

RELEASE ON BAIL BOND AND THE TWO ALTERNATIVE JAIL RELEASES

- **Bail or Bail Bond Release**
- **O.R. Release Without
Restrictions**
- **O.R. Release With Restrictions**



What is Bail?

Bail is something of value given to the court for the pretrial release from jail.

Bail is usually set and available within hours of arrest.

In Nevada it is either:

- 1) Cash
- 2) Bail Bond



What is a Bail Bond?

A Bail Bond is an insurance policy to the court that guarantees:

- Court Appearances
- Enhances Public Safety

Done contractually through:

- Cosigner(s)
- Collateral
- Information

Guaranteed by:

- Cosigner(s)
- Bail Agent
- Surety



This policy only has to pay out if there is an uncured “No-Show” to court. The court allows for 180 days from the time of a “No-Show” to cure this violation by:

- 1) Defendant getting a new court date
- 2) Defendant being surrendered back into custody



What does a Bail Bond cost?

Under NV Law NRS 697.300, the cost of a Bail Bond has to be 15% (or >\$50) of the bail amount (policy value).

For Example: A criminal case with a bail amount (policy value) for \$5000:

- 15% fee is \$750
- Est. down payment of \$100-\$300
- Est. payments of \$50/two weeks
- No finance charges
- If collateral then ZERO DOWN option is available



How is a Bail Bond obtained?

- Cosigner(s) needed as guarantor(s)
- Family members or close friends of defendant
- Cosigner(s) go through an interview and application processes

The Bail Agent determines:

- Is the defendant a flight risk?
- Is the defendant a danger to the community?
- Does the defendant have a prior record or failures to appear to court?
- Where does the defendant live, work, family and background?
- Is the cosigner(s) willing to be responsible for the defendant and their Bail Bond? (\$5000 in the above example)



The Bail Agent then:

- Collects cosigner(s) and defendants information on an application
- Executes a Bail Bond Agreement:
 - Cosigner is ultimately responsible for the Bail Bond (\$5000 in the above example)
 - Cosigner is responsible for observance of court ordered restrictions
 - Bail Agent and Surety are responsible for the Bail Bond (\$5000 in above example)



Why Cosigner(s)?

- Cosigners are family members or close friends
- Cosigners provide personal information about themselves and defendant



The Bail Agent then has, at a minimum, the following information about the cosigner and defendant:

- Home address
- Phone numbers (Landline and Cell)
- Work (Position, Family, Friends, Address, Phone numbers etc.)
- References (Parents, Family, Friends, Address, Phone numbers etc.)
- Documents (Phone/Power Bill, Pay-Stub, License, Registration, Lease, etc.)
- Sometimes collateral is pledged



The Bail Agent then determines if this information is satisfactory and a Bail Bond Agreement is then executed where the cosigner is responsible for:

- The defendant and observance of any court imposed restrictions
- To report any violations to the Bail Agent, who can return defendant back into custody
- To pay the full Bail Bond amount (policy) if defendant does not return to court
- Information that leads to the apprehension of defendant, if cosigner does not want to be responsible to pay the full Bail Bond amount on the 180th day. (\$5000 in example)



This process is a vital part of creating accountability in the pretrial release process of the defendant.

It is also called third party accountability.

Sometimes, cosigners do not want to be responsible for the release of a defendant and it signals to the Bail Agent that the defendant should probably remain in custody.

This is one of the major reasons why defendants with low bail amounts stay in jail – not their family members or friends want to be responsible.



What happens after a defendant has been bailed?

- Report to Bail Agent
- Check in: In person, by phone (weekly, biweekly, monthly)
- Random checks at home, work, phone
- Bail Bond policy ends with sentencing or exoneration by court



What happens if the defendant does not show up to court?

- Cosigner is notified
 - If mistake then Bail Agent helps in getting a new court date
 - If “on the run” cosigner is put on notice (\$5000 in above example)
 - Cosigner assists Bail Agent in apprehension of defendant (180 days)



Why use a Bail Bond?

