

**SENATE . . . . . No. 1826**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to improving the bail review and rendition processes..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 10 of the General Laws, as appearing in the 2006 Official Edition,  
2 is hereby amended by inserting at the end thereof the following section:-

3 Section 75. (a) As used in this section the following words shall, unless the context  
4 clearly requires otherwise, have the following meanings:

5 “Board”, the commonwealth rendition board established pursuant to subsection (c).

6 “Fund” the commonwealth rendition fund established pursuant to subsection (b).

7 “Prosecuting officer”, the attorney general or a district attorney.

8 (b) There shall be established and set upon the books of the commonwealth a fund to be  
9 known as the Commonwealth Rendition Fund. The fund shall be credited any appropriations,  
10 bond proceeds or other monies authorized by the general court and specifically designated to be  
11 credited thereto, such additional funds as are subject to the direction and control of the board  
12 established pursuant to subsection (c) including all money, bonds or bank books ordered  
13 forfeited under section 80 of chapter 276. Notwithstanding section 81 of chapter 276, any

14 revenues, deposits, receipts, or funds received through the receipt of royalties, interest or  
15 dividends shall be deposited in the fund, and shall be available to the board for the purposes  
16 described in this section, without further appropriation. All available moneys in the fund that are  
17 unexpended at the end of each fiscal year shall not revert to the General Fund and shall be  
18 available for expenditure in the subsequent fiscal year.

19         The fund shall be held and applied by the board for the purposes of rendition of criminal  
20 defendants who have defaulted on the commonwealth court cases in such manner as directed by  
21 the board. No expenditure made from the fund shall cause the fund to become deficient at any  
22 point during a fiscal year.

23         (c) There shall be established within the executive office of public safety and security a  
24 commonwealth rendition board consisting of the secretary of the executive office of public safety  
25 and security or his designee, the attorney general or his designee, a chief of police appointed by  
26 the Massachusetts chiefs of police association, and two district attorneys appointed by the  
27 Massachusetts District Attorneys Association. Each member shall serve for a term of 2 years.  
28 Members shall be eligible for reappointment and serve without compensation. The board shall  
29 meet at least bi-annually, but shall meet as often as the members shall determine. The board  
30 shall be responsible for the administration and oversight of the commonwealth rendition fund  
31 established pursuant to this section including, but not limited to, the administration and approval  
32 of reimbursement to prosecuting officers for the costs associated with the rendition of criminal  
33 defendants who have defaulted on court appearances and against whom default warrants have  
34 been issued.

35           The board shall establish guidelines for use of the fund including, but not limited to, a list  
36 of priority cases, based upon the seriousness of the offense alleged, for automatic approval of  
37 rendition reimbursement from the fund. Said guidelines shall include an application process to  
38 access the fund, reimbursement procedures, and a process for approving requests for non-priority  
39 case renditions.

40           Nothing in this section shall prohibit a prosecuting officer from incurring rendition costs,  
41 reimbursable or otherwise, for the return of a defaulted criminal defendant.

42           SECTION 2. Section 86 of Chapter 221 of the General Laws as so appearing is hereby  
43 amended by adding at the end thereof the following : —

44           Payment of transcription costs shall be made as provided in section 88 of chapter 221.

45           SECTION 3. Section 88 of Chapter 221, as so appearing , is hereby amended in line 11  
46 by striking the words “commonwealth upon voucher approved by him,” and inserting thereof the  
47 following: — administrative office of the trial court upon a voucher approved by the judge,

48           Said section 88 is further amended by adding at the end thereof the following : —

49           If a judge orders that a statement given to the police be transcribed, all parties shall  
50 receive a copy, and payment therefore shall be at the same rate and made by the administrative  
51 office of the trial court upon a voucher approved by the judge.

