

# Bail and Bail Bonds

Business and Labor Interim Committee  
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Prepared by the Office of Legislative Research and General Counsel



## Presentation Outline

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- Origin of this agenda item
- Bail provisions in Utah Constitution
- Posting bail
- How is the amount of bail set
- Uniform bail schedule

## Origin of this Agenda Item

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- 2015 General Session H.B. 445, “Bail Bond Surety Amendments,” passed the House of Representatives but did not pass the Senate.
- The Utah Association of Professional Bondsman and Agents had asked that H.B. 445 be introduced.
- The bail bondsmen claim that some judges are setting different bail amounts based on how the bail will be paid.
- H.B. 445 would have required the amount of a cash bail and a bonded bail be the same amount.

## Today’s Presenters

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- Bail bondsmen
- Courts
- Prosecutors
- Defense attorneys

## Declaration of Rights in Utah Constitution and Statute

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- Persons charged with a crime shall be bailable (some exceptions)
- Excessive bail shall not be required
- Exceptions to right of bail (if substantial evidence):
  - Capital offense
  - Felony while on probation, parole, or bail from a previous felony charge
  - If accused poses a substantial danger or likely to flee, other crime designated by statute:
    - Felony
    - Felony and person violated a material condition of release while previously on bail
    - Some others such as domestic violence

## Posting Bail

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- Bail is an assurance that a defendant in custody will appear at subsequent court proceedings in exchange for the defendant's release from custody pending the court appearance.
- Bail may be a release on the person's own recognizance.
- Bail is typically posted using either cash or a bail bond.
- Nonrefundable fee to obtain a bail bond is typically 10% of bond amount.

## Posting Bail

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- If the defendant does not appear at subsequent court proceedings:
  - judge issues a warrant for the defendant's arrest; and
  - after following a statutory procedure, a bail bond may be forfeited.
- If the defendant appears at all court proceedings and after the case is settled, a cash bail is refunded.
- 2014 General Session S.B. 159, "Bail Amendments," allows a court to order that a judgment creditor be paid from cash posted as bail.

## How is Amount of Bail Set?

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- Arrested pursuant to warrant
  - bail amount is specified in the warrant
- Arrested upon committing a crime
  - within 24 hours, a judge reviews the case without seeing the accused and if determines probable cause then the judge usually sets bail amount based on the recommended bail schedule.
  - within 2-4 days, a judge holds a bail hearing in person with the accused and lawyers present. Bail amount may be modified.

## Uniform Bail Schedule

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FELONIES	BAIL
1st degree with minimum mandatory sentence	\$25,000
Other 1st degree	\$20,000
2nd degree	\$10,000
3rd degree	\$5,000

Questions?