



NCSL Pretrial Resources

1. Pretrial Right to Counsel (2016)
2. Citation in Lieu of Arrest (2018)
3. Pretrial Release Eligibility (2013)
4. State Pretrial Risk Assessments (2019)
5. Legislative Guidance for Courts Setting Release Conditions (2015)
6. Statutory Pretrial Release Conditions (2016)
7. Pretrial Detention (2013)
8. Bail Bond Agent Licensure (2013)
9. Bail Bond Agent Business Practices (2013)
10. Recovery Agents ("Bounty Hunters") (2013)
11. Victims' Pretrial Release Rights and Protections (2015)
12. Population Specific Diversion (2017)
13. General Population Pretrial Diversion Programs (2017)
14. Bail Forfeiture Procedures (2013)

Materials are current through the date listed. Enactments modifying the laws contained in these materials can be found in NCSL's pretrial enactment database at the following link. Information is available starting in 2012.

<http://www.ncsl.org/research/civil-and-criminal-justice/state-pretrial-release-legislation.aspx>

Contact:

Amber Widgery, Esq.
Senior Policy Specialist, Criminal Justice Program
National Conference of State Legislatures
Amber.Widgery@ncsl.org
303-856-1466

NCSL's Criminal Justice Program is in Denver, Colorado, at 303-364-7700; or cj-info@ncsl.org

Statutes & bills may be edited or summarized. Information is provided for representative purposes only;
this may not be a complete analysis of the law in each state.

Pretrial Right to Counsel

9/30/2016



Every state constitution, in addition to the U.S. Constitution, guarantees the right to counsel for a person charged with a criminal offense. When *Gideon v. Wainwright* was decided by the U.S. Supreme Court in 1963, the right was established to have counsel appointed if a defendant was financially unable to pay for an attorney. *Gideon* and subsequent cases guarantee the right to appointed counsel to anyone charged with a felony or certain misdemeanors.

The Supreme Court has subsequently addressed when counsel should be provided, ruling that the right to counsel attaches at a defendant's initial appearance.

The Court's opinion in *Rothgery v. Gillespie County* states that:

"Attachment occurs when the government has used the judicial machinery to signal a commitment to prosecute Once attachment occurs, the accused at least is entitled to the presence of appointed counsel during any 'critical stage' of the postattachment proceedings; what makes a stage critical is what shows the need for counsel's presence...."

"... [A] criminal defendant's initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel."

The Court also went on to say that counsel must be appointed within a reasonable amount of time after attachment to allow for adequate representation. This case law provides a baseline for providing indigent defendants with representation, but procedures for initial appearance and appointment of counsel vary by state.

In the first chart below you will find the exact language of each state constitutional provision establishing the right to counsel. In the second chart you will find statutory guidance on implementing the right to counsel in each state. State law summarized in the second chart provides guidance on what happens at a defendant's initial appearance. Frequently these laws require a court to determine pretrial release and conditions of release, to advise defendants of their right to counsel and their right to appointed counsel if they are unable to afford an attorney, and to appoint counsel if they find that a defendant is indigent and is charged with an offense that requires representation.

The National Center for State Courts has compiled additional information on how courts have interpreted these legal provisions in a Justice Brief titled Access to Counsel at Pretrial Release Proceedings.

STATE CONSTITUTIONAL RIGHT TO COUNSEL

STATE	CITATION	
Alabama	Const. Art. 1 §6	That in all criminal prosecutions, the accused has a right to be heard by himself and counsel, or either; to demand the nature and cause of the accusation; and to have a copy thereof; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to testify in all cases, in his own behalf, if he elects so to do; and, in all prosecutions by indictment, a speedy, public trial, by an impartial jury of the county or district in which the offense was committed; and he shall not be compelled to give evidence against himself, nor be deprived of life, liberty, or property, except by due process of law; but the legislature may, by a general law, provide for a change of venue at the instance of the defendant in all prosecutions by indictment, and such change of venue, on application of the defendant, may be heard and determined without the personal presence of the defendant so applying therefor; provided, that at the time of the application for the change of venue, the defendant is imprisoned in jail or some legal place of confinement.
Alaska	Const. Art. 1 §11	In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
Arizona	Const. Art. 2 §24	In criminal prosecutions, the accused shall have the right to appear and defend in person, and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

