a person who commits an offense while on bail shall be detained without bail pending a hearing before a judge.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to persons arrested while out on bail.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, VIII to  
2 read as follows:

3 VIII. A person charged with an offense who is, or was at the time the offense was committed,  
4 on release pending trial for a felony or misdemeanor under federal or state law, release pending  
5 imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for  
6 any offense under federal or state law; or probation or parole for any offense under federal or state  
7 law, except as provided in RSA 597:1-d, III, ~~may~~ **shall** be detained for a period of not more than 72  
8 hours from the time of his or her arrest, excluding Saturdays, Sundays and holidays~~—The law~~  
9 ~~enforcement agency making the arrest shall notify the appropriate court, probation or parole official,~~  
10 ~~or federal, state, or local law enforcement official. Upon such notice, the court shall direct the clerk~~  
11 ~~to notify by telephone the department of corrections, division of field services, of the pending bail~~  
12 ~~hearing. If the department fails or declines to take the person into custody during that period, the~~  
13 ~~person shall be treated in accordance with the provisions of law governing release pending trial.~~  
14 ~~Probationers and parolees who are arrested and fail to advise their supervisory probation officer or~~  
15 ~~parole officer in accordance with the conditions of probations and parole may be subject to arrest and~~  
16 ~~detention as probation and parole violators.] **and, notwithstanding paragraph III, shall be held**~~  
17 ~~**in preventive detention without bail pending a hearing before a judge. The court shall not**~~  
18 ~~**order personal recognizance bail in such cases.**~~

19 2 Effective Date. This act shall take effect 60 days after its passage.

**HB 1476-FN- FISCAL NOTE  
 AS INTRODUCED**

AN ACT relative to persons arrested while out on bail.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill provides that a person who commits an offense while on bail shall be detained without bail pending a hearing before a judge.

The Judicial Branch indicates this bill would strike the discretionary 72 hour detention; notice to body responsible for the released person to provide an opportunity to take the person into custody, and replace it with a provision that requires the person be held in preventive detention without bail pending a hearing for not more than 72 hours. It would further prohibit personal recognizance bail. The Branch does not track the number of persons who are on release and who are subsequently arrested for committing a new crime and cannot therefore estimate the number of new bail hearings that would occur. In addition, the Branch does not track how many persons are taken into custody by probation or parole officials or police officials under the current system who would not be notified of the arrest and pending bail hearing under the proposal in this bill. It is also unknown what impact the prohibition on personal recognizance bail would have on the number of appeals that may be taken from bail decisions, but the Judicial Branch assumes there would be an increase in bail appeal hearings filed in Superior Court.

With the inclusion of all misdemeanor charges and the likely increase in appeals of bail decisions to the Superior Court, the Judicial Branch assumes this bill will likely result in a substantial increase in bail hearings in both the Superior (for felonies and bail decision appeals) and Circuit

Courts (for misdemeanor bail hearings). This will likely result in the need for additional judicial and clerical resources in both court systems to manage the increase in hearings and coordination of hearing times with the county jails.

The Department of Corrections is not able to determine the fiscal impact of this bill because it is not able to predict the number of individuals who would be subject to this bill. The bill has the potential to increase the number of individuals returned to a Department of Corrections facility on parole violations, as the probation/parole officer will no longer be able to make the determination of whether or not a person is returned to the facility. Based on data from the last 13 months, there was an average of 42 parole violators and 6 probation violators per month. The Department states the average annual cost of incarcerating an individual in the general population for the fiscal year ending June 30, 2021 was \$54,386. The average cost to supervise an individual by the Department's Division of Field Services for the fiscal year ending June 30, 2021 was \$603.

The New Hampshire Association of Counties states this bill would increase costs for the county houses of corrections as they would hold people longer. The Association is unable to predict how many crimes will be committed while a person is out on bail, and therefore is unable to determine the cost to county government.

The New Hampshire Municipal Association states municipalities may save officer time and pay as they would no longer need to call bail commissioners and wait for their response, but they also may need to transfer additional arrestees to the county house of correction. The Association indicates it is unlikely that municipalities would incur significant costs as a result of this change in process.

It is assumed that any fiscal impact would occur after FY 2022.

