

CHAPTER 3
HB 592-FN - FINAL VERSION

13Mar2025... 0448h
13Mar2025... 0940h

2025 SESSION

25-0795
09/11

HOUSE BILL ***592-FN***

AN ACT relative to magistrates and the standards applicable to and the administration of bail.

SPONSORS: Rep. Berry, Hills. 44; Rep. Bordes, Belk. 5; Rep. Cole, Hills. 26; Rep. Kesselring, Hills. 18; Rep. Morton, Hills. 39

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill:

I. Makes various amendments governing the standards to and the administration of bail.

II. Repeals the establishment of magistrates and makes other amendments to reflect that repeal, including the repeal of an appropriation.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to magistrates and the standards applicable to and the administration of bail.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 3:1 Judicial Training; Magistrates Removed. Amend RSA 490-K:1 through 490-K:3 to read as
2 follows:

3 490-K:1 Judicial Training Coordinator. A judicial training coordinator position shall be created on or
4 before July 1, 2025, to work under the direction of the chief justice of the supreme court. The judicial
5 training coordinator shall develop high quality judicial branch training and continuing education programs
6 and work to provide judges, [magistrates,] bail commissioners, administrators, and court staff with a
7 reasonable opportunity to fulfill any mandatory orientation and initial required training as well as
8 continuing educational requirements set by the chief justice of the supreme court.

9 490-K:2 Initial Judicial Training Requirements. Any person who holds the position of judge [or
10 magistrate] in this state, and all nonjudicial employees of the judicial branch with a hire date on or after
11 July 1, 2025, shall complete an orientation and training program within 3 months of hire, as directed by the
12 chief justice of the supreme court. The minimum initial training for judges may be as follows:

13 I. Orientation for new judges on procedures and functions of the applicable court and relevant
14 procedural and substantive law;

15 II. Education for new judges on major legal subjects and practical skills needed by them and
16 appropriate to the jurisdiction of the court in which they serve;

17 III. At least one hour of training devoted to the topics of legal and judicial ethics, professionalism,
18 preventing implicit bias, mental health, and domestic violence.

19 490-K:3 Judicial Continuing Education Requirements. Any person who holds the position of judge,
20 [magistrate,] court administrator, clerk, or director of the administrative office of the court in this state,
21 shall be required to complete continuing education as the chief justice of the supreme court directs.

22 3:2 Arrests in Criminal Cases; Place and Time of Detention. Amend RSA 594:20-a, I to read as
23 follows:

24 I. When a person is arrested with or without a warrant, he or she may be committed to a county
25 correctional facility, to a police station or other place provided for the detention of offenders, or otherwise
26 detained in custody. The person shall be taken to appear before a [magistrate,] circuit court[,], or a
27 superior court without unreasonable delay to answer for the offense. All persons shall appear no later
28 than [24] **36** hours after arrest[, or no later than 36 hours after arrest if arrested between 8:00 a.m. and
29 1:00 p.m. and the person's attorney is unable to attend an arraignment on the same day,] Saturdays,
30 Sundays, and holidays excepted. [In the case of a person arrested when the court is not open within the
31 next 24 hours, a decision on bail shall be made by a magistrate within 24 hours of the arrest for any of the
32 crimes listed in RSA 597:2, III(a)(1). Hearings held by a magistrate pursuant to this section may be held

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1 ~~telephonically, and the magistrate may conduct such hearing from any location within the state of New~~
2 ~~Hampshire, without regard to the jurisdiction in which the person was arrested. This section shall not be~~
3 ~~construed to prohibit telephonic hearings that are otherwise permitted by law or court rule].~~

4 3:3 Bail and Recognizances; Release of a Defendant Pending Trial. RSA 597:2 is repealed and
5 reenacted to read as follows:

6 597:2 Release of a Defendant Pending Trial.

7 I. Except as provided in paragraph III or VIII, upon the appearance before the court of a person
8 charged with an offense, the court shall issue an order that, pending arraignment or trial, the person be:

9 (a) Released on his or her personal recognizance or upon execution of an unsecured
10 appearance bond, pursuant to the provisions of paragraph III;

11 (b) Released on a condition or combination of conditions pursuant to the provisions of
12 paragraph III;

13 (c) Detained; or

14 (d) Temporarily detained to permit revocation of conditional release pursuant to the
15 provisions of paragraph XII.