52           SECTION 4. Section 24 of Chapter 262 of the General Laws, as so appearing, is hereby  
53 amended in lines, 10 through 20, by striking subsection (c) and inserting thereof the following:--

54 (c) A Bail Compensation Fund is hereby created under this chapter. All sums  
55 received under section 24 (a) of this chapter shall be paid into Bail Compensation Fund, under  
56 the direction of the treasury of the Commonwealth, and shall be credited as follows:-

57 (1) Any and all fees paid by the person seeking bail or release on personal  
58 recognizance in the case of a person arrested for any misdemeanor or felony shall be paid  
59 directly into the Bail Compensation Fund. All such revenue collected by the person authorized  
60 to take bail shall be deposited in and credited to the Bail Compensation Fund during the fiscal  
61 year in which it is received. In the event that a question arises as to the correct year to credit the  
62 receipt of revenues, the comptroller shall make a determination as to the correct fiscal year and  
63 the determination of the comptroller shall be conclusive.

64 (2) Any person authorized to take bail or to release on personal recognizance in the  
65 case of a person arrested for any misdemeanor or felony, and who goes to the place of detention  
66 where the prisoner is held, shall be receive a daily stipend. The stipend shall be of a fixed  
67 amount and shall not be dependent upon the authorization of bail or the release on personal  
68 recognizance of the prisoner.

69 (3) The balance remaining after crediting the amounts required under section (2) shall  
70 be credited to the General Fund.

71 Said Section 24 is hereby further amended by adding at the end thereof the following new  
72 section:--

73 (d) Stipend splitting arrangements are prohibited. No person authorized to take bail  
74 shall administer by telephone, or otherwise than in the physical presence of the affiant, any oath  
75 or affirmation required in the course of taking bail or releasing on personal recognizance. No

76 person authorized to take bail shall delegate the setting or taking of bail or the setting of taking of  
77 release on personal recognizance to any other person.

78 SECTION 5. Section 58 of Chapter 276, as so appearing, is hereby amended in line 105  
79 by adding a paragraph break after the words “reasonably possible.”

80 Said section 58 is further amended in line 114 by striking the words “by telephone” and  
81 inserting thereof the following words:--

82 by writing delivered in hand or by facsimile that same day

83 Said section 58 is further amended in lines 133 to 139 by striking the words “on the same  
84 day the petition shall have been filed, unless the district court or detaining authority shall  
85 determine that such appearance and hearing on the petition cannot practically take place before  
86 the adjournment of the sitting of said superior court for that day and in which event, the  
87 petitioner shall be caused to be brought before said court for such hearing during the morning of  
88 the next business day of the sitting of said superior court.” and inserting thereof the following  
89 words:--

90 on the third business day of the sitting of said superior court after the petition shall have  
91 been filed, unless said superior or district court orders otherwise for good cause shown.

92 Said section 58 is further amended by striking the paragraph at lines 150 to 161 and  
93 inserting thereof the following:--

94 The justice of the superior court shall review the order of the district court and the  
95 reasons given by the district court. Unless the justice of the superior court determines that the  
96 district court committed a clear error of law or fact, or set a clearly excessive bail, the justice

97 shall remand the prisoner in accordance with the terms of the process by which he was ordered  
98 committed by the district court. If the justice of the superior court determines that the district  
99 court committed a clear error of law or fact, or set a clearly excessive bail, the justice shall  
100 consider the standards set forth in the first paragraph of this section and may order that the  
101 petitioner be released on bail on his personal recognizance without surety, or, in his discretion,  
102 make any other order of bail or recognizance.

103 SECTION 6. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby  
104 amended in line 96 by deleting the words “held under arrest” and inserting thereof the words:--  
105 charged with

106 SECTION 7. Section 63 of Chapter 276, as so appearing, is hereby amended by striking  
107 in line 2 the words “any fee or” and in line 5 the words “statutory fees therefor” and inserting in  
108 each place the following:--

109 stipend therefore, as set forth in section (c)(2) of chapter 262.

110 SECTION 8. Section 80 of chapter 276, as so appearing, is hereby amended by striking,  
111 in lines 4, 8, and 10, inclusive, the words “state treasurer” and inserting in place thereof the  
112 following words:--

113 the Commonwealth Rendition Fund established pursuant to section 75 of chapter 10