

By Mr. Flaherty of Boston, petition of Michael F. Flaherty relative to pretrial release and confinement. Criminal Justice.

**The Commonwealth of Massachusetts**

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

AN ACT RELATIVE TO BAIL, PRETRIAL RELEASE AND CONFINEMENT.

*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. Section 58 of chapter 276 of the General Laws is  
2 hereby amended by striking out the first paragraph, as appearing in  
3 section 1 of chapter 473 of the acts of 1971, and inserting in place  
4 thereof the following paragraph: —

5 A justice or a clerk or assistant clerk of the district court, a bail  
6 commissioner or master in chancery, in accordance with the  
7 applicable provisions of section fifty-seven shall, when a prisoner is  
8 held under arrest or committed either with or without a warrant for  
9 an offense other than an offense punishable by death, or for any  
10 offense on which a warrant of arrest has been issued by the superior  
11 court, hold a hearing in which the defendant and his counsel, if any,  
12 may participate and inquire into the case and shall admit such  
13 person to bail on his personal recognizance without surety unless  
14 said justice, clerk or assistant clerk, bail commissioner or master in  
15 chancery determines, in the exercise of his discretion, that such a  
16 release will not reasonably assure the appearance of the prisoner  
17 before the court. In his determination, said justice, clerk or assist-  
18 ant clerk, bail commissioner or master in chancery shall, on the  
19 basis of any information which he can reasonably obtain, take into  
20 account the nature and circumstances of the offense charged, the  
21 potential penalty the prisoner faces, the prisoner's family ties,  
22 financial resources, employment record and history of mental  
23 illness, his reputation and the length of residence in the communi-  
24 ty, his record of convictions, if any, any illegal drug use or depen-

25 dency, any flight to avoid prosecution or fraudulent use of an alias  
26 or false identification, or any failure to appear at any court pro-  
27 ceeding to answer to an offense, whether the prisoner is on bail  
28 pending adjudication of a prior charge, whether he is on probation,  
29 parole, or other release pending completion of sentence for any  
30 conviction, and whether he is on release pending sentence or appeal  
31 for any conviction. The person authorized to admit the prisoner to  
32 bail shall provide as an explicit condition of release for any prison-  
33 er admitted to bail pursuant to this section or section fifty-seven  
34 that should said prisoner be charged with a crime during the period  
35 of his release, his bail may be revoked in accordance with the third  
36 paragraph of this section.

1 SECTION 2. The third paragraph of said section 58 of said  
2 chapter 276, as so appearing, is hereby amended by striking out the  
3 first sentence and inserting in place thereof the following six sen-  
4 tences: —

5 A prisoner aforesaid charged with an offense and not released on  
6 his personal recognizance without surety by a clerk or assistant  
7 clerk of the district court, a bail commissioner or master in  
8 chancery shall forthwith be brought before the next session of the  
9 district court for a review of the order to recognize in accordance  
10 with the standards set forth in the first paragraph and this para-  
11 graph of this section. The court shall provide as an explicit condi-  
12 tion of release for any prisoner admitted to bail pursuant to this  
13 section or section fifty-seven that should said prisoner be charged  
14 with a crime during the period of his release, his bail may be  
15 revoked in accordance with this paragraph. If a prisoner is on  
16 release pending the adjudication of a prior charge, and the court  
17 after a hearing, finds probable cause to believe that the prisoner has  
18 committed a crime during said period of release, the court shall  
19 then determine, in the exercise of its discretion, whether the release  
20 of said prisoner will seriously endanger any person or the commun-  
21 ity. In making said determination, the court shall consider the  
22 gravity, nature and circumstances of the offenses charged, the  
23 prisoner's record of convictions, if any, and whether said charges  
24 or convictions are for offenses involving the use or threat of  
25 physical force or violence against any person, whether the prisoner

26 is on probation, parole or other release pending completion of  
27 sentence for any conviction, whether he is on release pending  
28 sentence or appeal for any conviction, the prisoner's mental condi-  
29 tion, and any illegal drug use or dependency. If the court deter-  
30 mines that the release of said prisoner will seriously endanger any  
31 person or the community and that the detention of the prisoner is  
32 necessary to reasonably assure the safety of any person or the  
33 community, the court may revoke bail on the prior charge and may  
34 order said prisoner held without bail pending the adjudication of  
35 said prior charge, for a period not to exceed sixty days. Said order  
36 shall state in writing the reasons therefor. A prisoner so held shall  
37 be brought to trial as soon as reasonably possible.

1 SECTION 3. The fourth paragraph of said section 58 of said  
2 chapter 275 as so appearing, is hereby amended by striking out, in  
3 line 2, the word "paragraph" and inserting in place thereof the  
4 words: — and third paragraphs.

1 SECTION 4. The fifth paragraph of said section 58 of said  
2 chapter 276, as so appearing is hereby amended by adding the  
3 following sentence: — The court may also review such changed  
4 circumstances or other factors not previously known or considered  
5 in accordance with the third paragraph of this section.

1 SECTION 5. Chapter 279 of the General Laws is hereby  
2 amended by inserting after section 8A the following section: —  
3 *Section 8B.* If the defendant was on release subject to the provi-  
4 sions of section fifty-eight of chapter two hundred and seventy-six  
5 when the crime was committed, the presumption shall be that the  
6 sentence shall run consecutively to the earlier sentence for the  
7 crime for which he was on release.

The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various projects and the results achieved. The report concludes with a summary of the work done and a list of the names of the persons who have been engaged in the work.

The second part of the report deals with the financial statement of the year. It shows the total amount of the income and the expenditure for each of the various projects. It also shows the balance of the accounts at the end of the year. The financial statement is followed by a list of the names of the persons who have been engaged in the work.

The third part of the report deals with the general remarks of the committee. It contains a number of suggestions and recommendations for the improvement of the work. It also contains a list of the names of the persons who have been engaged in the work.