- ✓ *Third party accountability* through Cosigners, Collateral, Information and Bail Agent
- ✓ Fastest and least restrictive way out of jail, back with family, friends and work
- ✓ Affordable with low or even no money down
- ✓ Guarantees court appearance and enhances public safety
- ✓ Defendants are monitored by Cosigners and Bail Agents
- ✓ Guarantees compliance with court ordered restrictions
- ✓ Violations can immediately be remedied by Bail Agents
- ✓ Zero cost to taxpayers
- ✓ Preserves the “presumption of innocence” of defendant, where no overbearing House Arrest Officer is monitoring and restricting the accused.



What are the alternative releases besides a Bail Bond?

There are only two alternative release mechanisms besides paying for Bail or a Bail Bond: (Custody status is reviewed by the court within 12 hours of arrest)

1) Own Recognizance (O.R.) release **without** restrictions:

Release without any restrictions and only a promise to return to court

2) Own Recognizance (O.R.) release **with** restrictions:

Release with Electronic Monitoring Program (EMP) restrictions and promise to return

Officer monitored release (Exhibit 1):

- Release with a GPS Monitor on ankle
- Monitored by Officer
- Very limited or no movement
- Cost is approx. \$400/month (if not indigent)
- Additional 2-7 days in jail



Alternative jail release concerns:

- No knowledge if defendant is fit to be released
- House Arrest Officers do NOT pursue offenders that cut off their GPS Monitors
- No third party accountability or reason to show back up to all court dates
- GPS Monitors are restrictive, degrading and susceptible to malfunction and officers biases (Exhibit 2)
- Defendants not deemed indigent, are forced to pay up to \$400/month for EMP Monitors



- Civil Rights Violations:


- EMP Monitored release even if no charges have been filed (VegasJailWatch.com)
- EMP Monitored House Arrest is considered a form of incarceration (post trial)
- EMP Monitoring Contract calls for “signing away” 4th Amendment (Exhibit 4)
- EMP Monitors could “listen in” and record conversations (attached ABA article 04/09/2019: *“GPS ankle monitors can call and record people without consent; do they violate 5th Amendment?”* (Exhibit 3)
- No more option for Bail or Bail Bond once on EMP



- Ever increasing cost to taxpayer to fund, maintain and expand EMP Monitored House Arrest Program
- Defendants are at the mercy of officers and their biases (Exhibit W.M.)
- Law Enforcement being overwhelmed with arresting defendants with warrants instead of actively policing



Other concerns and considerations:

- The use of Risk Assessment Tools (Questionnaire) in determining Own Recognizance (O.R.) release from jail:
 - 8-10 Questions determine release (Exhibit 5)
 - Found to have socioeconomic, racial and other biases:
 - CivilRights.org on 07-30-2018: ***“More than 100 Civil Rights, Digital Justice, and Community-Based Organizations Raise Concerns about Pretrial Risk Assessment.”*** (Exhibit 6)
 - ACLUSoCal.org on 08-20-2018: ***“BROWN SIGNS BAIL REFORM LEGISLATION OPPOSED BY ACLU”*** (Exhibit 7)
 - PreTrial.org on 02-07-2020: ***“We now see that Pretrial Risk Assessment Tools, designed to predict an individual’s appearance in court without a new arrest, can no longer be part of our solution for building equitable pretrial justice systems”*** (Exhibit 8)
 - Importance of Judges discretion
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Final thoughts and practical considerations on potential pretrial release reforms:

- ✓ Courts have responded to pretrial release reforms since early 2019 by implementing:
 - Custody status reviews within 12 hours of arrest
 - Use of Risk Assessment Tools to determine O.R. release
- ✓ All three mechanisms of release:
 1. O.R release **without** restrictions
 2. O.R. release **with** restrictions (Electronic Monitoring Program)
 3. Bail or Bail Bondcan coexist and are an improvement in the current pretrial release process
- ✓ Consider Legislation where the option for Bail or Bail Bond is available for the duration of a case. If defendant on EMP then always option to switch to Bail/Bail Bond



If you had a family member arrested, would you want the option to post their bail -or- leave their release up to the government, which is also who prosecutes them?

