



Hon. Robin Pavia
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CONNECTICUT SENTENCING COMMISSION

May 8, 2023

Rules Committee of the Superior Court
Connecticut Supreme Court Building
231 Capitol Avenue
Hartford, CT 06106

Dear Members of the Rules Committee of the Superior Court,

We are writing on behalf of the Connecticut Sentencing Commission to recommend a revision to the *Connecticut Practice Book* that would expand the cash bail option available under Rule 38-8. Specifically, the Sentencing Commission proposes (1) reducing the ten percent cash bail option to seven percent; and (2) increasing the maximum bond amount for which the cash bail option is automatically available, from \$20,000 to \$50,000. The Sentencing Commission has voted in support of this revision. A draft of the proposed rule change is included below.

Prior to 2020, the automatic cash bail option was available only at arraignment and only if a judge granted a request at the defendant's motion. In January 2019, the Sentencing Commission proposed an amendment to the Connecticut Practice Book to provide for an automatic option allowing defendants to be released by depositing ten percent of the bond amount with the court for any surety bonds of \$20,000 or less. The Commission's proposal also made the ten percent cash option available at police departments for the first time. Unlike defendants utilizing bail bondsmen to secure release, defendants utilizing the ten percent cash option receive their money back once their cases are adjudicated. The Rules Committee unanimously approved the proposal, which was endorsed by the superior court judges. The new rule took effect on January 1, 2020.

Since then, Sentencing Commission staff and the Judicial Branch Court Support Services Division (JB-CSSD) have tracked implementation of the new rule and provided regular analysis to the Sentencing Commission.

The Commission has seen remarkable utilization of ten percent cash bonds. Use of ten percent bond has steadily increased as a percentage of all police department-released defendants, even through the COVID-19 pandemic. In the most recent calendar quarters, more than one in four releases from police departments utilized ten-percent option. Among financial bonds posted at police departments, almost 60% are posted using the ten-percent option.

We have also observed that defendants utilize the ten-percent bonds predominantly for lower bonds. During 2021, more than 80% of defendants with bonds \$1,000 and under used the option. Defendants with larger bonds tended to continue using professional sureties.

Courts have returned a substantial amount of money to defendants under the expanded ten percent rule. JB-CSSD estimates that over \$3,907,000 was returned to defendants between January 2020 and September 2022. As of September 2022, courts hold an additional \$2.2 million in ten percent deposits in anticipation of case disposition. Except for the ten percent rule, much of this money would have instead been paid into the private bond industry.

At the same time, we have tracked failure-to-appear and rearrest rates. Failure-to-appear and new criminal arrests for ten percent releases are comparable to those using sureties.

The proposal before you incrementally builds on the success of the 2020 reforms to ten percent cash bonds in Connecticut. This proposal would reduce the financial burden on defendants who can barely afford a ten percent bond, and it may help those defendants who are detained on low-level charges pay their bond. If the Rules Committee adopts this proposal, the Sentencing Commission is committed to continue monitoring the use and impact of the automatic cash bail option. The Connecticut Sentencing Commission endorsed this proposal at its meeting on November 16, 2022. As you know, the Commission's membership consists of many stakeholders in Connecticut's criminal justice system, including superior court judges, the Chief State's Attorney, the Chief Public Defender, the commissioners of Correction, Emergency Services and Public Protection, and Mental Health and Addiction Services, the chair of the

Board of Pardons and Paroles, the undersecretary of the criminal justice policy and planning division of the Office of Policy and Management, as well as appointees from each caucus of the General Assembly and the Governor.

As we noted in our letter to the Rules Committee in 2019, we realize that expanding the automatic cash bail option is not a long-term solution to pretrial justice issues. While the proposed rule does not eliminate these issues, it would be a step in the right direction to improve pretrial justice in Connecticut.

Thank you in advance for your consideration. If you have any questions, we would be glad to provide further information.

Sincerely,

Judge Pavia
Chair, Sentencing Commission

Alex Tsarkov
Executive Director, Sentencing
Commission

Anna VanCleave
Member, Sentencing Commission and Co-Chair, Criminal Procedures
and Sentencing Subcommittee

Proposed amendment to Connecticut Practice Book Sec. 38-8. Ten Percent Cash Bail

Sec. 38-8. [Ten] Seven Percent Cash Bail

Unless otherwise ordered by the judicial authority, [10] 7 percent cash bail shall be automatically available for surety bonds not exceeding [20,000] 50,000. For surety bond amounts exceeding [20,000] 50,000, [10] 7 percent cash bail may be granted pursuant to an order of the judicial authority. This [10] 7 percent cash bail option applies to bonds set by the court as well as bonds set at the police department.

When [10] 7 percent cash bail is authorized either automatically or pursuant to court order, upon the depositing in cash, by the defendant or any other person in his or her behalf other than a paid surety, of [10] 7 percent of the surety bond set, the defendant shall thereupon be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the [10] 7 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.