

## **CPL ARTICLE 520: BAIL & BONDS.**

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The only types of bail allowed are: cash; insurance **bond** (not policy!); secured/unsecured/partially surety or appearance bond.

Credit card can be used to pay, reasonable administrative fee may be charged.

Court may direct bail in one of 2 or more methods, and can set different amounts per manner.

If Court sets amount of bail, but not method: it may be either surety or appearance bond unsecured.

If bail has been fixed and defendant in custody, cash bail is allowed even if Court did not say so. Cash bail in NYC is deposited with Commissioner of Finance, else in other counties with the Treasurer; can also be to the Sheriff. Defendant must be released upon proof of payment.

Each person posting cash must sign form listing: name; residential address; occupation; title of action, offense(s) charged, and status; name of principal (person being bailed), role on proceeding, and date of next appearance; that poster undertakes to ensure person's appearance, else forfeits cash; amount of money so posted. Money remains the property of the person posting until and unless forfeited to court.

When bail bond is allowed for Information (including Simplified & Prosecutor's) charging only traffic infraction, Court can allow defendant to submit insurance company bail bond on form by Superintendent of Insurance. Justifying affidavit must state: premiums received; indemnifications received (including name, occupation, residential and business addresses).

Otherwise, secured bail bond must have a subscribed & sworn affidavit of each obligor listing all personal property deposited and/or real property pledged (and any liens against same); also a form stating everything required of case except not the amount, and in place of the requirement to forfeit the money instead a provision that the obligor(s) will pay a designated sum to the People of the State of New York upon principal's noncompliance.

Partially secured or unsecured bail bond must have affidavit attesting to: place and nature of business/employment for person swearing; length of time there; income for past year; and average income for last 5.

Bail bond is binding until sentence or other termination; it stays valid even if local criminal case is dismissed in favor of Superior indictment, or if another court prosecutes. Obligors can specify terms for a lesser period, must notify Court and D.A. at least 14 days before expiration. Also, bond can be revoked/vacated, or principal surrendered to court for re-securing.

Once all paperwork has been filed, the Court may examine the obligors for reliability and the security for value. However the court can only inquire of cash bail poster where D.A. applies with reason to believe that the money is from a crime or otherwise not the person's property.

The Court can ask about obligor's background and character, as well as the source of money/property. The Court may ask the obligors under oath. D.A. has right to attend hearing, and may call witnesses; Court can adjourn matter on D.A.'s request for time to do so.

After inquiry, the Court must either accept or disapprove the bail/bond.

Where defendant is arraigned in local criminal court, and released on cash bail, if the case then goes to Superior and bail continues, he/she can request the cash to be transferred. Notice must be given to the person who posted the money, and Superior Court shall grant the request. Overage shall be paid back to poster; defendant must make up any deficiency.