**AGENCIES CONTACTED:**

Judicial Branch, Department of Corrections, New Hampshire Association of Counties and New Hampshire Municipal Association

Amendment to HB 1476-FN

1 Amend the bill by replacing section 1 with the following:

2

3 1 Bail and Recognizances; Release of a Defendant Pending Trial. Amend RSA 597:2, VIII to  
4 read as follows:

5 VIII.(a) A person charged with an offense who is, or was at the time the offense was  
6 committed, on release pending trial for a felony or misdemeanor under federal or state law, release  
7 pending imposition or execution of sentence, appeal of sentence or conviction, or completion of  
8 sentence, for any offense under federal or state law; or probation or parole for any offense under  
9 federal or state law, except as provided in RSA 597:1-d, III[~~may~~]; **or a person charged with a**  
10 **class B misdemeanor, third or subsequent offense, shall** be detained for a period of not more  
11 than [72] **36** hours from the time of his or her arrest, excluding Saturdays, Sundays and holidays[-  
12 ~~The law enforcement agency making the arrest shall notify the appropriate court, probation or~~  
13 ~~parole official, or federal, state, or local law enforcement official. Upon such notice, the court shall~~  
14 ~~direct the clerk to notify by telephone the department of corrections, division of field services, of the~~  
15 ~~pending bail hearing. If the department fails or declines to take the person into custody during that~~  
16 ~~period, the person shall be treated in accordance with the provisions of law governing release~~  
17 ~~pending trial. Probationers and parolees who are arrested and fail to advise their supervisory~~  
18 ~~probation officer or parole officer in accordance with the conditions of probations and parole may be~~  
19 ~~subject to arrest and detention as probation and parole violators.] **and, notwithstanding**  
20 **paragraph III, shall be held in preventive detention without bail pending a hearing before**  
21 **a judge. The court shall not order personal recognizance bail in such cases.**~~

**REGULAR CALENDAR**

**March 2, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Criminal Justice and Public Safety to which was referred HB 1476-FN,**

**AN ACT relative to persons arrested while out on bail.**

**Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. Casey Conley**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee:	<b>Criminal Justice and Public Safety</b>
Bill Number:	<b>HB 1476-FN</b>
Title:	<b>relative to persons arrested while out on bail.</b>
Date:	<b>March 2, 2022</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT 2022-0895h</b>

**STATEMENT OF INTENT**

This bill is a bipartisan bill that maintains the core tenets of the 2018 bail reform law while addressing critical gaps that have emerged since that measure took effect. Specifically, it aims to address cases where the same person is arrested repeatedly while on bail. As amended, the bill would require someone who is arrested for a Class A misdemeanor or felony, while already out on bail for a separate offense, to be held in jail until they could go before a judge to set bail. Similarly, it would require a judge to set bail in cases where someone is charged with two Class B misdemeanors while free on bail. That judicial hearing would be required to occur within 36 hours, except when the arrest happens on weekends or holidays. A primary purpose of bail reform was to ensure nobody is jailed pending trial solely because they cannot afford bail. That provision remains in effect. But, as amended, the bill creates a mechanism to address the small fraction of cases where people reoffend multiple times while waiting for their initial criminal case to be adjudicated. People subject to this new standard are often in need of mental health or addiction services, and coming before a judge could begin that process much sooner than under the current system.

Vote 13-7.

Rep. Casey Conley  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Criminal Justice and Public Safety

**HB 1476-FN**, relative to persons arrested while out on bail. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Casey Conley for the **Majority** of Criminal Justice and Public Safety. This bill is a bipartisan bill that maintains the core tenets of the 2018 bail reform law while addressing critical gaps that have emerged since that measure took effect. Specifically, it aims to address cases where the same person is arrested repeatedly while on bail. As amended, the bill would require someone who is arrested for a Class A misdemeanor or felony, while already out on bail for a separate offense, to be held in jail until they could go before a judge to set bail. Similarly, it would require a judge to set bail in cases where someone is charged with two Class B misdemeanors while free on bail. That judicial hearing would be required to occur within 36 hours, except when the arrest happens on weekends or holidays. A primary purpose of bail reform was to ensure nobody is jailed pending trial solely because they cannot afford bail. That provision remains in effect. But, as amended, the bill creates a mechanism to address the small fraction of cases where people reoffend multiple times while waiting for their initial criminal case to be adjudicated. People subject to this new standard are often in need of mental health or addiction services, and coming before a judge could begin that process much sooner than under the current system. **Vote 13-7.**

Original: House Clerk

Cc: Committee Bill File



**REGULAR CALENDAR**

**March 2, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Criminal Justice and Public Safety to which was referred HB 1476-FN,**