STATE	CITATION	
Arkansas	Const. Art. 2 §10	In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed; provided, that the venue may be changed to any other county of the judicial district in which the indictment is found, upon the application of the accused, in such manner as now is, or may be prescribed by law; and to be informed of the nature and cause of the accusation against him, and to have a copy thereof; and to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be heard by himself and his counsel.
California	Const. Art. 1 §15	<p>The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.</p> <p>Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law.</p>
California	Const. Art. 1 §14	<p>Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.</p> <p>A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant. On the defendant's request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant.</p> <p>A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.</p>
Colorado	Const. Art. 2 §16	In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

STATE	CITATION	
Connecticut	Const. Art. 1 § 8	In all Criminal prosecutions, the accused shall have a right to be heard by himself and by counsel; to be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process to obtain witnesses in his behalf; to be released on bail upon sufficient security, except in capital offenses, where the proof is evident or the presumption great; and in all prosecutions by information, to a speedy, public trial by an impartial jury. No person shall be compelled to give evidence against himself, nor be deprived of life, liberty or property without due process of law, nor shall excessive bail be required nor excessive fines imposed. No person shall be held to answer for any crime, punishable by death or life imprisonment, unless upon probable cause shown at a hearing in accordance with procedures prescribed by law, except in the armed forces, or in the militia when in actual service in time of war or public danger.
District of Columbia	Const. B. of R. Art. 1 § 106	In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him or her; to have compulsory process for obtaining witnesses in his or her favor, and to have the assistance of counsel for his or her defense.
Delaware	Const. Art. 1 § 7	In all criminal prosecutions, the accused hath a right to be heard by himself or herself and his or her counsel, to be plainly and fully informed of the nature and cause of the accusation against him or her, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself or herself, his or her friends or counsel, for obtaining witnesses in his or her favor, and a speedy and public trial by an impartial jury; he or she shall not be compelled to give evidence against himself or herself, nor shall he or she be deprived of life, liberty or property, unless by the judgment of his or her peers or by the law of the land.
Florida	Const. Art. 1 § 16	<p>(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.</p> <p>(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.</p>
Georgia	Const. Art. 1 § 1	Every person charged with an offense against the laws of this state shall have the privilege and benefit of counsel; shall be furnished with a copy of the accusation or indictment and, on demand, with a list of the witnesses on whose testimony such charge is founded; shall have compulsory process to obtain the testimony of that person's own witnesses; and shall be confronted with the witnesses testifying against such person.

STATE	CITATION	
Hawaii	Const. Art. 1 § 14	In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against the accused, provided that the legislature may provide by law for the inadmissibility of privileged confidential communications between an alleged crime victim and the alleged crime victim's physician, psychologist, counselor or licensed mental health professional; to have compulsory process for obtaining witnesses in the accused's favor; and to have the assistance of counsel for the accused's defense. Juries, where the crime charged is serious, shall consist of twelve persons. The State shall provide counsel for an indigent defendant charged with an offense punishable by imprisonment.
Idaho	Const. Art. 1 § 13	<p>In all criminal prosecutions, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend in person and with counsel.</p> <p>No person shall be twice put in jeopardy 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.</p>
Illinois	Const. Art. 1 § 8	In criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation and have a copy thereof; to be confronted with the witnesses against him or her and to have process to compel the attendance of witnesses in his or her behalf; and to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed.
Indiana	Const. Art. 1 § 13	<p>(a) In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.</p> <p>(b) Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity, and respect throughout the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.</p>
Iowa	Const. Art. 1 § 10	In all criminal prosecutions, and in cases involving the life, or liberty of an individual the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, to have a copy of the same when demanded; to be confronted with the witnesses against him; to have compulsory process for his witnesses; and, to have the assistance of counsel.