16 II. Except as provided in RSA 597:1-d, a person charged with a probation violation shall be
17 entitled to a bail hearing. The court shall issue an order that, pending a probation violation hearing, the
18 person be:

19 (a) Released on his or her personal recognizance or upon execution of an unsecured
20 appearance bond, pursuant to the provisions of paragraph III;

21 (b) Released on a condition or combination of conditions pursuant to the provisions of
22 paragraph III; or

23 (c) Detained.

24 III.(a) A person may be detained for a period of not more than 36 hours from the time of his or her
25 arrest, excluding weekends and holidays. The court shall order the pre-arraignment or pretrial release of
26 the person on his or her personal recognizance, or upon execution of an unsecured appearance bond in
27 an amount specified by the court, or cash or corporate surety bail, subject to the condition that the person
28 not commit a crime during the period of his or her release, and subject to such further condition or
29 combination of conditions that the court may require unless the court determines by a finding of probable
30 cause that such release will not reasonably assure the appearance of the person as required or will
31 endanger the safety of the person or of any other person or the community. The court may also consider
32 as a factor in its determination under this paragraph or paragraph IV that a person who is detained as a
33 result of his or her inability to meet the required conditions or post the required bond is the parent and sole
34 caretaker of a child and whether, as a result, such child would become the responsibility of the division for
35 children, youth, and families.

36 (b) If there is probable cause to believe that, on this matter or while on release pending
37 resolution of a previous offense, the person: failed to appear; or committed a felony, class A
38 misdemeanor, or driving or operating while impaired; or violated a condition of bail; there shall be a
39 rebuttable presumption that the person will not abide by bail conditions, and the person shall be detained.

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1 At the bail hearing, the defendant shall be permitted to present evidence and the court shall decide
2 whether such person has rebutted the presumption that release will not reasonably assure the
3 appearance of the person as required or comply with bail conditions.

4 (c) Except as provided in RSA 597:1-c, a person who is charged with homicide under RSA
5 630; first degree assault under RSA 631:1; second degree assault under RSA 631:2; felony level
6 domestic violence under RSA 631:2-b; aggravated felonious sexual assault under RSA 632-A:2; felonious
7 sexual assault under RSA 632-A:3; kidnapping under RSA 633:1; felony level stalking under RSA 633:3-
8 a, VI(a); trafficking in persons under RSA 633:7; robbery under RSA 636:1, III; possession, manufacture,
9 or distribution of child sexual abuse images under RSA 649-A; or computer pornography and child
10 exploitation under RSA 649-B; shall not be brought before a bail commissioner and shall, upon arrest, be
11 detained pending arraignment before the court. Arraignment shall occur no later than 36 hours after the
12 arrest, excluding weekends and holidays. At the person's appearance before the court, the court shall
13 order that the person be detained pending trial if the court determines by a finding of probable cause that
14 release of the person is a danger to that person or the public. In determining whether release will
15 endanger the safety of that person or the public, the court may consider all relevant and material factors
16 presented pursuant to paragraph VI. If the court does not find probable cause that the person must be
17 detained, the court shall order the person released pursuant to subparagraph I(b), or, if applicable,
18 temporarily detained pursuant to subparagraph I(d). A person arrested for violating the conditions of his
19 or her bail for an offense listed in this subparagraph shall be held until they can be brought before the
20 court at the first available date. If at a subsequent hearing, the court finds probable cause exists that the
21 person violated the conditions of his or her bail for any of the crimes listed in this subparagraph, the
22 defendant shall be held pending trial.

23 IV. As applied to this section, the court shall not impose a financial condition that will result in the
24 pretrial detention of the person solely as a result of that financial condition unless the court determines by
25 a finding of probable cause after a hearing that no reasonable alternative or combination of conditions will
26 assure that the person will not commit a new offense, violate bail, or fail to appear. The defendant shall
27 be afforded the opportunity to be heard and the court may consider any relevant factors in making its
28 determination.

29 V. In determining the amount of the unsecured appearance bond or cash or corporate surety bail,
30 the court may consider all relevant factors bearing upon a person's ability to post bail.

31 VI.(a) Evidence in support of preventive detention shall be made by offer of proof at the initial
32 appearance before the court. At that time, the defendant may request a subsequent bail hearing where
33 live testimony is presented to the court.

34 (b) At any subsequent hearing, such testimony may be presented via video conferencing,
35 unless the court determines that witness testimony in court is necessary. A request by the defendant for
36 in-court testimony shall be made by oral motion at the initial hearing or by written motion prior to any
37 subsequent hearing. Any order granting the defendant's request shall be distributed to the parties at least
38 48 hours prior to any subsequent hearing.