**AN ACT relative to persons arrested while out on bail.**

**Having considered the same, and being unable to agree with the Majority, report with the following resolution:**

**RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Ray Newman**

**FOR THE MINORITY OF THE COMMITTEE**

## **MINORITY COMMITTEE REPORT**

Committee:	<b>Criminal Justice and Public Safety</b>
Bill Number:	<b>HB 1476-FN</b>
Title:	<b>relative to persons arrested while out on bail.</b>
Date:	<b>March 2, 2022</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### **STATEMENT OF INTENT**

This bill has a good intent which is to prevent people, that are released on bail, and are charged with a class B misdemeanor or with a third or subsequent offense, be held in preventive detention without bail pending a hearing before a judge. Also, the court shall not order personal recognizance bail in such cases. The bill accomplishes this by omitting the permissive word "may" and inserts the mandatory word "shall." The result of this change is to mandate that the decision on bail and release must be made by a judge. It also reduces the detention period from 72 to 36 hours. This sounds like a good solution and it is, during regular court hours when a judge is usually available and the charged person's due process rights can usually be preserved. However, on weekends, judges are not available. So, the change means that during those hours a charged person potentially can be detained for much longer than 36 hours. Charged people may also be detained for charges that may all be minor with no possibility of jail time. A charged person is innocent until proven guilty. However, they are deprived of their access to due process, during non-court hours, because they will no longer have access to bail commissioners. A large percentage of people that find themselves in this predicament have mental illnesses, homelessness, or substance abuse problems and jail time is not the proper solution. And, now everyone meeting these conditions, who is charged during non-court hours, will be subjected to the same diminished due process.

Rep. Ray Newman  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Criminal Justice and Public Safety

**HB 1476-FN**, relative to persons arrested while out on bail. **INEXPEDIENT TO LEGISLATE.**

Rep. Ray Newman for the **Minority** of Criminal Justice and Public Safety. This bill has a good intent which is to prevent people, that are released on bail, and are charged with a class B misdemeanor or with a third or subsequent offense, be held in preventive detention without bail pending a hearing before a judge. Also, the court shall not order personal recognizance bail in such cases. The bill accomplishes this by omitting the permissive word "may" and inserts the mandatory word "shall." The result of this change is to mandate that the decision on bail and release must be made by a judge. It also reduces the detention period from 72 to 36 hours. This sounds like a good solution and it is, during regular court hours when a judge is usually available and the charged person's due process rights can usually be preserved. However, on weekends, judges are not available. So, the change means that during those hours a charged person potentially can be detained for much longer than 36 hours. Charged people may also be detained for charges that may all be minor with no possibility of jail time. A charged person is innocent until proven guilty. However, they are deprived of their access to due process, during non-court hours, because they will no longer have access to bail commissioners. A large percentage of people that find themselves in this predicament have mental illnesses, homelessness, or substance abuse problems and jail time is not the proper solution. And, now everyone meeting these conditions, who is charged during non-court hours, will be subjected to the same diminished due process.

Original: House Clerk

Cc: Committee Bill File



# House Remote Testify

## Criminal Justice and Public Safety Committee Testify List for Bill HB1476 on 2022-02-09

Support: 0 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Musick, Danielle	Manchester, NH loveforashley@yahoo.com	A Member of the Public	Myself	Support	No	No	2/3/2022 7:34 PM
Sirois, Robert	Manchester, NH rob0570@yahoo.com	A Member of the Public	Myself	Support	No	No	2/3/2022 7:35 PM
smith, jennifer	Pembroke, NH jaycmd7699@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/5/2022 5:42 PM
Hegfield, Laura	Amherst, NH laurahegfield@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/5/2022 6:34 PM
Fraser, Deborah	Salem, NH mawyki@msn.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 7:34 AM
Lynch, Chrisinda	Concord, NH cmmelynch@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 8:28 AM
Phillips, Margery	Hanover, NH margeryphillips@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 8:39 AM
QUISUMBING-KING, Cora	Dover, NH coraq@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 10:17 AM
Larson, Ruth	Alton, NH ruthlarson@msn.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 11:51 AM
Pugh, Barbara	Amherst, NH barbara.pugh@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 2:44 PM
RHOADES, CHARLES	Dover, NH chuckrhoades@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 4:29 PM
Willing, Maura	Concord, NH Maura.Willing@Comcast.net	A Member of the Public	Myself	Oppose	No	No	2/6/2022 7:28 PM
Hatcher, Phil	Dover, NH phil.hatcher@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 9:24 PM

