

RHODE ISLAND SUPREME COURT

Office of General Counsel

Licht Judicial Complex

250 Benefit Street

Providence, RI 02903

401-222-3266/401-222-8634 (Fax)

February 3, 2022

Via Electronic Mail (Housejudiciary@rilegislature.gov)

House Judiciary Committee

Rhode Island General Assembly

State House, 82 Smith Street

Providence, RI 02903

Re: House Bill #7353: An Act Relating to Criminal Procedure - Bail and Recognizance

Dear Chairperson Craven:

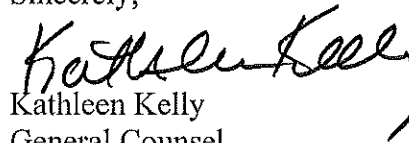
I write on behalf of the Rhode Island District Court in opposition to House Bill H 7353, scheduled to be heard and considered this evening before the House Judiciary Committee. If enacted, this bill would require District Court judges and magistrates to set personal recognizance bail on all criminal misdemeanor charges, regardless of number and/or nature of the charges and regardless of the accused criminal history.

The provisions of this bill usurp the role of the judiciary and remove the essential discretion of the Court in making bail determinations based upon facts, public safety concerns, and the prior criminal history of the accused. This bill is also unnecessary. The District Court takes its responsibilities owed to the accused very seriously. Personal Recognizance bail is presumed. It is only under circumstances where the accused's background and criminal charges raises legitimate concerns regarding safety to the public and/or where the accused has a demonstrated history of failing to appear before the court, that judges consider bail other than personal recognizance. At the time of a bail determination the individual in the best position to make that determination is a judge or magistrate who has all the information in front of him or her and can make an informed decision. Legislating away this discretion and intelligent factual analysis not only usurps the constitutional authority of the courts but is a significant threat to public safety. By way of example, under the provisions of this bill an individual with multiple domestic violence charges would continue to be released on no monetary bail despite the obvious public safety risks.

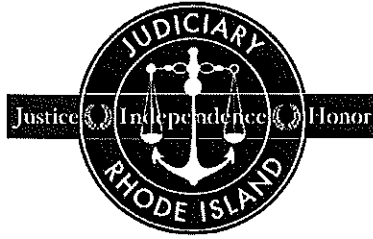
The language of the bill is also overly broad and ambiguous. "Every person who is subject to *any* misdemeanor criminal process" implies application to individuals who not only commit multiple misdemeanor offenses, but also those who violate their terms of probation or bail conditions by committed a new misdemeanor offense. Such application would create an unacceptable risk to the public at large and the victims of accused.

I ask that the House Judiciary Committee carefully consider the potentially deleterious impact of H 7353 when contemplating this bill. Should you wish to discuss this matter further, please do not hesitate to contact me at your convenience. Thank you for the opportunity to express the judiciary's concerns regarding this bill.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Kelly". The signature is written in a cursive style with a large, sweeping "K" and a long, trailing flourish at the end.

Kathleen Kelly
General Counsel
Rhode Island Supreme Court



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House Judiciary Committee
Rhode Island General Assembly
State House, 82 Smith Street
Providence, RI 02903

Re: House Bill #7354: An Act Relating to Criminal Procedure - Identification and Apprehension of Criminals

Dear Chairperson Craven:

I write on behalf of the Rhode Island District Court in opposition to the current version of House Bill H 7354, scheduled to be heard and considered this evening before the House Judiciary Committee. If enacted in its current form, the bill would place an onerous burden upon the District Court. However, the District Court has worked collaboratively with the Public Defender's Office and the Attorney General's Office to craft an alternative to the current language of H 7354. The potential Sub A version, which was discussed with the Public Defender's Office and the Attorney General's Office, would provide that matters dismissed pursuant to Rule 48(a) of the Rules of Criminal Procedure be automatically sealed within ninety (90) days of dismissal. This Sub A version would be acceptable to the District Court.

Should you wish to discuss this matter further, please do not hesitate to contact me at your convenience. Thank you for the opportunity to express the judiciary's concerns regarding this bill.

Sincerely,

Kathleen Kelly
General Counsel

Rhode Island Supreme Court