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1 (c) There shall be a rebuttable presumption that an alleged victim of the crime shall not be
2 required to testify at the bail hearing. Nothing in this section shall preclude an alleged victim from
3 voluntarily testifying at such hearing. The state may present evidence of statements made in the course
4 of an investigation through a law enforcement officer.

5 VII.(a) If the court determines that release described in paragraphs I and II will not reasonably
6 assure the appearance of the person as required or, as described in paragraph III or IX, will endanger the
7 safety of the person or of any other person or the community, the court shall issue an order that includes
8 the following conditions:

9 (1) The condition that the person not commit a crime during the period of release; and

10 (2) Such further condition or combination of conditions that he determines will reasonably
11 assure the appearance of the person as required and the safety of the person or of any other person or
12 the community, which may include the condition that the person:

13 (A) Execute an agreement to forfeit, upon failing to appear within 45 days of the date
14 required, such designated property, including money, as is reasonably necessary to assure the
15 appearance of the person as required, and post with the court such indicia of ownership of the property or
16 such percentage of the money as the court may specify;

17 (B) Furnish bail for his or her appearance by recognizance with sufficient sureties or
18 by deposit of moneys equal to the amount of the bail required as the court may direct; and

19 (C) Satisfy any other condition that is reasonably necessary to assure the
20 appearance of the person as required and to assure the safety of the person or of any other person or the
21 community.

22 (b) In considering the conditions of release described in subparagraph VII(a)(1) or VII(a)(2),
23 the court may upon its own motion, or shall upon the motion of the state, conduct an inquiry into the
24 source of the property to be designated for potential forfeiture or offered as collateral to secure a bond,
25 and shall decline to accept the designation, or the use as collateral, of property that because of its source
26 will not reasonably assure the appearance of the person as required.

27 XIII. If a person is charged with violation of a protective order issued under RSA 173-B or RSA
28 633:3-a, the person shall be detained without bail pending arraignment pursuant to RSA 173-B:9, I(a).

29 IX. If a person is charged with any of the offenses listed in RSA 173-B:1, I or charged with
30 violation of a protective order issued under RSA 458:16, III or after arraignment for violation of a protective
31 order under RSA 173-B, the court may order preventive detention without bail if there is probable cause to
32 believe that the person poses a danger to another, or, in the alternative, restrictive conditions including but
33 not limited to electronic monitoring and supervision. The court may consider, but shall not be limited to
34 considering, any of the following conduct as evidence of posing a danger:

35 (a) Threats of suicide.

36 (b) Acute depression.

37 (c) History of violating protective orders.

38 (d) Possessing or attempting to possess a deadly weapon in violation of an order.

39 (e) Death threats or threats of possessiveness toward another.

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1 (f) Stalking, as defined in RSA 633:3-a.

2 (g) Cruelty to or violence directed toward pets.

3 X. A no-contact provision contained in any bail order shall not be construed to:

4 (a) Prevent counsel for the defendant to have contact with counsel for any of the individuals
5 protected by such provision; or

6 (b) Prevent the parties, if the defendant and one of the protected individuals are parties in a
7 domestic violence or marital matter, from attending court hearings scheduled in such matters or
8 exchanging copies of legal pleadings filed in court in such matters.

9 XI. In a release order issued pursuant to the provisions of this section, the court shall include a
10 written statement that sets forth:

11 (a) All of the conditions to which the release is subject, in a manner sufficiently clear and
12 specific to serve as a guide for the person's conduct; and

13 (b) The provisions of RSA 641:5, relative to intimidation of witnesses and informants.

14 XII. A person charged with an offense who is, and was at the time the offense was committed, on
15 probation or parole for any offense under federal or state law, except as provided in RSA 597:1-d, III may
16 be detained for a period of not more than 36 hours from the time of his or her arrest, excluding weekends
17 and holidays. The law enforcement agency making the arrest shall notify the appropriate court, probation
18 or parole official, or federal, state or local law enforcement official. Upon such notice the court shall also
19 direct the clerk to notify by telephone the division of field services, department of corrections, of the
20 pending bail hearing. If the official fails or declines to take the person into custody during that period, the
21 person shall be treated in accordance with the provisions of law governing release pending trial.
22 Probationers and parolees who are arrested and fail to advise their supervisory probation officer or parole
23 officer in accordance with the conditions of probations and parole may be subject to arrest and detention
24 as probation and parole violators.