STATE	CITATION	
Kansas	Const. B. of R. § 10	In all prosecutions, the accused shall be allowed to appear and defend in person, or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of the witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offense.
Kentucky	Const. § 11	In all criminal prosecutions the accused has the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. He cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land; and in prosecutions by indictment or information, he shall have a speedy public trial by an impartial jury of the vicinage; but the General Assembly may provide by a general law for a change of venue in such prosecutions for both the defendant and the Commonwealth, the change to be made to the most convenient county in which a fair trial can be obtained.
Louisiana	Const. Art. 1 § 13	When any person has been arrested or detained in connection with the investigation or commission of any offense, he shall be advised fully of the reason for his arrest or detention, his right to remain silent, his right against self incrimination, his right to the assistance of counsel and, if indigent, his right to court appointed counsel. In a criminal prosecution, an accused shall be informed of the nature and cause of the accusation against him. At each stage of the proceedings, every person is entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and charged with an offense punishable by imprisonment. The legislature shall provide for a uniform system for securing and compensating qualified counsel for indigents.
Maine	Const. Art. 1 § 6	<p>In all criminal prosecutions, the accused shall have a right to be heard by the accused and counsel to the accused, or either, at the election of the accused;</p> <p>To demand the nature and cause of the accusation, and have a copy thereof;</p> <p>To be confronted by the witnesses against the accused;</p> <p>To have compulsory process for obtaining witnesses in favor of the accused;</p> <p>To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a jury of the vicinity. The accused shall not be compelled to furnish or give evidence against himself or herself, nor be deprived of life, liberty, property or privileges, but by judgment of that person's peers or the law of the land.</p>
Maryland	Dec. of R. art. 21	That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the Indictment, or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

STATE	CITATION	
Massachusetts	Const. Pt. 1, Art. 12	<p>No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his council, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land. And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.</p>
Michigan	Const. Art. 1 § 20	<p>In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in prosecutions for misdemeanors punishable by imprisonment for not more than 1 year; to be informed of the nature of the accusation; to be confronted with the witnesses against him or her; to have compulsory process for obtaining witnesses in his or her favor; to have the assistance of counsel for his or her defense; to have an appeal as a matter of right, except as provided by law an appeal by an accused who pleads guilty or nolo contendere shall be by leave of the court; and as provided by law, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.</p>
Minnesota	Const. Art. 1 § 6	<p>In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. In all prosecutions of crimes defined by law as felonies, the accused has the right to a jury of 12 members. In all other criminal prosecutions, the legislature may provide for the number of jurors, provided that a jury have at least six members. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.</p>

STATE	CITATION	
Mississippi	Const. Art. 3 § 26	In all criminal prosecutions the accused shall have a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the county where the offense was committed; and he shall not be compelled to give evidence against himself; but in prosecutions for rape, adultery, fornication, sodomy or crime against nature the court may, in its discretion, exclude from the courtroom all persons except such as are necessary in the conduct of the trial. Notwithstanding any other provisions of this Constitution, the Legislature may enact laws establishing a state grand jury with the authority to return indictments regardless of the county where the crime was committed. The subject matter jurisdiction of a state grand jury is limited to criminal violations of the Mississippi Uniform Controlled Substances Law or any other crime involving narcotics, dangerous drugs or controlled substances, or any crime arising out of or in connection with a violation of the Mississippi Uniform Controlled Substances Law or a crime involving narcotics, dangerous drugs or controlled substances if the crime occurs within more than one (1) circuit court district of the state or transpires or has significance in more than one (1) circuit court district of the state. The venue for the trial of indictments returned by a state grand jury shall be as prescribed by general law.
Missouri	Const. Art. 1 § 18(a)	That in criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.
Montana	Const. Art. 2 § 24	In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.
Nebraska	Const. Art. 1 § 11	In all criminal prosecutions the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