Reed, Barbara	North Swanzey, NH BDRreed74@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/6/2022 10:54 PM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:19 AM
Mooney, Bridget	Wilton, NH Bridget@moonchick.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 9:06 AM
Gordon, Laurie	Weare, NH lmgord23@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 10:44 AM
Gordon, Margaret	Weare, NH Megordon98@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 10:53 AM
Short, Raymond	Hooksett, NH rayshort910@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 12:18 PM
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 12:38 PM
Mott-Smith, Wiltrud	Loudon, NH wmottsm@worldpath.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 2:39 PM
Marchi, Lisa	Somersworth, NH lisamarchi@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 2:49 PM
Perencevich, Ruth	Concord, NH rperence@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/7/2022 7:24 PM
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 8:47 PM
Spencer, Louise	Concord, NH lpskentstreet@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 9:32 PM
Moore, Susan	Franconia, NH susan.moore.franconia@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/7/2022 9:56 PM
Woods, Renia	Bow, NH renia.woods1@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 1:37 AM
Mchelson, Barbara	Harrisville, NH highlylikely@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 5:31 AM
Buschbacher, Dan	Manchester, NH Dbuschbacher@gmail.com	A Member of the Public	Myself	Support	No	No	2/8/2022 5:58 AM
Lister, Charlotte	Chester, NH lister@gsinet.net	A Member of the Public	Myself	Oppose	No	No	2/8/2022 7:27 AM
Introcaso, Paul	NASHUA, NH p.introcaso@comcast.net	A Member of the Public	NH Community Bail Fund	Oppose	No	No	2/8/2022 8:34 AM

Leavitt, Deborah	Dover, NH daleavitt77@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/8/2022 11:29 AM
Malcolm, Terri	Hampstead, NH f.malcolm@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/8/2022 1:01 PM
Moran, Karen	Webster, NH karenmoran@tds.net	A Member of the Public	Myself	Oppose	No	No	2/8/2022 2:24 PM
Rhodes, Linda	Durham, NH ladycowvet@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 5:25 PM
Bryfonski, John	Bedford, NH jbryfonski@bedfordnh.org	A Member of the Public	Myself and Bedford Police	Support	No	No	2/8/2022 6:09 PM
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/8/2022 10:53 PM
Patterson, Timothy	Manchester, NH TPATTERSONPHOTO@COMCAST.NET	A Member of the Public	Myself	Support	No	No	2/9/2022 8:39 AM
Fisher, Gary	Pembroke, NH brensgt65@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 8:56 AM
Lord, Brian	Deering, NH blord@antrimpolice.com	A Member of the Public	Myself	Support	No	No	2/9/2022 9:14 AM
Reynolds, Charles	Dover, NH reynolds.charles@comcast.net	A Member of the Public	Myself	Oppose	No	No	2/9/2022 9:40 AM
Goldstein, David	Auburn, NH dgoldstein@franklinnh.org	A Member of the Public	Myself	Support	No	No	2/9/2022 11:36 AM
Chester, Russan	Bedford, NH russan.chester@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 11:26 PM
Loveless, eric	bedford, NH lovelessej@gmail.com	A Member of the Public	Myself	Support	No	No	2/9/2022 11:26 PM

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1476-FN

**BILL TITLE:** relative to persons arrested while out on bail.

**DATE:** February 9, 2022

**LOB ROOM:** 204

**Time Public Hearing Called to Order:** 1110

**Time Adjourned:** 1317

**Committee Members:** Reps. Abbas, Roy, Wallace, Welch, Burt, Hopper, Green, Testerman, True, Pratt, Marston, Harriott-Gathright, Pantelakos, O'Hearne, Bordenet, Meuse, R. Newman, Amanda Bouldin, Conley, Bradley and Espitia

**Bill Sponsors:**

Rep. Berry

Rep. Alexander Jr.

