

34.0 BAIL AND RECOGNIZANCE

(A) RIGHT TO BAIL AND PURPOSE OF BAIL

All persons are entitled to bail. The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings.

(B) CONDITIONS OF PRETRIAL RELEASE

Where summons has issued and the defendant has appeared the judge may release the defendant on his personal recognizance.

Any person who is entitled to release under subdivision (A) may be released on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judge, unless the judge determines that such release will not assure the appearance of the person as required. Where a judge so determines he shall, either in lieu of or in addition to the preferred methods of release stated above, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial, or if no single condition gives that assurance any combination of the following conditions:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise him;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Require the execution of an appearance bond in a specified amount and the deposit with the Clerk of the Court before which the proceeding is pending a sum of money equal to ten percent of the amount of the bond, but in no event shall such deposit be less than \$25.00 which deposit is to be returned upon the performance of the conditions of the appearance bond;
- (4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash or the securities allowed by law in lieu thereof, or;
- (5) Impose any other constitutional condition deemed reasonably necessary to assure appearance.

(C) CONDITIONS OF RELEASE AFTER CONVICTION

A person who has been convicted and is either awaiting sentence or has filed a notice of appeal shall be treated in accord with the provisions of subdivision (B), unless the judge has reason to believe that the person will flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained.

(D) CONDITIONS OF RELEASE: BASIS

In determining which conditions of release will reasonably assure appearance, the judge shall consider the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his appearing at the trial.

Cuyahoga County Common Pleas Court Local Rules

(E) ORDER

The judge who releases a person under this rule shall make an appropriate written order stating the conditions of release.

(F) AMENDMENTS

Subject to the provisions of subdivisions (B) and (E), a judge ordering the release of a person on any condition specified in this rule may at any time amend his order to impose additional or different conditions of release.

(G) INFORMATION NEED NOT BE ADMISSIBLE

Information stated in, or offered in connection with, any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a Court of law.

(H) CONTINUATION OF BONDS

Unless application is made by the surety for discharge, the same bond shall continue as a matter of right until the final disposition of the case in the trial Court. Final disposition shall mean the return of a verdict by a jury or judgment by the Court. In the discretion of the trial Court, and upon notice to the surety, the same bond may also continue after final disposition in the trial Court and pending sentence or pending disposition of the case on review. Any provision of a bond or similar instrument which is contrary to this rule is void.

(I) SANCTIONS

Any person, having been released pursuant to any provision of this rule, who fails to appear before any Court as required, shall be subject to any punishment provided by law and shall incur a forfeiture of any bail which was given for his release.

(J) JUSTIFICATION OF SURETIES

Every surety, except a corporate surety which is licensed as provided by law, shall justify by affidavit and may be required to describe in the affidavit the property by which he proposes to justify and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by him and remaining undischarged and all his other liabilities. He shall provide such other evidence of financial responsibility as the Court or clerk may require. No bond shall be approved unless the surety or sureties appear, in the opinion of the Court or clerk, to be financially responsible in at least the amount of the bond. No licensed attorney of law shall be a surety.

(K) FORFEITURE OF BONDS

If there is a breach of condition of a bond, the Court shall declare a forfeiture of the bail. Forfeiture proceedings shall be promptly enforced as provided by law.

(L) EXONERATION

The obligor shall be exonerated as provided by law.

Cuyahoga County Common Pleas Court Local Rules

(M) VERIFICATION OF BOND INFORMATION

Before accepting any bond for bail or recognizance, the Clerk shall make certain that the affidavit of justification for suretyship shall contain all of the information required by R. C. 2937.24 and such additional information as the Court may require to be set forth. The Clerk shall also require compliance with every direction contained in R. C. 2937.21, et seq. Whenever the Clerk shall be in doubt as to the validity of the signature of any bondsman, he shall refer the matter to the Sheriff who shall promptly cause the subject to be investigated and make a report to the Clerk.

(N) NOTIFICATION OF LAW ENFORCEMENT

Whenever a *capias* is issued by the Court, the Clerk shall promptly forward it to the Sheriff who shall immediately inform the police department or other law enforcement agency whose information led to the indictment of the defendant of the Court's action. The Sheriff is further directed to alert other law enforcement agencies as to such Court action.

(O) BOND FORFEITURE JUDGMENTS

The Clerk of Courts shall forward to the Prosecuting Attorney a copy of every bond forfeiture judgment entry. Every bond forfeiture judgment entry shall include the following language: "It is further ordered by the Court that if the aforesaid judgment is not satisfied within sixty (60) days, the Clerk of Courts is instructed to accept no further recognizance from said surety."

Further the Clerk of Courts shall notify the Prosecutor at such time that a judgment is satisfied. If the judgment is not satisfied at the end of the sixty (60) day period, the Prosecuting Attorney shall immediately take the necessary action to collect the judgment.

When a bond forfeiture has been ordered in a criminal case with a judgment taken thereon, and a bondsman files a motion to vacate said judgment to remit all or part of the money paid or payable, the following procedure will be followed.

When the defendant has been returned to this jurisdiction, or where it has been ascertained that he is being detained in another penal institution outside of this jurisdiction, and the Court partially grants the motion, the following sums shall be deducted from the money to be remitted:

- (1) All Court costs.
- (2) All costs of extradition sustained by the County or State.
- (3) Ten percent (10%) of the total bond where the order is made within one year of the date of the bond forfeiture.
- (4) Where the order is made one year or more subsequent to the date of the bond forfeiture, such sum, if any, in excess of ten percent (10%) of the bond as the judge deems appropriate.
- (5) If good cause by production of the body of the accused or full payment of the reduced judgment is not made within thirty (30) days, the face amount of the bond or the full judgment will be reinstated.

Effective 11/01/2000.