



Superior Court of California County of Orange

Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

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, WITH THE ADDED CLARIFICATIONS TO SUBDIVISION (f)(2), AND ORDERS AS FOLLOWS:

Emergency rule 4. Emergency Bail Schedule

(a) Purpose

Notwithstanding any other law, this rule establishes a statewide Emergency Bail Schedule, which is intended to promulgate uniformity in the handling of certain offenses during the state of emergency related to the COVID-19 pandemic.

(b) Mandatory application

No later than 5 p.m. on April 13, 2020, each superior court must apply the statewide Emergency Bail Schedule:

- (1) To every accused person arrested and in pretrial custody.

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(2) To every accused person held in pretrial custody.

(c) Setting of bail and exceptions

Under the statewide Emergency Bail Schedule, 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 section 1192.7(c), or a violent felony, as defined in Penal Code section 667.5(c);

(2) A felony violation of Penal Code section 69;

(3) A violation of Penal Code section 166(c)(1);

(4) A violation of Penal Code section 136.1 when punishment is imposed under section 136.1(c);

(5) A violation of Penal Code section 262;

(6) A violation of Penal Code sections 243(e)(1) or 273.5;

(7) A violation of Penal Code section 273.6 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 section 422 where the offense is punished as a felony;

(9) A violation of Penal Code section 646.9

(10) A violation of an offense listed in Penal Code section 290(c);

(11) A violation of Vehicle Code sections 23152 or 23153;

(12) A felony violation of Penal Code section 463; and

(13) A violation of Penal Code section 29800.

(d) Ability to deny bail

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Nothing in the Emergency Bail Schedule restricts the ability of the court to deny bail as authorized by article I, section 12, or 28(f)(3) of the California Constitution **(ADDENDUM 1)**

(e) Application of countywide bail schedule

(1) The current countywide bail schedule of each superior court must remain in effect for all offenses listed in exceptions (1) through (13) of the Emergency Bail Schedule, including any count-specific conduct enhancements and any status enhancements.

(2) Each superior court retains the authority to reduce the amount of bail listed in the court's current countywide bail schedule for offenses in exceptions (1) through (13), or for any offenses not in conflict with the Emergency Bail Schedule.

(f) Bail for violations of post-conviction supervision

(1) 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.

(2) 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 countywide schedule of bail for charges of conviction listed in exceptions (1) through (13), including any enhancements.

Bail for violations of felony probation, parole, post-release community supervision, or mandatory supervision, where the underlying felony conviction does not fall within the exceptions for offenses set forth in subdivision (c)(1) through (c)(13), shall be set at \$15,000.

Bail for violations of felony probation, parole, post-release community supervision, or mandatory supervision, where the underlying felony conviction is for offenses set forth in

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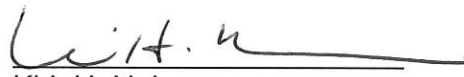
subdivision (c)(1) through (c)(13), shall be set in an amount for the underlying felony conviction as set forth in the Orange County Superior Court Uniform Bail Schedule.

(g) Sunset of rule

This rule 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 amended or repealed by the Judicial Council.

THIS ORDER IS EFFECTIVE IMMEDIATELY.

IT IS SO ORDERED this 9th day of April 2020, at Santa Ana California.

A handwritten signature in black ink, appearing to read "K.H. Nakamura", written over a horizontal line.

Kirk H. Nakamura
Presiding Judge

ADDENDUM 1
ADMINISTRATIVE ORDER 20/12

West's Ann.Cal.Const. Art. 1, § 12

§ 12. Bail; release; exception for certain crimes; excessive bail; recognizance

Sec. 12. A person shall be released on bail by sufficient sureties, except for:

- (a) Capital crimes when the facts are evident 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.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration 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 of the case.

A person may be released on his or her own recognizance in the court's discretion.

West's Ann.Cal.Const. Art. 1, § 28

§ 28. Findings and declarations; rights of victims; enforcement

(f) In addition to the enumerated rights provided in subdivision (b) that are personally enforceable by victims as provided in subdivision (c), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:

(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 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 of the case. Public safety and the safety of the victim shall be the primary considerations.

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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.