

# Senate Judiciary Committee

*Matthew Schelzi 271-3266*

**SB 252-FN**, relative to release of a defendant pending trial.

**Hearing Date:** February 1, 2023

**Time Opened:** 3:22 p.m.

**Time Closed:** 3:41 p.m.

**Members of the Committee Present:** Senators Carson, Gannon, Abbas, Whitley and Chandley

**Members of the Committee Absent:** None

**Bill 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.

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**Sponsors:**

Sen. Soucy

Sen. D'Allesandro

Rep. Proulx

Rep. Goley

Rep. Heath

Rep. Long

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**Who supports the bill:** Mark Hall (NH State Police), David Goldstein (NH Assoc. Chiefs of Police), Chief John Bryfonski (NH Assoc. Chiefs of Police), Chief Allen Aldenberg (Manchester PD), Mayor Joyce Craig, June Trisciani (Alderman at Large in Manchester), Senator Soucy (District 18), Jeanne Torpey, Andrew Jones, Gary Devore, Claudia Damon, Nancy Brennan, Patricia Martin, Lois Cote, Susan Moore, Tom St. Martin,, Nancy Bishop, Judith Johnson, Gregory David, Alfrieda Englund, A Thomas, Kim Marie Fudge, Linds Jakows, Edna Bernier, Ann Rettew, and Louise Spencer.

**Who opposes the bill:** Buzz Scherr, Jeff Odland, Frank Knaack (ACLU of NH), Ophelia Burnett, Julie Smith, and Paul Introcaso.

**Who is neutral on the bill:** Richard Head (Judicial Branch), Captain Brian Trefry (Nashua PD), and Paul Halvorsen (Merrimack County Attorney).

**Summary of testimony presented in support:**

**Senator Soucy** introduced SB 252-FN. She is concerned that bail issues continue to plague communities throughout the state. She stated this issue began in 2018 when bail reforms were first introduced along with changes to the statute. When her constituents expressed concern Sen. Soucy became heavily involved with this issue. She stated that SB 252-FN is a complicated issue which needs to be addressed carefully. She expressed concern for domestic violence victims whose crimes are going

unreported due to the perpetrator being released on bail. The victims fear the alleged perpetrator will cause greater harm to them and their families. Sen. Soucy stated that the biggest frustration was that when these changes to the bail laws occurred there was no infrastructure to accommodate these reforms. She stated there are inconsistencies throughout each county regarding decision making. Sen. Soucy said that judges should be required to have more training and use more consistency in the application of this process to the defendant. She stated this bill will identify specific violent crimes and require that each person go before a judge for consideration of bail. She doesn't believe this bill will require extensive detainment. Sen. Soucy asked the Committee to examine each piece of legislation before making their decision.

**Senator Whitley** asked what the substantive differences between SB 252-FN and SB 248-FN were.

Sen. Soucy said both bills do the same thing. She urged the Committee to move forward with one bill or the other, or to incorporate the bills together.

Sen. Whitley expressed concern of the current system. She asked why the prosecutors of the state are not challenging bail release. She then asked why there is hesitance to use this method in the current system.

Sen. Soucy said she does not have specific numbers to determine how often this procedure is used. She stated the infrastructure within the criminal justice system, along with inconsistencies between county attorneys', leads to this reoccurring issue. Sen. Soucy stated county attorney's offices have had a great deal of turnover which may lead to inconsistencies. She does not know to what extent intensive training is provided to the attorneys. Sen. Soucy believed that this issue is slipping through the cracks of the system.

Sen. Whitley asked if the infrastructure issues were resolved, would the current system need to be changed.

Sen. Soucy said it would probably need less change. However, she stated that she believed for the most violent offenders, a judicial requirement should be in order. She said it would take years to get to the perfect infrastructure.

**Mayor Joyce Craig**, of Manchester, said she supported SB 252-FN. Mayor Craig urged the Committee to recommend SB 252-FN Ought to Pass. She stated that she works closely with the Manchester Police Department to prevent and address crime. She believed the statutory changes in 2018 have had negative consequences in the City of Manchester. Mayor Craig stated that individuals should not remain in jail solely because they cannot make bail. However, she said that until the state and local governments create uniform and comprehensive pre-trial services, the 2018 bail reform will be unsuccessful. She believed violent offenders should not be released on personal recognizance. Mayor Craig said SB 252-FN will ensure that a judge will be able to make a well-informed bail assessment. The Manchester Police Department conducted a study of arrests 12 months before and 12 months after the bail reform laws passed. She noted the finding from this study concluded that 12 months post-bail reform, the City of Manchester saw a 20% increase in arrest of defendants out on bail.

Mayor Craig stated that Hillsborough County does not have the resources to ensure bail conditions are met.

**Chief John Bryfonski**, New Hampshire Association of Chiefs of Police, requested that the Committee reference his testimony from SB 248-FN.

**Mark Hall**, New Hampshire State Police, said the State Police are in support of this bill.

**June Trisciani**, Alderman-at-large for the City of Manchester, speaking on behalf of herself. Ms. Trisciani said she is speaking in support of SB 252-FN. She said she appreciated the spirit of the current bail reform law, but noted we are doing an injustice to public safety with the law as written today. She also stated that SB 252-FN strengthens the language of the current law that requires violent criminals to go before a judge rather than be immediately released on personal recognizance bail. Ms. Trisciani asked the Committee to consider the victims and the families of these violent crimes. She stated that she views this language as a compromise. She believed that the new bill allows judges and bail commissioners to be thoughtful when setting bail for a person who is poor and charged with a non-violent crime. Ms. Trisciani stated that in Manchester they continue to see people released only to be arrested hours, days, or weeks later for similar or worse offenses.

#### **Summary of testimony presented in opposition:**

**Jeff Odland**, New Hampshire Association of Criminal Defense Lawyers, requested that the Committee reference his testimony from SB 248-FN. Mr. Odland asked the Committee to consider whether this bill as drafted is the fix to the states' bail problems.

**Senator Abbas** asked if SB 252-FN, as drafted, would address situations of individuals who get recommitted hours after their first offense.

Mr. Odland said that situation would not be able to occur under the law as written. He said that we need to look at how the current law is being administered, and the Committee should seek more information about why bail determinations are being made to release certain individuals.

**Frank Knaack**, Policy Director of ACLU New Hampshire, said he is opposed to SB 252-FN. He requested that the committee reference his testimony from SB 248-FN. Mr. Knaack stated that HB 46 (2023) replaces bail commissioners with magistrates and ensures that all individuals will be seen by a judge, while also ensuring no one is unnecessarily detained. He stated that there have been no concrete examples of failures in the current bail system. Mr. Knaack said there have been many resources in Manchester that haven't been utilized to deal with bail.

### **Neutral Information Presented:**

**Richard Head**, Government Affairs Coordinator for the Judicial Branch, stated that with the Chair's permission he would like to incorporate his testimony from SB 248-FN.

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Date Hearing Report completed: February 6, 2023