Rep. Ankarberg

Rep. Hamer

Rep. Burt

Rep. Long

Rep. McLean

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Ross Berry**

- Introduces Bill and supports it

**Buzz Schere**

- Opposes

**Victoria Sullivan**

- Supports

**Ross Connolly - AFP - NH**

- Opposes as written

**Richard Head - NH Judicial Branch**

- Info Only - No position

**Steven Endves - Merrimack Co. Attorney's Office**

- Supports

**Paul Halvorsen - Merrimack Co. Attorney**

- Supports

**Chief Allen Aldenberg - Manchester PD**

- Supports

**\*Frank Knaack - ACLU of NH**

- Opposes

**Russan Chester**

- Supports

Respectfully submitted,

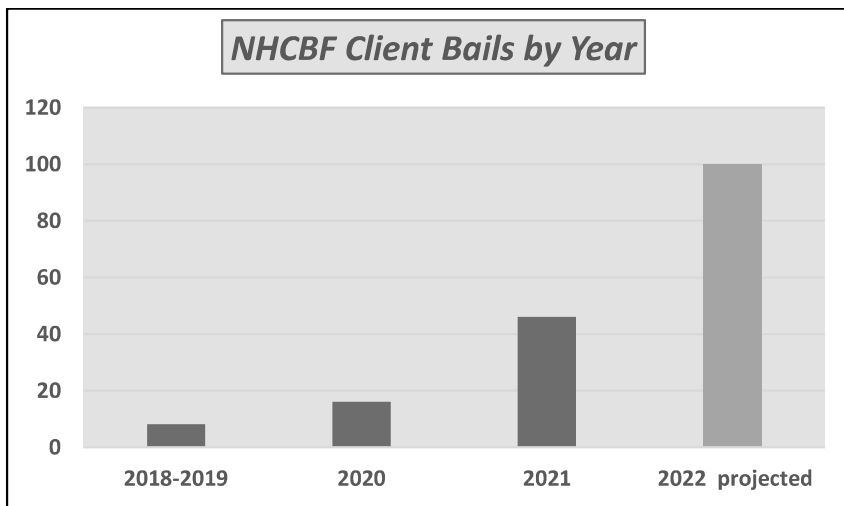
Rep. Scott Wallace, Clerk



## Invest in Healing Communities Not in Punishment

I oppose HB1476 because it will amplify a broken system that deprives people of human dignity and puts these accused people and their families in more jeopardy while they sit weeks possibly months in jail awaiting trial. Essentially, many of these people are in jail for the crime of being poor.

I have been working with NH Community Bail Fund since 2018. Most of our clients are held at the Valley Street Jail pretrial for low level misdemeanors. When the initial Bail reform bill came out in 2018, we only bailed out 8 people between all of 2018-2019. In September of 2020, a "Bail Reform Improvement Bill" became active and at that point we began to see our bail out numbers escalate. In 2020 we bailed out 16 mostly after September and in 2021 we bailed out 46 people. So far, in 2022, the fund is on a run-rate to bail out over 100 people.



So, if HB1476 passes, we will force even more people into jail who haven't been convicted of the charges they face. This is very disturbing. Especially when we see the conditions in a county jail like Hillsborough a.k.a. Valley Street Jail.

I had a long conversation with Taylor after he just had been bailed out of Valley Steet. Taylor had been held for 7 weeks on a 2006 warrant. He reports the jail is severely understaffed, detainees are on 23-hr lock down in the cell, food is inedible, Covid is rampant, and clients must pay for phone calls to their attorneys. He asked me, "How does this treatment help us become better people? How is this making me better?" Taylor went on to say that people had to pay for phone calls to their public defender and they are given a tablet to do their court hearings many times without being able to have prior consult with their attorney. I have accompanied over 25 people on bailouts, and I have heard similar stories.

It's estimated that if HB1476 is implemented, that the NH Criminal Legal system will need \$1.9M more dollars just to hire more Judges and legal staff. This number does not include the dollars needed to support the actual increase in incarceration. Instead of funding punishment, let's spend this money on improving the health of our communities, on housing, education, and job training programs.

Thank you, Committee Members for your service,

Paul Introcaso

**Archived:** Tuesday, March 8, 2022 10:31:24 AM  
**From:** [redelson@hotmail.com](mailto:redelson@hotmail.com)  
**Sent:** Tuesday, March 1, 2022 5:44:17 PM  
**To:** ~House Criminal Justice and Public Safety  
**Subject:** Oppose HB 1476  
**Importance:** Normal

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Dear House Members,

I am writing to urge you to *oppose* HB 1476 (Undermine Bail Reform). As you know, HB 1476 mandates the pretrial incarceration of an individual charged with any offense if they were on release for any offense at the time, including a Class B misdemeanor offense that carries no jail time if convicted.

This legislation will not make our communities safer. Current law already allows a judge to detain

individuals pretrial if they are a flight risk or danger to the community.

