

Superior Court Bail

Post Criminal Justice Reform

This brochure provides general information about bail procedures in Superior Court.

Contact the appropriate office for information on a specific case. This brochure does *not* address bail procedures in municipal court.

www.njcourts.gov

Do You Have Additional Questions About Bail?

Contact the criminal division or the ombudsman.

Go to njcourts.gov and type “Criminal Division Records Room” or “Statewide Ombudsman Directory” in the search box.

REMINDER: Keep copies of all court documents.



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Frequently
Asked
Questions



New Jersey Courts
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On Jan. 1, 2017, New Jersey adopted a new risk-based system of pretrial release that replaced the previous money bail system. The new system considers risk factors such as current charges, previous convictions and past failures to appear in court to determine any conditions for a defendant's pretrial release.

However, Criminal Justice Reform did not eliminate bail. A judge can set non-monetary and/or monetary conditions of pretrial release based on the level of risk. Monetary bail also can be set for failing to appear in court.

1. To whom does bail apply?

The information contained in this publication about bail applies to defendants arrested prior to Jan. 1, 2017 for whom a bail was set. It also applies to those defendants arrested and released after Jan. 1, 2017 for whom monetary bail is ordered as a condition of pretrial release or as the result of failing to appear in court.

2. What is bail and its purpose?

Bail is money or other security, such as a bail bond, provided to the court to obtain an adult defendant's release from jail. Bail is not a fine or court fee. The purpose of bail is to make sure that a defendant attends all required court dates. If the defendant keeps all scheduled court dates, the court releases/returns bail at the end of the case to the person who posted/paid it. This process can take three to four weeks.

3. How is bail set?

A judge sets a bail after obtaining information about the charge and background of a defendant. The judge makes a decision as to what amount and type of bail is necessary to guarantee that a defendant will appear in court.

4. What are the types of bail?

When bail is set, the court will set one or more of the following types of bail:

- Full Cash Only – The full amount of the bail must be posted/paid in cash.
- Cash with 10 Percent Option – Ten percent

of the set bail amount must be posted in cash. The remaining 90 percent does not have to be paid unless the defendant fails to appear for a required court appearance and the court issues an order that the balance be paid.

- Release on Own Recognizance (ROR) – No money is posted, but the defendant signs a written promise to appear in court as required.
- Property Bond – A lien is placed against real property that is posted as a property bail bond. The property owner must have the required equity so that if the defendant fails to appear in court, the lien can be paid from the equity. There are specific requirements that must be met in order to post property as bail. Information about these requirements is available from the local Superior Court Finance Division.
- Bail Bond – In exchange for a non-refundable fee, a licensed bail bondsman posts a surety bond (written obligation) with the court.

NOTE: All bails, except ROR, require a non-refundable filing fee of \$50 unless the fee is waived by the court. The \$50 fee is collected when the bail is posted.

5. Can the court order additional requirements besides bail?

Yes, a judge can impose non-monetary conditions on a defendant's release. An example of a non-monetary condition would be a requirement that the defendant have no contact with the victim. The non-monetary conditions could be set as part of the bail. If the defendant does not meet those conditions, the bail could be revoked and the defendant rearrested.

6. Who can post bail, and what are the responsibilities of someone who posts bail?

Bail can be posted by the defendant or another adult. If another person posts the bail, that person is called the surety. A surety guarantees that the defendant attends all required court appearances. The person who posts bail could be ordered to forfeit the bail if the defendant does not appear in court as required.

NOTE: The person posting bail should obtain and keep the receipt for the bail.

7. Where and when can bail be posted?

Bail can be posted at the designated county court house during court business hours. At other times, only cash or bail bond can be posted at the county jail.

8. What is a bail source inquiry questionnaire?

Pursuant to law, defendants charged with certain first or second-degree crimes, or a crime or offense involving domestic violence under certain circumstances, must provide a completed Bail Source Inquiry Questionnaire to the prosecutor before bail can be accepted. This completed form allows the prosecutor to verify information about the person posting the bail and to verify the bail was legally acquired. The forms are available at the county jail and other offices where bail can be posted.

9. What happens if bail is not posted?

A defendant who is not "bailed out" remains in jail while the charge is being resolved.

10. Can a bail amount or type be changed?

Yes, a judge can change the amount and/or type of bail. The defendant, the defendant's attorney or the prosecutor can file a written request to the court for a change in bail. The judge then decides whether to change the bail. Contact the appropriate Superior Court Criminal Division for more information. See the other side of this brochure.

11. What happens if a defendant out on bail does not come to court as required?

When a defendant does not come to court for a required appearance, the court could issue a bench warrant for the defendant's arrest. The court also could revoke the defendant's money bail and order that it be forfeited. When the defendant is arrested and appears before the court, the judge will then decide whether to reinstate the original bail or set a new bail.