

SENATE No. 906

By Mr. LoPresti, a petition (accompanied by bill, Senate, No. 906) of Samuel E. Zoll and Michael LoPresti, Jr., for legislation relative to defaults by criminal defendants and suicide prevention. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT REGARDING DEFAULTS BY CRIMINAL DEFENDANTS AND SUICIDE PREVENTION.

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 276 of the General Laws is hereby
2 amended by striking out section 30, as appearing in the 1986
3 Official Edition, and inserting in place thereof the following
4 section: —

5 Section 30. The magistrate who so admits the defendant to bail
6 shall certify that fact upon the warrant, and shall cause the same,
7 with the recognizance and certificate required by section sixty-
8 one, to be delivered without unnecessary delay to the clerk of the
9 court before which the defendant has recognized to appear.

1 SECTION 2. Said chapter 276 is hereby further amended by
2 striking out section 67, as so appearing, and inserting in place
3 thereof the following two sections: —

4 Section 67. Whenever a court issues a warrant in a criminal
5 case because the defendant has forfeited or defaulted upon his bail
6 bond or recognizance, such warrant shall be prominently
7 captioned or endorsed "Warrant for Default upon Recognizance,"
8 and whenever a court issues a warrant in a criminal case because
9 the defendant has been surrendered by a probation officer, such
10 warrant shall be prominently captioned or endorsed "Warrant
11 upon Probation Surrender."

12 A justice ordering any such warrant to issue may order that it

13 be endorsed as "Non-bailable," and a defendant shall not be
14 released upon further bail or recognizance upon such warrant
15 except by order of a justice of the court that issued the warrant.
16 Alternately, a justice ordering any such warrant to issue may order
17 that it be endorsed as non-bailable except upon specified terms
18 of bail or recognizance, or upon the satisfaction of certain
19 specified conditions, and a defendant shall not be released upon
20 further bail or recognizance upon such warrant except upon such
21 specified terms or conditions, or by order of a justice of a court
22 that issued the warrant. If any such warrant bears neither
23 endorsement limiting release, any magistrate authorized to admit
24 to bail in criminal cases may, in his discretion, release the
25 defendant upon further bail or recognizance upon any such
26 warrant. Section fifty-eight shall not apply to any release pursuant
27 to this section.

28 Section 67A. Whenever a court issues a warrant solely because
29 of a person's failure to pay a fine, assessment, court costs,
30 restitution, support payments, or other amount, as ordered by the
31 court or required by law, and the court does not otherwise require
32 the person's appearance, the court shall endorse upon such
33 warrant: "Defendant may be discharged upon forfeiture of
34 \$_____."

35 In lieu of requesting release on bail or recognizance, if available,
36 any person arrested upon such a warrant may pay in cash the full
37 amount due the court, as shown on the warrant, to any person
38 authorized to admit to bail in criminal cases, who upon receiving
39 such full amount due shall thereupon discharge the person on the
40 warrant and, if the person is not held on other process, direct that
41 he be released from custody.

42 The magistrate who so releases a person shall certify that fact
43 upon the warrant, and shall cause the warrant and the full amount
44 due to be delivered without unnecessary delay to the clerk of the
45 court that issued the warrant. All such releases shall also be
46 reported as part of the monthly written statement required by
47 section sixty-one.

48 A person authorized to take bail who goes to the place of
49 detention of the prisoner and authorizes his release as provided
50 for in this section may charge therefor the fees authorized by
51 section twenty-four of chapter two hundred and sixty-two. Said

52 fees shall not be charged by any clerk or assistant clerk of a district
53 court during regular working hours.

1 SECTION 3. Said chapter 276 is hereby further amended by
2 inserting after section 82A the following section: —

3 Section 82B. The provisions of this chapter with regard to
4 release on bail or recognizance shall also apply to any warrant
5 issued in a proceeding pursuant to chapter ninety C, chapter two
6 hundred and nine C, or chapter two hundred and seventy-three
7 A, or pursuant to section thirty-two F of chapter two hundred
8 and nine.

1 SECTION 4. Section 6 of chapter 280 of the General Laws,
2 as so appearing, is hereby amended by inserting after the first
3 paragraph the following paragraph: —

4 Upon application or on his own motion, a judge may order that
5 any expenses incurred as a result of a default by a criminal
6 defendant that was intentional or negligent and without good
7 cause are to be assessed as costs to be paid by the defendant, and
8 may order that such costs be paid over to the person or
9 organization, or to the commonwealth, county or municipality,
10 that has incurred them. Such expenses may include, but are not
11 limited to, the actual and reasonable salaries, fees or expenses
12 expended in locating, arresting, housing, feeding and transporting
13 the defendant until he is returned to the court.

1 SECTION 5. There is hereby established a warrant control
2 study committee, which shall consist of the following persons or
3 their designees: the secretary of public safety, who shall serve as
4 chairperson, the attorney general, the president of the association
5 of district attorneys, the president of the Massachusetts chiefs of
6 police association, the executive director of the governor's
7 statewide anti-crime council, the chairman of the criminal history
8 systems board, the registrar of motor vehicles, the chief
9 administrative justice of the trial court, the administrative justices
10 of the district and superior court departments of the trial court,
11 and the commissioner of probation. The committee shall study
12 and make recommendations to improve the transfer of warrants
13 and related information between the courts and state and local

14 law enforcement agencies, and shall consider the feasibility of a
15 single computerized warrant depository agency for the
16 Commonwealth. Within one year of the effective date of this
17 legislation, the committee shall file a report of its conclusions,
18 including any recommended legislation, with the clerks of the
19 senate and house of representatives, who shall forward said report
20 to the senate and house committees on ways and means, the joint
21 committee on public safety, and the joint committee on the
22 judiciary.