25 XIII. Notwithstanding any law to the contrary, upon the appearance of a person charged with a
26 class B misdemeanor, the court shall issue an order that, pending arraignment, the person be released on
27 his or her personal recognizance, unless the court determines that such release will endanger the safety
28 of the person or of any other person or the community. The court shall appoint an attorney to represent
29 any indigent person charged with a class B misdemeanor denied release for the purpose of representing
30 such person at any detention hearing.

31 XIV. A person detained by a circuit court has the right to:

32 (a) In the first instance, a hearing in circuit court within 36 hours after the filing of the motion,
33 excluding weekends and holidays on a motion to reconsider the original detention order; and

34 (b) A decision upon a de novo appeal, pursuant to RSA 597:6-e, II, to the superior court
35 within 36 hours of the filing of the appeal, excluding weekends and holidays.

36 XV.(a) Each county may develop criteria to evaluate and determine whether a person is indigent
37 or not for the purpose of the person's ability to repay the cost of electronic monitoring. Based on the
38 criteria, the county may render a finding of indigent or not for the purpose of the person's ability to repay
39 the costs of electronic monitoring.

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(b) If the county finds that the person is not indigent for the purpose of repaying the cost of electronic monitoring, the county may order that the person reimburse the county for payment of the cost of electronic monitoring. The county may extend the time period for repayment in its discretion to allow the person time to make the repayment, except that in no case shall the time period exceed one year from the date the case was closed. The county may seek reimbursement in other ways as determined by the county.

(c) If the county finds that the person is indigent for the purpose of repaying the cost of electronic monitoring, the county may waive the cost of electronic monitoring.

3:4 Bail and Recognizances; Review and Appeal of Release or Detention Order. Amend RSA 597:6-e to read as follows:

597:6-e Review and Appeal of Release or Detention Order.

I. If a person is ordered released by a bail commissioner [~~or magistrate~~], the person, or the state, shall be entitled to a hearing, if requested, on the conditions of bail before a justice within 48 hours, Sundays and holidays excepted.

II. Subject to RSA 597:2, [~~X~~] *XIV* the person or the state may file with the superior court a motion for revocation of the order or amendment of the conditions of release set by a municipal or district court, by a justice [~~or magistrate~~], or by a bail commissioner. The motion shall be determined promptly. However, no action shall be taken on any such motion until the moving party has provided to the superior court certified copies of the complaint, affidavit, warrant, bail slip, and any other court orders relative to each charge for which a release or detention order was issued by a justice, or a bail commissioner. In cases where a district court justice has made a finding, pursuant to RSA 597:2, IV that the person poses a danger to another, the superior court shall, after notification to both parties, the police department that brought the charges in district court, and the victim, conduct a hearing and make written findings supporting any modifications and reasons for new conditions or changes from the district court order. The reviewing court shall take into consideration the district court's written findings, orders, pleadings, or transcript when making a modification.

III. The person, or the state pursuant to RSA 606:10, V, may appeal to the supreme court from a court's release or detention order, or from a decision denying revocation or amendment of such an order. The appeal shall be determined promptly.

3:5 Bail and Recognizances; Detention and Sanctions for Default or Breach of Conditions. Amend RSA 597:7-a, I to read as follows:

I. A peace officer may detain an accused until the accused can be brought before a justice [~~or magistrate~~] if the peace officer has a warrant issued by a justice for default of recognizance or for breach of conditions of release or if the peace officer witnesses a breach of conditions of release. The accused shall be brought before a justice [~~or magistrate~~] for a bail revocation hearing within [24] **36** hours, ***Saturdays, Sundays, and holidays excepted.***

3:6 Report Required; Reference to Magistrates Removed. Amend 2024, 317:16 to read as follows:

317:16 Report Required. Not later than January 1 of each year until 2030, the chief justice, or designee, shall report to the governor, the president of the senate, and the speaker of the house to

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1 provide an update as to the following information concerning bail commissioners [~~and magistrates~~]: the
2 number of active members [~~of each group~~], the anticipated level of attrition through retirement or
3 otherwise, the nature and hours of training received, and any concerns he or she has with the continued
4 viability of the system.

5 3:7 Repeal. The following are repealed:

6 I. 2024, 317:15, II, relative to appropriation regarding magistrates.

7 II. RSA 491-B, relative to magistrates.

8 III. RSA 597:7-a, I-b, relative to cash bail.

9 3:8 Effective Date. This act shall take effect 180 days after its passage.

Approved: March 25, 2025

Effective Date: September 21, 2025