STATE	CITATION	
Nevada	Const. Art. 1 § 8	<p>1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service and the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or attorney-general of the state, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself.</p> <p>2. The legislature shall provide by law for the rights of victims of crime, personally or through a representative, to be:</p> <p>(a) Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;</p> <p>(b) Present at all public hearings involving the critical stages of a criminal proceeding; and</p> <p>(c) Heard at all proceedings for the sentencing or release of a convicted person after trial.</p> <p>3. Except as otherwise provided in subsection 4, no person may maintain an action against the state or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of any statute enacted by the legislature pursuant to subsection 2. No such violation authorizes setting aside a conviction or sentence or continuing or postponing a criminal proceeding.</p> <p>4. A person may maintain an action to compel a public officer or employee to carry out any duty required by the legislature pursuant to subsection 2.</p> <p>5. No person shall be deprived of life, liberty, or property, without due process of law.</p> <p>6. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.</p>

STATE	CITATION	
New Hampshire	Const. Pt. 1, Art. 15	No subject shall be held to answer for any crime, or offense, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. Every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defense, by himself, and counsel. No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land; provided that, in any proceeding to commit a person acquitted of a criminal charge by reason of insanity, due process shall require that clear and convincing evidence that the person is potentially dangerous to himself or to others and that the person suffers from a mental disorder must be established. Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court.
New Jersey	Const. Art. 1 § 10	In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defense.
New Mexico	Const. Art. 2 § 14	<p>No person shall be held to answer for a capital, felonious or infamous crime unless on a presentment or indictment of a grand jury or information filed by a district attorney or attorney general or their deputies, except in cases arising in the militia when in actual service in time of war or public danger. No person shall be so held on information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination.</p> <p>A grand jury shall be composed of such number, not less than twelve, as may be prescribed by law. Citizens only, residing in the county for which a grand jury may be convened and qualified as prescribed by law, may serve on a grand jury. Concurrence necessary for the finding of an indictment by a grand jury shall be prescribed by law; provided, such concurrence shall never be by less than a majority of those who compose a grand jury, and, provided, at least eight must concur in finding an indictment when a grand jury is composed of twelve in number. Until otherwise prescribed by law a grand jury shall be composed of twelve in number of which eight must concur in finding an indictment. A grand jury shall be convened upon order of a judge of a court empowered to try and determine cases of capital, felonious or infamous crimes at such times as to him shall be deemed necessary, or a grand jury shall be ordered to convene by such judge upon the filing of a petition therefor signed by not less than the greater of two hundred registered voters or two percent of the registered voters of the county, or a grand jury may be convened in any additional manner as may be prescribed by law.</p> <p>In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands; to have compulsory process to compel the attendance of necessary witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.</p>

STATE	CITATION	
New York	Const. Art. 1 § 6	<p>No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land, air and naval forces in time of war, or which this state may keep with the consent of congress in time of peace, and in cases of petit larceny under the regulation of the legislature), unless on indictment of a grand jury, except that a person held for the action of a grand jury upon a charge for such an offense, other than one punishable by death or life imprisonment, with the consent of the district attorney, may waive indictment by a grand jury and consent to be prosecuted on an information filed by the district attorney; such waiver shall be evidenced by written instrument signed by the defendant in open court in the presence of his or her counsel. In any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions and shall be informed of the nature and cause of the accusation and be confronted with the witnesses against him or her. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he or she be compelled in any criminal case to be a witness against himself or herself, providing, that any public officer who, upon being called before a grand jury to testify concerning the conduct of his or her present office or of any public office held by him or her within five years prior to such grand jury call to testify, or the performance of his or her official duties in any such present or prior offices, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters before such grand jury, shall by virtue of such refusal, be disqualified from holding any other public office or public employment for a period of five years from the date of such refusal to sign a waiver of immunity against subsequent prosecution, or to answer any relevant question concerning such matters before such grand jury, and shall be removed from his or her present office by the appropriate authority or shall forfeit his or her present office at the suit of the attorney-general.</p> <p>The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations in connection with such inquiries, shall never be suspended or impaired by law. No person shall be deprived of life, liberty or property without due process of law.</p>
North Carolina	Const. Art. 1 § 23	<p>In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.</p>
North Dakota	Const. Art. 1 § 12	<p>In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy 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.</p>

