



# Superior Court of California County of Orange

Chambers of  
**KIRK H. NAKAMURA**  
PRESIDING JUDGE

700 CIVIC CENTER DRIVE WEST  
SANTA ANA, CA 92701

## **THIRD AMENDED ADMINISTRATIVE ORDER NO. 20/12**

### **ADOPTION OF STATEWIDE EMERGENCY BAIL SCHEDULE AUTHORIZED BY THE JUDICIAL COUNCIL OF CALIFORNIA**

On April 6, 2020, the Judicial Council of the State of California adopted eleven (11) temporary emergency rules of court in response to the COVID-19 pandemic. The emergency rules of court were adopted effective April 6, 2020. Amongst them is a Statewide Emergency Bail Schedule adopted as Emergency Rule of Court, Rule 4. The Superior Court of California for the County of Orange HEREBY ADOPTS THE STATEWIDE EMERGENCY BAIL SCHEDULE AND ORDERS AS FOLLOWS:

#### **PURPOSE**

Effective immediately, and no later than 5 p.m. on April 13, 2020, in accordance with the Emergency Rules during the COVID-19 pandemic as issued by the Judicial Council on April 6, 2020, the 2020 Misdemeanor & Infraction Bail Schedule, and the 2020 Felony Bail Schedule are hereby amended as follows.

#### **MANDATORY APPLICATION**

The Emergency Bail Schedule applies to every person arrested and in pretrial custody, and to every accused person held in pretrial custody.

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### **DURATION OF THE EMERGENCY BAIL SCHEDULE**

This Emergency Bail Schedule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until it is amended or repealed by the Judicial Council.

### **INFRACTION OFFENSES**

For all violations of state statutes, provisions of the California Code of Regulations, or county, municipal and agency ordinances constituting infractions, the total bail is \$0.

### **SETTING OF BAIL & EXCEPTIONS**

The bail for all misdemeanor and felony offenses must be set at \$0, with the exception of only the offenses listed below:

1. A serious felony, as defined in Penal Code § 1192.7(c), or a violent felony, as defined in Penal Code § 667.5(c);
2. A felony violation of Penal Code § 69, Obstructing or Resisting Executive Officer in Performance of Duties;
3. A violation of Penal Code § 166(c)(1), Contempt of Court;
4. A violation of Penal Code § 136.1, Intimidation of Witnesses and Victims, when punishment is imposed under § 136.1(c), (accompanied by force or by an express or implied threat of force or violence; in furtherance of a conspiracy; with a prior conviction for a violation of this section, or, when committed for pecuniary gain);
5. A violation of Penal Code § 262, Rape of a Spouse;
6. A violation of Penal Code § 243(e)(1), Intimate Partner Battery, or § 273.5, Domestic Violence;

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7. A violation of Penal Code § 273.6(a) if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party;
8. A violation of Penal Code § 422, Criminal Threats, where the offense is punished as a felony;
9. A violation of Penal Code § 646.9, Stalking
10. A violation of an offense listed in Penal Code § 290(c), Offenses subject to Sex Offender Registration;
11. A violation of Vehicle Code § 23152 or 23153, Driving Under the Influence;
12. A felony violation of Penal Code § 463, Looting during Emergency or Evacuation; and
13. A violation of Penal Code § 29800, Possession of a Firearm by a Prohibited Person.

**ABILITY TO DENY BAIL**

Nothing in the Emergency Bail Schedule restricts the ability of the court to deny bail as authorized by Article 1, § 12, or § 28(f)(3) of the California Constitution. (See below)

**APPLICATION OF THE 2020 BAIL SCHEDULE FOR INFRACTIONS & MISDEMEANORS AND THE 2020 FELONY BAIL SCHEDULE**

The current countywide bail schedules remain in effect for all offenses listed in exceptions (1) through (13) as set forth above in this Emergency Bail Schedule, including any count-specific conduct enhancements and any status enhancements.

**BAIL FOR VIOLATIONS OF POST-CONVICTION SUPERVISION**

Under the statewide Emergency Bail Schedule, bail for all violations of misdemeanor probation, whether the arrest is with or without a bench warrant, must be set at \$0.

*(Practice Tip: Bail for all Misdemeanor Probation Violations will be \$0.)*



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Bail for all violations of felony probation, parole, post-release community supervision, or mandatory supervision, must be set in accord with the statewide Emergency Bail Schedule, or for the bail amount in the court's regular bail schedules for charges of convictions listed in exceptions (1) through (13) above, including any enhancements.

*(Practice Tip: Bail for all felony probation & other violations will be \$0, except for the 13 exceptions which will have bail set per the regular bail schedule amounts, rather than at "No Bail.")*

**California Constitution Article 1, § 12**

A person shall be released on bail by sufficient sureties; except for:

- (a) Capital crimes when the facts are evidence or the presumption great;
- (b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or
- (c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

**California Constitution Article 1, §28(f)(3)**

**Public Safety Bail**

A person may be released on bail by sufficient sureties; except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the

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safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing the case. Public safety and the safety of the victim shall be the primary considerations.


A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail.

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

THIS ORDER IS EFFECTIVE IMMEDIATELY.

IT IS SO ORDERED this 14th day of April 2020, at Santa Ana California.

  
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Kirk H. Nakamura  
Presiding Judge