- This one-size-fits-all legislation will deprive potentially thousands of Granite Staters of their freedom without any evidence that any of the individuals pose a threat to our communities.
- Judges are best equipped to determine who is dangerous and they should retain the power to engage in individualized determinations before depriving someone of their freedom.

This legislation is based in fear, not evidence. Despite the fear-based rhetoric and limited anecdotal

stories from some law enforcement leaders, proponents of this legislation have proved no data to support

their claims that the current bail system makes New Hampshire less safe.

Thank you for your consideration and for your service to our community.

Sincerely,  
Rachel Edelson  
Nashua NH

**Archived:** Friday, February 4, 2022 8:52:56 AM  
**From:** [Livia Gershon](#)  
**Sent:** Wednesday, February 2, 2022 12:46:02 PM  
**To:** ~House Criminal Justice and Public Safety  
**Subject:** Please oppose HB1476  
**Importance:** Normal

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Honorable Criminal Justice Committee members,

I'm writing to ask you to oppose HB1476, relative to persons arrested while out on bail, which I understand you will be considering this Friday.

I'm a Nashua resident and volunteer with the NH Community Bail Fund, which helps people held on low bails at the Valley Street Jail in Manchester. I know firsthand that many people who are arrested after being bailed out are living with homelessness, mental illness, substance use disorders, or other situations that are not helped by being locked up. Many are charged with minor offenses such as drug possession, small-scale shoplifting, or trespassing at a bus station when they have nowhere else to go.

While in jail, people often suffer greatly and can lose their jobs, homes, relationships, and support services. This bill would do nothing to alleviate the underlying problems that cause many people to be arrested and would actually make them worse.

Thank you very much for your time and your service.

Livia

--

Livia Gershon  
603-521-4332  
[liviagershon@gmail.com](mailto:liviagershon@gmail.com)  
she/her/hers

**Archived:** Friday, February 4, 2022 8:52:56 AM  
**From:** Sharon Clark  
**Sent:** Monday, January 31, 2022 2:00:45 PM  
**To:** ~House Criminal Justice and Public Safety  
**Subject:** Oppose HB1476  
**Importance:** Normal

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Dear Committee Members,

Justice means that only the person who did the wrong is punished. Arrest does not mean guilt, even for multiple offenses. Jail prior to conviction effectively punishes a presumed innocent person, and can only be justified in cases where the accused is an active threat to others.

Please oppose HB 1476.

Thank you,

Sharon Clark  
Town of Grafton  
[sharonclark411@gmail.com](mailto:sharonclark411@gmail.com)

## **Oppose HB 1476– Don’t Needlessly Incarcerate Thousands of Granite Staters and do so at a Staggering Financial Cost**

HB 1476 would mandate the pretrial incarceration of an individual charged with *any* offense if they were on release for *any* offense at the time, including a Class B misdemeanor offense that carries no jail time if convicted.

**This legislation will not make our communities safer.** Current law already allows a judge to detain individuals pretrial if they are a flight risk *or danger* to the community.<sup>i</sup> This one-size-fits-all legislation will deprive potentially thousands of Granite Staters of their freedom without any evidence that any of the individuals pose a threat to our communities.<sup>ii</sup> Judges are best equipped to determine who is dangerous and they should retain the power to engage in individualized determinations before depriving someone of their freedom.

**This legislation is based in fear, not evidence.** Despite the fear-based rhetoric and limited anecdotal stories from some law enforcement leaders, proponents of this legislation have proved no data to support their claims that the current bail system makes New Hampshire less safe. In fact, crime rates in NH have decreased over 14 percent since the implementation of bail reform.<sup>iii</sup> Legislators should not enact laws that would deprive the freedom of potentially thousands of Granite Staters each year without clear evidence that the incarceration is necessary to protect public safety. This legislation is dangerous.

**This legislation creates a new and unnecessary financial burden on New Hampshire.** During the debate around SB 294, a different version of this legislation, the New Hampshire courts estimated that it would require up to an additional \$1.9 million each year to implement this law, including hiring additional judges and support staff.<sup>iv</sup> And, that figure does not include the unknown incarceration expenses that local jails would incur to house potentially thousands of additional people each year at a cost ranging between \$105 and \$125 a day per person.<sup>v</sup> Lawmakers should focus our limited tax dollars on investments that will actually make our communities safer and more just.