STATE	CITATION	
Ohio	Const. Art. 1 § 10	<p>Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.</p>
Oklahoma	Const. Art. 2 § 20	<p>In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed or, where uncertainty exists as to the county in which the crime was committed, the accused may be tried in any county in which the evidence indicates the crime might have been committed. Provided, that the venue may be changed to some other county of the state, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself and counsel; and in capital cases, at least two days before the case is called for trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their postoffice addresses.</p>
Oregon	Const. Art. 1 § 11	<p>In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor; provided, however, that any accused person, in other than capital cases, and with the consent of the trial judge, may elect to waive trial by jury and consent to be tried by the judge of the court alone, such election to be in writing; provided, however, that in the circuit court ten members of the jury may render a verdict of guilty or not guilty, save and except a verdict of guilty of first degree murder, which shall be found only by a unanimous verdict, and not otherwise; provided further, that the existing laws and constitutional provisions relative to criminal prosecutions shall be continued and remain in effect as to all prosecutions for crimes committed before the taking effect of this amendment.</p>

STATE	CITATION	
Pennsylvania	Const. Art. 1 § 9	In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.
Rhode Island	Const. Art. 1 § 10	In all criminal prosecutions, accused persons shall enjoy the right to a speedy and public trial, by an impartial jury; to be informed of the nature and cause of the accusation, to be confronted with the witnesses against them, to have compulsory process for obtaining them in their favor, to have the assistance of counsel in their defense, and shall be at liberty to speak for themselves; nor shall they be deprived of life, liberty, or property, unless by the judgment of their peers, or the law of the land.
South Carolina	Const. Art. 1 § 14	The right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both.
South Dakota	Const. Art. 6 § 7	In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.
Tennessee	Const. Art. 1 § 9	That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the County in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

STATE	CITATION	
Texas	Const. Art. 1 § 10	<p>In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.</p>
Utah	Const. Art. 1 § 12	<p>In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.</p> <p>Where the defendant is otherwise entitled to a preliminary examination, the function of that examination is limited to determining whether probable cause exists unless otherwise provided by statute. Nothing in this constitution shall preclude the use of reliable hearsay evidence as defined by statute or rule in whole or in part at any preliminary examination to determine probable cause or at any pretrial proceeding with respect to release of the defendant if appropriate discovery is allowed as defined by statute or rule.</p>
Vermont	Const. Ch. 1 Art. 1	<p>That in all prosecutions for criminal offenses, a person hath a right to be heard by oneself and by counsel; to demand the cause and nature of the accusation; to be confronted with the witnesses; to call for evidence in the person's favor, and a speedy public trial by an impartial jury of the country; without the unanimous consent of which jury, the person cannot be found guilty; nor can a person be compelled to give evidence against oneself; nor can any person be justly deprived of liberty, except by the laws of the land, or the judgment of the person's peers; provided, nevertheless, in criminal prosecutions for offenses not punishable by death, the accused, with the consent of the prosecuting officer entered of record, may in open court or by a writing signed by the accused and filed with the court, waive the right to a jury trial and submit the issue of the accused's guilt to the determination and judgment of the court without a jury.</p>

