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# **Pretrial Release Process and Programs Minnesota Judicial Branch**

**Senate Judiciary and Public Safety Finance and  
Policy Committee**

**February 10, 2021**

# Minnesota Constitution

**Article I Sec. 7. Due process; prosecutions; double jeopardy; self-incrimination; **bail**; habeas corpus.**

No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. **All persons before conviction shall be bailable by sufficient sureties**, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless the public safety requires it in case of rebellion or invasion.

# Supreme Court Rule

## Rule 6.02 Criminal Procedure

- A person charged with an offense must be released without bail when ordered by the prosecutor, court, or any person designated by the court to perform that function. On appearance before the court, **a person must be released on personal recognizance or an unsecured appearance bond unless** a court determines that release will **endanger the public safety or will not reasonably assure the defendant's appearance**. When this determination is made, the court must, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release that will reasonably assure the person's appearance as ordered, or, if no single condition gives that assurance, any combination of the following conditions:
  - The defendant's release must be conditioned on appearance at all future court proceedings.
  - The court must set money bail without other conditions on which the defendant may be released by posting cash or sureties. (Constitution provision)

# Release Form

## CONDITIONAL RELEASE ORDER

New Order

Amended Order

You are released on any of the following marked options (and marked conditions):

- Post bail/bond of \$\_\_\_\_\_ with no conditions.     Post bail/bond of \$\_\_\_\_\_ with the following conditions.  
 Post cash bail of \$\_\_\_\_\_ with no conditions.     Post cash bail of \$\_\_\_\_\_ with the following conditions.  
 You are released with no bond, bail, or conditions.     You are released with no bail on the following conditions.

1.  Obey all laws.
2.  Attend all court appearances and appointments with Probation, including any Pre-Sentence Investigation interview.

# Conditions in Rule

If the person is not released outright, the court must “impose the **first** of the following conditions of release that will reasonably assure the person's appearance as ordered,

- (a) Place the defendant under the supervision of a person who, or an organization that, agrees to supervise;
- (b) Place restrictions on travel, association, or residence during release;
- (c) Require an appearance bond, cash deposit, or other security; or
- (d) Impose other conditions necessary to assure appearance as ordered.”

If the court sets conditions of release, it must issue a written order containing them.

# Conditions form

1.  Do not have direct or indirect contact (including through social media) with \_\_\_\_\_.  
Stay away from a three-block radius of \_\_\_\_\_ and where any such person is, lives, works or goes to school, except with a police escort to recover your clothing, prescriptions, electronics, and toiletries.  Solely to facilitate parenting time or for child-care purposes,  contact through \_\_\_\_\_ or  written contact is permitted.
2.  Stay away from \_\_\_\_\_.
3.  Do not have parenting time with \_\_\_\_\_ unless allowed by Child Protective Services. If a future order from a Family Court or Juvenile Court allows parenting time, you may seek a modification of this order.
4.  Do not possess any firearm or ammunition.
5.  \_\_\_\_\_.

*The following marked conditions require supervision by Probation. Sign releases to confirm your compliance.*

6.  Your release will be supervised. Notify your supervising officer of any change in your contact information within 24 hours. If you are currently on probation in Hennepin County, your Probation Officer will supervise you; these conditions are in addition to all current probation conditions.
7.  Complete an in-custody substance use assessment. You are released:  upon completion of the assessment interview  to recommended treatment without posting bond/bail  only upon court order. Follow recommendations.
8.  Within \_\_\_\_ days of your release, complete a substance use assessment. Follow recommendations.
9.  Do not use any alcohol or non-prescribed controlled substance. You are subject to  random testing and/or  Remote Electronic Alcohol Monitoring (REAM) at your expense. Take all prescribed medication only as directed; provide a list of all medications to your supervising officer.
10.  You must remain on Electronic Home Monitoring (EHM) and follow EHM rules. You  will remain in custody and be transported by Probation to be placed on EHM  must report to Client and Community Restoration at 3000 2nd Street North, Minneapolis, on \_\_\_\_\_ to activate EHM. If eligible, you are approved for immediate furloughs for job-seeking, work, school, treatment, legal meetings, and court.
11.  You cannot leave Minnesota without court permission.
12.  \_\_\_\_\_.



# Rule considerations

In determining conditions of release the court must consider:

- (a) the nature and circumstances of the offense charged;
- (b) the weight of the evidence;
- (c) family ties;
- (d) employment;
- (e) financial resources;
- (f) character and mental condition;
- (g) length of residence in the community;
- (h) criminal convictions;
- (i) prior history of appearing in court;
- (j) prior flight to avoid prosecution;
- (k) the victim's safety;
- (l) any other person's safety;
- (m) the community's safety.

# Information source

- DOCCR collects the information listed in the Rule
- DOCCR completes a pretrial release evaluation form that includes a risk score.
  - Form is validated to ensure it is race and gender neutral
  - The score is one factor the judge considers when setting conditions of release.

# The scale

Arrest	Bail	Main Charge :	Points Assigned
		Other Charges:	
Employment/Income Sources/School Status		Amount: \$	Choose an item.
Current Problematic Chemical Use			Choose an item.
Homeless or 3 or More Addresses in the Past Year			Choose an item.
Age at First Adult Conviction/Felony Delinquency Adjudication			
Criminal History Points			
Bench Warrant Points			
Holdings/ Type:	Complaint Summary: . :		Scale Score
		<u>Pre-Trial Score</u> Lower = 0-11 points Moderate = 12-25 points Higher = 26 or more points	

# Additional initiatives to reduce bail

- Failure to appear
  - Sign and Release
  - Book and Release
- Probation Violations
  - Meet and Release

# Bail Bond Program

- Administrated by the State Court Administrator's Office
  - Approves qualifications for bail bond agents, bonding agencies, and sureties issuing bail bonds
  - Oversees the complaint, review, and suspension processes

# Bail Bond Program

- Varying qualifications for agents, agencies, and sureties. For example:
  - Must have an active license with the Minnesota Department of Commerce
  - Registration with the Minnesota Secretary of State's Office
  - Criminal background check
- Statewide List of Approved Bail Bond Agents:
  - 45 agencies
  - 270 agents
  - 15 sureties

# Bail Bond Program

## Bail Bond Procedures also establish:

- An initial application process, and a renewal process that occurs every 2 years based on year of initial approval
- Standards of Conduct concerning the professional and ethical behavior of agents, agencies, and sureties
- Complaint and Investigation Process including disciplinary action options

# Resources

- [Rule 702](#) and [Form 702-Bail Bond for Appearance Only](#)
- [Bail Bond Program](#) and [Procedures](#)
- [Bail Bond FAQs](#)

# Pretrial Release Initiative

## Judicial Council Policy 524

“It is the policy of the Minnesota Judicial Branch that judges shall **use evidence-based assessment of risk** in setting pretrial release conditions and shall presumptively **use non-financial release conditions to the greatest degree** consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crimes.”

# Pretrial Release Initiative: Background

- Initiative has been on every Minnesota Judicial Branch Strategic Plan since 2015
- Statewide policy and tool adopted in 2018
- Data has been collected since 2018

# Pretrial Release Initiative: In Progress

- Minnesota Pretrial Assessment Tool validation study in progress
  - Multi-disciplinary validation committee
- Results expected second-half of 2021
- If needed following the validation study, changes to the policy or tool will be implemented in 2022

# Resources

- [Judicial Council Policy 524, Pretrial Release Evaluation](#)
- [Pretrial Release Initiative](#) overview and [Assessment Tool](#)

