

Floor Amendment to HB 1476-FN

1 Amend the bill by replacing all after the enacting clause with the following:

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

5 597:2 Release of a Defendant Pending Trial.

6 I. Except as provided in paragraph **III or** VI, upon the appearance before the court of a
7 person charged with an offense, the court shall issue an order that, pending arraignment or trial, the
8 person be:

9 (a) Released on his or her personal recognizance or upon execution of an unsecured
10 appearance bond, pursuant to the provisions of paragraph III;

11 (b) Released on a condition or combination of conditions pursuant to the provisions of
12 paragraph III;

13 (c) Detained; or

14 (d) Temporarily detained to permit revocation of conditional release pursuant to the
15 provisions of paragraph VIII.

16 II. Except as provided in RSA 597:1-d, a person charged with a probation violation shall be
17 entitled to a bail hearing. The court shall issue an order that, pending a probation violation hearing,
18 the person be:

19 (a) Released on his or her personal recognizance or upon execution of an unsecured
20 appearance bond, pursuant to the provisions of paragraph III;

21 (b) Released on a condition or combination of conditions pursuant to the provisions of
22 paragraph III; or

23 (c) Detained.

24 III. When considering whether to release or detain a person, the court **and, if applicable,**
25 **a bail commissioner** shall consider the following issues:

26 (a) Safety of the public or the defendant.

27 (1) **Except as provided in RSA 597:1-c, a person who is charged with**
28 **homicide under RSA 630; first degree assault under RSA 631:1; second degree assault**
29 **under RSA 631:2; domestic violence under RSA 631:2-b; aggravated felonious sexual assault**
30 **under RSA 632-A:2; felonious sexual assault under RSA 632-A:3; kidnapping under RSA**
31 **633:1; stalking under RSA 633:3-a; trafficking in persons under RSA 633:7; robbery under**
32 **RSA 636:1, III; possession, manufacture, or distribution of child sexual abuse images under**

1 *RSA 649-A; or computer pornography and child exploitation under RSA 649-B; shall not be*
2 *brought before a bail commissioner and shall, upon arrest, be detained pending*
3 *arraignment before the court. Arraignment shall occur no later than 24 hours after the*
4 *arrest, Saturdays, Sundays, and legal holidays excluded, or no later than 36 hours after*
5 *arrest if arrested between 8:00 a.m. and 1:00 p.m. and the person's attorney is unable to*
6 *attend an arraignment on the same day, Saturdays, Sundays, and legal holidays excluded.*
7 *At the person's appearance before the court, the court shall order that the person be*
8 *detained pending trial if the court determines by clear and convincing evidence that*
9 *release of the person is a danger to the public or themselves. In determining whether*
10 *release will endanger the safety of that person or the public, the court may consider all*
11 *relevant and material factors presented pursuant to paragraph IV. If the court does not*
12 *find by clear and convincing evidence that the person must be detained, the court shall*
13 *order the person released pursuant to paragraph I(a) or paragraph I(b), or, if applicable,*
14 *temporarily detained pursuant to paragraph I(d).*

15 (2) If a person is charged with any *other* criminal offense, an offense listed in RSA
16 173-B:1, I, or a violation of a protective order under RSA 458:16, III, or after arraignment, is charged
17 with a violation of a protective order issued under RSA 173-B, the court may order preventive
18 detention without bail, or, in the alternative, may order restrictive conditions including but not
19 limited to electronic monitoring and supervision, only if the court determines by clear and convincing
20 evidence that release will endanger the safety of that person or the public. In determining whether
21 release will endanger the safety of that person or the public, the court may consider all relevant
22 factors presented pursuant to paragraph IV.

23 2 Effective Date. This act shall take effect January 1, 2023.

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AMENDED ANALYSIS

This bill lists certain offenses which, if committed by the defendant, create a presumption that a defendant is a danger to the public and shall be detained for up to 36 hours.