STATE	CITATION	
Virginia	Const. Art. 1 § 8	<p>That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his peers, nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offense.</p> <p>Laws may be enacted providing for the trial of offenses not felonious by a court not of record without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offenses not felonious, and may classify such cases, and prescribe the number of jurors for each class.</p> <p>In criminal cases, the accused may plead guilty. If the accused plead not guilty, he may, with his consent and the concurrence of the Commonwealth's attorney and of the court entered of record, be tried by a smaller number of jurors, or waive a jury. In case of such waiver or plea of guilty, the court shall try the case.</p> <p>The provisions of this section shall be self-executing.</p>
Washington	Const. Art. 1 § 22	<p>In criminal prosecutions the accused shall have the right to appear and defend in person, or by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is charged to have been committed and the right to appeal in all cases: Provided, The route traversed by any railway coach, train or public conveyance, and the water traversed by any boat shall be criminal districts; and the jurisdiction of all public offenses committed on any such railway car, coach, train, boat or other public conveyance, or at any station or depot upon such route, shall be in any county through which the said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. In no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.</p>
West Virginia	Const. Art. 3 § 14	<p>Trials of crimes, and of misdemeanors, unless herein otherwise provided, shall be by a jury of twelve men, public, without unreasonable delay, and in the county where the alleged offence was committed, unless upon petition of the accused, and for good cause shown, it is removed to some other county. In all such trials, the accused shall be fully and plainly informed of the character and cause of the accusation, and be confronted with the witnesses against him, and shall have the assistance of counsel, and a reasonable time to prepare for his defence; and there shall be awarded to him compulsory process for obtaining witnesses in his favor.</p>

STATE	CITATION	
Wisconsin	Const. Art. 1 § 7	In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment, or information, to a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed; which county or district shall have been previously ascertained by law.
Wyoming	Const. Art. 1 § 10	In all criminal prosecutions the accused shall have the right to defend in person and by counsel, to demand the nature and cause of the accusation, to have a copy thereof, to be confronted with the witnesses against him, to have compulsory process served for obtaining witnesses, and to a speedy trial by an impartial jury of the county or district in which the offense is alleged to have been committed. When the location of the offense cannot be established with certainty, venue may be placed in the county or district where the corpus delicti [delicti] is found, or in any county or district in which the victim was transported.

STATUTORY GUIDANCE ON THE RIGHT TO COUNSEL

STATE	CITATIONS	
Alabama	Ala. Code §15-12-21	§15-12-21 requires a court to appoint counsel if an indigent defendant is entitled to counsel, does not expressly waive counsel and cannot afford counsel or otherwise obtain the assistance of counsel through another indigent defense system.
	AL ST RCRP Rule 4.4; 6.1	<p>Rule 4.4 requires a court to inform a defendant at their initial appearance of their right to be represented by counsel and advise the defendant that they will be afforded time and opportunity to retain counsel and that counsel will be appointed to represent them if they are indigent. Requires the court to determine conditions of release in accordance with Rule 7.3.</p> <p>Rule 6.1 provides that a defendant is entitled to be represented by counsel in any criminal proceeding and, if indigent, shall be entitled to have an attorney appointed to represent them in all criminal proceedings in which representation by counsel is constitutionally required. Specifies that the right to be represented shall include the right to consult in private with an attorney or the attorney's agent, as soon as feasible after a defendant is taken into custody, at reasonable times thereafter, and sufficiently in advance of a proceeding to allow adequate preparation.</p>

STATE	CITATIONS	
Alaska	<p>Alaska Stat. Ann. §18.85.100; §18.85.110</p> <p>Alaska R. Crim. P. 5</p>	<p>§18.85.110 requires a court to clearly inform a defendant of the right of an indigent person to be represented by an attorney at public expense if the defendant is not represented by an attorney at the time of their first appearance and is entitled to the right of representation under §18.85.100.</p> <p>§18.85.110 also requires a court to promptly notify the public defender agency or the office of public advocacy if it determines under §18.85.120 that a defendant qualifies.</p> <p>Rule 5 requires the court to inform the defendant of the right to retain counsel and the right to request appointment of counsel at public expense if the defendant is financially unable to employ counsel. Requires the court to allow the defendant reasonable time and opportunity to consult counsel and shall admit the defendant to bail as provided by law and the rules.</p>
Arizona	<p>Ariz. R. Crim. P. 4.2; 6.1; 6.2</p>	<p>Rule 4.2 requires a magistrate, at a defendant's initial appearance, to inform the defendant of the right to counsel and appoint counsel if the defendant is eligible for and requests appointed counsel under Rule 6. Requires a magistrate to determine release including determining conditions of release on accordance with Rule 7.2, including whether the defendant is non-bailable. Requires the court to consider comments offered by the victim concerning conditions of release.</p> <p>Rule 6.1 provides that a defendant is entitled to be represented by counsel in certain criminal proceedings and specifies that the right to be represented includes the right to consult in private with an attorney as soon as feasible after a defendant is taken into custody, at reasonable times thereafter, and sufficiently in advance of a proceeding to allow adequate preparation. Rule 6.1 further details that an indigent defendant is entitled to have an attorney appointed to represent them in any criminal proceeding which may result in punishment by loss of liberty and in any other criminal proceeding in which the court concludes that the interests of justice so require.</p> <p>Rule 6.2 requires the presiding judge of each county to establish procedures for appointment of counsel for indigent persons.</p>