**As COVID-19 again spreads throughout jails, this legislation would unnecessarily add potentially thousands of additional people to these facilities.** As the highly transmissible COVID-19 omicron variant spreads, New Hampshire jails, including Rockingham and Strafford, have recently faced new outbreaks.<sup>vi</sup> Research shows that reductions in the United States incarceration rate would have prevented millions of COVID-19 cases and tens of thousands of deaths, both inside jails and prisons and in their surrounding communities.<sup>vii</sup> That’s because incarcerated people are housed in close quarters, are often in poor health, are unable to engage in social distancing practices recommended by the CDC, and thus are at heightened risk of becoming infected with and dying from COVID-19. People who work in jail facilities are also at heightened risk of contracting COVID-19 and bringing it back into their communities. This bill would be deeply harmful in the best of times, during COVID it can be deadly.

**This legislation ignores the work of the bail commission.** For two years a diverse group of stakeholders, including prosecutors, judges, legislators, jail superintendents, and civil liberties advocates, met to rethink New Hampshire’s bail system. The Commission’s recommendations were subsequently passed in 2019 and 2020, resulting in a system that carefully balances the need to protect individual liberty while ensuring the safety of our communities. This legislation reflects none of the

recommendations from the Commission and would roll back reforms that reduced unnecessary incarceration and saved the state millions of dollars without jeopardizing public safety.

**This legislation raises serious constitutional concerns.** The U.S. Supreme Court has made clear that individuals cannot be detained pretrial without bail unless there is a basis of dangerousness, and that dangerousness must be proven by “clear and convincing evidence.”<sup>viii</sup> After an initial hearing in which the prosecution may prevail with calling actual witnesses, this bill instead presumes dangerousness based exclusively on the charge against a person. In addition, in certain cases using a presumption against the defendant, the legislation mandates the incarceration of individuals pretrial unless the individual proves a negative – that they are not dangerous. Putting the burden of disproving dangerousness on the defendant and creating a presumption of pretrial detention raises constitutional concerns.

**This legislation flips innocent until proven guilty on its head.** This legislation in effect presumes guilt by mandating the detention of individuals based merely on the fact that they were charged with an offense. To deny the liberty of someone who is presumed innocent, the evidentiary standard should be high and the burden of meeting it should be on the government. This legislation fails to meet this basic test.

**Pretrial detention has a devastating human toll.** Pretrial detention, even for a short period of time, increases the likelihood of innocent people pleading guilty to a crime, loss of employment, income, and housing, and traumatic family disruption. This legislation would subject potentially thousands of Granite Staters to these devastating collateral harms.

**This legislation would result in the pretrial incarceration of people whose underlying charge does not carry jail time if convicted.** This bill specifically allows for pretrial detention for individuals charged only with a class B misdemeanor. The definition of a class B misdemeanor is an offense that carries no jail time. This bill risks imposing a harsher penalty on someone presumed innocent than allowed under the law if that person is subsequently found guilty. This makes no sense.

## Oppose HB 1476 - Keep Bail Decisions in the Hands of the Court

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<sup>i</sup> See RSA 597:2(III)(a) (“If a person is charged with any criminal offense, an offense listed in RSA 173-B:1, I, or a violation of a protective order under RSA 458:16, III, or after arraignment, is charged with a violation of a protective order issued under RSA 173-B, the court may order preventive detention without bail ... .”)

<sup>ii</sup> Kevin Landrigan, *Bail reform change clears House committee*, Union Leader, Oct 5, 2021 available at [https://www.unionleader.com/news/politics/state/bail-reform-change-clears-house-committee/article\\_af58860b-e7cc-5b8e-ac43-c474324ed6b1.html](https://www.unionleader.com/news/politics/state/bail-reform-change-clears-house-committee/article_af58860b-e7cc-5b8e-ac43-c474324ed6b1.html).

<sup>iii</sup> Group A Crimes per 100,000 population have substantially decreased annually since bail reform in 2018, from 4,558.4 per 100,000 in 2018, to 4,305.9 per 100,000 in 2019, to 3,901.4 per 100,000 in 2020. See NH Department of Safety, New Hampshire Crime Summary (Public), 2018, 2019, 2020, available at [Beyond 20/20 Perspective - View Reporting Services report \(nh.gov\)](#).

<sup>iv</sup> See, Testimony of Mary Ann Dempsey (Judicial Branch), Hearing on SB 294, Jan. 18, 2022, available at [https://www.gencourt.state.nh.us/bill\\_status/billinfo.aspx?id=1995&infect=2](https://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=1995&infect=2).

