

Senate Judiciary Committee

Jennifer Horgan 271-3092

SB 232-FN-LOCAL, relative to the issuance of a summons instead of arrest.

Hearing Date: February 14, 2017

Time Opened: 9:42 a.m.

Time Closed: 9:53 a.m.

Members of the Committee Present: Senators Carson, Lasky, French, Gannon and Hennessey

Members of the Committee Absent : None

Bill Analysis : This bill states that a warrant of arrest may be issued for failure to remain of good behavior in a case where a peace officer has issued a summons instead of an arrest warrant.

This bill was requested by the supreme court.

Sponsors :

Sen. Gannon

Sen. Guida

Sen. Gray

Sen. Carson

Sen. Reagan

Sen. Innis

Rep. Welch

Who supports the bill: Senator Gannon; Senator Carson; Senator Innis; Senator Guida; Senator Reagan; Howard Zibel (NH Judicial Branch); Judge Ed Kelly (NH Judicial Branch)

Who opposes the bill: Darryl W. Perry (Liberty Lobby LLC)

Who is neutral on the bill: Sarah Blodgett (NH Judicial Council)

Summary of testimony presented in support :

Judge Kelly (NH Judicial Branch)

- This bill was requested by the Judicial Branch.
- It is designed to reduce the amount of time law enforcement has to spend on the booking process after an arrest and to reduce the number of people held in cells while waiting for a bail hearing or trial, which can be anywhere from 24hours for a bail hearing to 30+ days if they are awaiting trial.
- Under this bill if a person is arrested for a misdemeanor or violation, and it does not exclude felonies, then that person can be released on a summons.
- The summons simply provides the date, time, and place of their hearing.
- Presently, police must call the bail commissioner, who then comes to the police station to interview the defendant and then decides what to set the bail at.
- Calling the bail commissioner would remain an option under this bill.
- Last year, the circuit court had over 74,000 cases filed that would have qualified for release on summons or bail.
- Currently, in most of these cases, excluding the motor vehicle ones, the bail commissioner would be called to set bail.

- It is a \$40 fee for a bail commissioner that is charged to the defendant.
- A recent national study done by the National Association of Chiefs of Police showed that by changing to a summons or expecting a summons rather than detention waiting for a bail commissioner can save up to two thirds of time on the booking process for an officer.
- The average time for a booking where a bail commissioner would be called is 85 minutes and this bill would bring that down to 24 minutes.
- Has experienced that the setting of bail by bail commissioners has increase dramatically over the past 20 years.
- It used to be that police officers would know the individual and release them on the summons, especially in the rural areas.
- This practice would be more consistent with NH's bail statute, RSA 597, which creates a presumption that people who are arrested will be released on their own cognizance.
- Currently, most of the time the defendant is released under the concept that they remain in good behavior after meeting with the bail commissioner.
- This adds language to the summons that if they are released, they are required to remain in good behavior
- Brings NH into line with a national effort to reserve the use of cash bail and bail systems only in cases where there is a genuine threat that the individual is going to cause harm to themselves or others, or if there is a genuine threat that they are going to leave the area.
- The Inter-branch Criminal and Juvenile Justice Commission subcommittee is also looking at the issue of bail reform in a broader sense and looking at the growing number of states that create a presumption that someone will be released on a summons unless there is another factor.
- Senator French asked this would this eliminate the booking procedures of finger printing, photographing, and booking.
 - It would. In many motor vehicle violations, the officer provides the driver with a summons and then they are free to leave without being booked. In Class B and Class A misdemeanors and more serious violations the police would typically still bring them in for booking, but they would not need to call the bail commissioner to release them.
- Senator Carson asked if 'good behavior' is defined in statute.
 - More so in case law and it typically means a person not commit a violation of the law.

Summary of testimony presented in opposition :

None

Neutral Information Presented:

Sarah Blodgett (NH Judicial Council)

- The Council has not had the chance to review this specific language.
- Is on the Inter-branch Criminal and Juvenile Justice Commission's subcommittee on bail reform.
- One of the key pieces being done in other states is the increase in the use of summons.
- This allows police, in cases where it is appropriate, to issue a summons, which saves them the time of booking and gives them more time to be on patrol on the streets.

- Because this is used on such low level offenses, there is typically no increased danger to the public.
- Even a brief period of detention can impact an individual in job loss, destabilizing family relationships, and living conditions.

Future Action: Pending

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Date Hearing Report completed: February 17, 2017