STATE	CITATIONS	
Arkansas	Ark. R. Crim. P. 8.2; 8.3	<p>Rule 8.2 requires a defendant's desire for, and ability to retain, counsel to be determined by a judicial officer before the first appearance whenever practicable. Requires a court to appoint counsel to represent an indigent defendant if they do not knowingly and intelligently waive counsel.</p> <p>Rule 8.3 requires the court to inform a defendant at the first appearance that they have a right to counsel and that they have a right to communicate with their counsel, family or friends and that reasonable means will be provided to enable communication. Prohibits further steps in proceedings other than a pretrial release inquiry until the defendant and counsel have had an adequate opportunity to confer, unless the defendant has intelligently waived the right to counsel or has refused the assistance of counsel. The court shall then proceed to decide the question of pretrial release.</p>
California	Cal. Penal Code §858; §859; §987	<p>§858 requires a court to immediately inform a defendant of their right to counsel in every stage of proceedings when the defendant is brought to the court upon arrest for a public offense.</p> <p>§859 requires the magistrate to inform the defendant of the right to the aid of counsel, ask them if they desire the aid of counsel, and allow them a reasonable time to send for counsel, and provides that if the defendant desires and is unable to employ counsel, the court must assign counsel to defend them.</p> <p>§987 provides that if the defendant is without counsel at the time of arraignment, they must be informed by the court that it is their right to have counsel before being arraigned, and must be asked if they desire the aid of counsel, and that if they desire and are unable to employ counsel, the court must assign counsel to defend them.</p>

STATE	CITATIONS	
Colorado	<p>Colo. Rev. Stat. Ann. §16-7-207</p> <p>CO ST RCRP Rule 5; 44</p>	<p>§16-7-207 requires the court to inform the defendant of the right to counsel at first appearance make certain that the defendant understands their rights. Requires the court to also inform the defendant that indigent defendants have the right to submit an application for a court appointed attorney, and, upon payment of the application fee, be assigned counsel as provided by law and the applicable rules of criminal procedure. Requires the court to inform the defendant of the right to bail, if the offense is bailable, and the amount of bail that has been set by the court.</p> <p>Rule 5 requires the court to inform the defendant of the right to counsel at first appearance make certain that the defendant understands their rights. Requires the court to inform the defendant that indigent defendants have the right to request the appointment of counsel or consult with the public defender before any further proceedings are held. Requires the court to inform the defendant of the right to bail, if the offense is bailable, and the amount of bail that has been set by the court. Provides that if no county judge is immediately available to set bond when the defendant is in custody any available district judge may set bond, or the defendant may be admitted to bail pursuant to Rule 46.</p> <p>Rule 44 requires the court to advise the defendant of the right to counsel if they appear in court without an attorney. If a court finds that a defendant is financially unable to obtain counsel, an attorney shall be assigned to represent the defendant at every stage of the trial court proceedings. In misdemeanor cases the court can appoint law students acting under specified court rules.</p>
Connecticut	Conn. Gen. Stat. Ann. §54-1b	§54-1b requires that a defendant be advised by the court that they have a right to counsel when they are arraigned before the superior court. Requires that each defendant be allowed a reasonable opportunity to consult with counsel.
District of Columbia	D.C. Super. Ct. R. Crim. P. 44	Rule 44 provides that a defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives this right.