<sup>v</sup> See, e.g. HB 1306-FN, As Introduced, 2022 Session, available at [http://www.gencourt.state.nh.us/lsr\\_search/billText.aspx?id=1700&type=4](http://www.gencourt.state.nh.us/lsr_search/billText.aspx?id=1700&type=4).

<sup>vi</sup> Megan Fernandes & Karen Dandurant, *How Seacoast shelters, nursing homes, jails cope with COVID outbreaks*, Fosters Daily Democrat, De. 22, 2001, available at <https://www.fosters.com/story/news/local/2021/12/22/seacoast-nh-maine-homeless-shelters-nursing-homes-jails-covid-outbreaks/8981402002/>.

<sup>vii</sup> Bill Chappell, *Crowded U.S. Jails Drove Millions Of COVID-19 Cases, A New Study Says*, NPR, Sept. 2, 2021, available at <https://www.npr.org/2021/09/02/1033326204/crowded-jails-drove-millions-of-covid-19-cases-a-new-study-says>.

<sup>viii</sup> *United States v. Salerno*, 481 U.S. 739 (1987).

**HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

**EXECUTIVE SESSION on HB 1476-FN**

**BILL TITLE:** relative to persons arrested while out on bail.

**DATE:** March 2, 2022

**LOB ROOM:** 202-204

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Conley                                  Seconded by Rep. Roy                                  AM Vote: 19-1

Amendment # 2022-0895h

Moved by Rep. Conley                                  Seconded by Rep. Wallace                                  Vote: 13-7

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Scott Wallace, Clerk

OFFICE OF THE HOUSE CLERK



2/8/2022 3:07:34 PM  
Roll Call Committee Registers  
Report

2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1476 Motion: OTPA AM #: 089514 Exec Session Date: 3-2-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	13		
Roy, Terry Vice Chairman	1		
Welch, David A.	2		
Burt, John A.			1
Hopper, Gary S. <u>PEARSON</u>	3		
Green, Dennis E.	4		
Wallace, Scott Clerk	5		
Festerman, Dave <u>BORREY</u>	6		
True, Chris	7	1	
Pratt, Kevin M.	7		
Marston, Dick	8		
Harriott-Gathright, Linda C.		2	
Pantelakes, Laura C. <u>S. NEWMAN</u>	9		
O'Hearne, Andrew S.	10		
Bordenet, John		3	
Meuse, David		4	
Newman, Ray E.		5	
Bouldin, Amanda C. <u>HEATH</u>	11		
Conley, Casey M.	12		
Bradley, Amy <u>LATFLAMME</u>	13	6	
Espitia, Manny <u>HAMBLOTT</u>		7	
	13	7	1





2022 SESSION

**Criminal Justice and Public Safety**

Bill #: \_\_\_\_\_ Motion: \_\_\_\_\_ AM #: \_\_\_\_\_ Exec Session Date: \_\_\_\_\_

**TOTAL VOTE:**

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OFFICE OF THE HOUSE CLERK



2/8/2022 3:07:34 PM  
Roll Call Committee Registers  
Report

2022 SESSION

Criminal Justice and Public Safety

Bill #: HB 1474 Motion: OTP AM #: 089511 Exec Session Date: 3.2.22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Abbas, Daryl A. Chairman	10		
Roy, Terry Vice Chairman	1		
Welch, David A.	2		
Burt, John A.			1
Hopper, Gary S. <u>PEARSON</u>	3		
Green, Dennis E.	4		
Wallace, Scott Clerk	5		
Testerman, Dave <u>BOARY</u>	6		
True, Chris	7		
Pratt, Kevin M.	8		
Marston, Dick	9		
Harriott-Gathright, Linda C.	10		
Pantelakos, Laura C. <u>S. NOWMAN</u>	11		
O'Hearne, Andrew S.	12		
Bordenet, John		1	
Meuse, David	13		
Newman, Ray E.	14		
Bouldin, Amanda C. <u>HEATH</u>	15		
Conley, Casey M.	16		
Bradley, Amy <u>LAFRAMME</u>	17		
Espitia, Manny <u>HAMBLOTT</u>	18		
	19	1	1



2022 SESSION

Criminal Justice and Public Safety

Bill #: HB1476 Motion: OTPA AM #: 0895H Exec Session Date: 3.2-22

TOTAL VOTE: 

	19		1		1
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