



Bail

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What is bail?

Bail is the money someone must give to the court to get out of jail. Bail is returned later.



Some of this information is gathered by the **Criminal Justice Agency (CJA)**. The CJA interviews a person accused of a crime before he or she is arraigned. The judge uses the information gathered by the CJA at the arraignment to decide what to do about bail.

When is bail decided?

At **arraignment** (a-RAIN-mint). Arraignment is the first time the **defendant** goes in front of a judge. A person who is arrested and goes before a judge is called a defendant.

How does the judge make decisions about bail?

A judge does not have to set bail. Set bail means give a defendant bail. The judge may look at these things about a defendant first:

- Kind of person
- Habits
- Mental condition
- Job
- Ties to the neighborhood
- Criminal and **juvenile** record. Juvenile usually means a person less than 16 years old.
- If the defendant has **jumped bail** in the past. Jumped bail means the defendant did not come to court when he or she was supposed to.
- Chances of getting convicted. Convicted means found guilty.
- How serious the crime was



What happens if the judge sets bail?

If they can, family or friends of the defendant put up the money the judge asks for. This is called posting bail. The defendant then must promise to appear in court on the date the judge says. After that, the judge will **release** the defendant. Here, release means let out of jail.

What if the defendant cannot post bail?

The defendant can get a **bail bond**. A bail bond is a guarantee by a bail bond company to pay the bail if the defendant does not show up for a court appearance. The bail bond company charges 10% of the bail amount for this service. For example, if your bail is \$10,000 you will have to pay the bail bond company \$1,000. The company keeps that.

How does the person who posts bail get the money back?

At the end of the case the court will issue a notice to release bail. The clerk will then do the paper work. The NYC Finance Department is supposed to return bail money within four to six weeks from the last court date. If the money is not returned, the person who posted bail can call (212) 669-2879 or write a letter to:

NYC Finance Department
1 Centre Street
Room 2220
New York, New York 10007

What if the defendant does not show up?

The defendant is then called a **fugitive**. A fugitive is someone who is accused of a crime and is hiding.

What does a judge do about a fugitive?

The judge issues a **bench warrant**. This is an order to arrest the defendant and bring him or her to the judge.



What if a fugitive is arrested on a bench warrant?

The court may keep the bail money. The judge may set a higher bail or order that the defendant be held in jail until the end of the case.

How do you post bail?

You bring the money in cash to the cashier's office. If the bond company is posting a bail bond, the bondsman must swear under oath that he or she talked to the defendant. The bondsman must then say that the defendant promised to appear at the next court date



What if the judge does not set bail?

The defendant may be:

- **Remanded.** Remanded means held in jail without bail.
- **Released on his or her own recognizance,** also called **RORed**. This means the defendant can go home with no bail, but must show up at the next court appearance.
- Released because the case was dismissed.
- Released because there was a plea bargain.



The judge can also issue an **Adjournment in Contemplation of Dismissal** or **ACD**. (For more information, about these possibilities, see the LIFT "Arrestment" guide.)

This document should not take the place of a consultation with a lawyer. LIFT encourages all individuals involved with the Criminal and Family Court systems to consult with a lawyer.

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