



STATE OF RHODE ISLAND JUDICIARY

SUPREME COURT
OFFICE OF GENERAL COUNSEL

Licht Judicial Complex
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March 10, 2026

Via Electronic Mail (SenateJudiciary@rilegislature.gov)

Chairman Matthew LaMountain
Senate Committee on Judiciary
Rhode Island State House
Room 313
Providence, Rhode Island 02903

Re: Senate Bill #2290: An Act Relating to Criminal Procedure – Bail and Recognizance

Dear Chairman LaMountain:

I write on behalf of the Rhode Island Judiciary to respectfully express the Judiciary's concerns regarding Senate Bill # 2290, scheduled for hearing and consideration this evening before the Senate Committee on the Judiciary. This legislation imposes a directive upon the Judiciary to set personal recognizance bail for individuals arrested on misdemeanor offenses, with the exception of domestic violent offenders or when the court determines the offender presents certain risks to the administration of justice. Limiting judicial discretion in bail determinations in this manner usurps the constitutional authority of the courts and violates the principles of separation of powers.

An accused's right to bail is guaranteed by the Rhode Island Constitution, Article I, § 9. Additionally, personal recognizance bail is presumed under the Bail Guidelines II, "Release or detention before trial on misdemeanors and non-capital offenses," which states that "a person charged with any crime shall be released on his/ her personal recognizance unless such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person, property or the community."

The right to personal recognizance bail may nonetheless be restricted or subjected to conditions based upon the particular facts presented to a judge or magistrate at the time of arraignment. Under certain circumstances, a judicial officer may also order to hold a person without bail. See Mello v. Superior Court, 370 A.2d 1262 (1977). Bail and the revocation of bail are squarely within the judicial sphere of government, Witt v. Moran, 572 A.2d 261 (1990), and the Courts retain discretionary power to grant the accused bail, set conditions of bail, or revoke bail. Mello v. Superior Court, 370 A.2d 1262 (1977).

Rhode Island's judicial officers take their constitutional responsibilities to the accused, the victim, and the public very seriously. They are in the best position to decide bail conditions based upon the particular facts of a given criminal case, a defendant's prior criminal history, and other relevant factors presented to the judge or magistrate at the time of arraignment. In some instances, judges and magistrates do set personal recognizance bail on the criminal defendants who appear before them. However, some circumstances require the imposition of stronger conditions to mitigate risks to the public and the fair administration of justice. Restricting a judicial officer's discretion to set such conditions to a few, circumscribed situations will only undermine these efforts.

I ask the Senate Committee on the Judiciary to carefully consider the impact of this bill upon the constitutionally protected separation of powers between the three branches of government.

Thank you for the opportunity to express the Judiciary's concerns regarding this bill.

Sincerely,



Chrisanne Wyrzykowski
General Counsel
Rhode Island Supreme Court