

An Act Updating Bail Procedures for Justice Involved Youth

HD2969 / SD186 - Rep. Fluker-Oakley & Sen. Gomez

Overview

This bill eliminates the \$40 administrative bail fee imposed on youth involved in the justice system. Instead, subject to appropriation, the bail magistrate fee would be paid by the state Bail Administrators' office. The bill also requires the Bail Magistrate, rather than the Officer on Call at a police station, to make the decision about whether an arrested youth should be released or held on bail. These changes were both recommended in 2019 by the state Juvenile Justice Policy and Data (JJPAD) Board. [1]

Summary

Eliminates \$40 bail fee	This bill eliminates the requirement that youth pay a \$40 administrative bail fee. Instead, Bail Magistrates should be compensated for their work from a fund administered by the state Bail Administrator when they are called by police to make a determination regarding bail outside of court hours.
Bail determinations to neutral party	Under current law, the Officer in Charge at the police station is given the authority to release a youth or call the Bail Magistrate to make a bail determination. This has led to confusion and inconsistent practices across the state. This bill would require that the Bail Magistrate – a neutral party – is consulted whenever a youth is arrested and brought to a station when court is not in session.
Bail process can be conducted virtually	This part of the bill codifies the standing order issued by the Executive Office of the Trial Court during the COVID-19 pandemic, giving Bail Magistrates the authority to administer any oath or required affirmations while taking bail through telephone or virtual options, in addition to the traditional in-person measures. It would also permit bail to be paid through a virtual or mobile payment option.

Why this matters

Bail fees for youth who are arrested are typically paid by their families, as youth often do not have access to their own funds. This can put a low-income family in an untenable position: pay a bail fee they may not be able to afford or leave their child to be detained overnight. Our Commonwealth previously acknowledged all youth should be considered indigent[2], and these legislative changes are made in similar spirit. By setting up a separate funding stream, this legislation ensures Bail Magistrates are still fairly compensated for their time, without passing that fee along to the youth in our system.

[1] The JJPAD Board was established by the legislature in 2018 and charged with evaluating juvenile justice system policies and procedures and making recommendations to improve outcomes. The Board recommended this legislative change in their 2019 "Early Impacts of *An Act Relative to Criminal Justice Reform*" [report](#).

[2] Mass. Sup. Ct. R. 3:10, §6A.