STATE	CITATIONS	
Delaware	Del. Code Ann. tit. 29, §4604	§4604 requires the Office of Defense Services to counsel and defend an indigent person, whether they are held in custody without commitment or charged with a criminal offense, at every stage of the proceedings following arrest.
	Del. Code Ann. tit. 11, §5103	§5103 requires the superior court to assign counsel to any person on trial for specifically listed offenses and also to defendants in any criminal prosecution as provided by the rules of criminal procedure.
	Del. Super. Ct. Crim. R. 5; 44	Rule 5 requires that a magistrate inform a defendant of their right to counsel or to request assignment of counsel if the defendant is unable to obtain counsel. Requires the magistrate to allow the defendant reasonable time and opportunity to consult counsel. Requires that a magistrate inform a defendant of the circumstances under which they may secure pretrial release. After providing reasonable time and opportunity for the defendant to consult counsel the court shall detain or conditionally release the defendant.
		Rule 44 requires that counsel be assigned to every defendant who is unable to obtain counsel to represent that defendant at every stage of the proceedings from initial appearance before the committing magistrate or court through appeal when required by law or deemed appropriate by the court, unless a defendant chooses to waive counsel.

STATE	CITATIONS	
Florida	Fla. R. Crim. P. 3.111; 3.130	<p>Rule 3.111 requires that counsel be appointed for qualified defendants when the person is formally charged or as soon as is feasible after custodial restraint or at the first appearance before a judge.</p> <p>Rule 3.130 requires the public defender or an assistant public defender to attend a defendant's first appearance proceeding either in person or by other electronic means. Requires adequate notice to be provided to the public defender. Requires the court to advise defendants that they have a right to counsel, and if they are financially unable to afford counsel, that counsel will be appointed. Requires, if practicable, the court to determine whether a defendant is financially able to afford counsel and whether they desire counsel prior to the first appearance. If the court determines that the defendant desires and is entitled to appointed counsel the court shall immediately appoint counsel. Requires this determination to be made and counsel to be appointed no later than the first appearance and before any other proceedings take place at the first appearance. Authorizes counsel to be appointed for the limited purpose of representing a defendant at the first appearance only. Requires the court to allow a defendant reasonable time to send for counsel if the defendant has employed counsel or is financially able to do so, and, if necessary, requires the court to postpone the first appearance hearing. A court may also appoint counsel to represent a defendant for the first appearance hearing if a postponement will likely result in continued incarceration of the defendant. Provides that no further steps in the proceeding should be taken until the defendant and counsel have had an adequate opportunity to confer unless the defendant has intelligently waived the right to counsel. The court shall then proceed to determine conditions of release pursuant to Rule 3.131.</p>
Georgia	Ga. Code Ann. §17-12-23	<p>§17-12-23 requires the circuit public defender to provide representation in any case prosecuted in a superior court under state law. Specifies that entitlement to the services of counsel begins not more than three business days after the indigent person is taken into custody, or service is made upon them of the charge, petition, notice, or other initiating process and the defendant requests for counsel to be appointed.</p>

STATE	CITATIONS	
Hawaii	Haw. Rev. Stat. Ann. §802-1; §802-2; §802-3; §802-5; §803-9	<p>§802-1 Specifies that any indigent person who is arrested for, charged with or convicted of an offense is entitled to be represented by the public defender. The appearance of the public defender in all judicial proceedings is subject to approval by the court.</p> <p>§802-2 requires a court to advise a defendant of their right to representation by counsel, and the right to have counsel appointed at state cost if they cannot afford counsel, when they appear without counsel at a criminal proceeding in which a defendant is entitled by law to representation of counsel.</p> <p>§802-3 authorizes any person entitled to representation by a public defender or other appointed counsel to request at any reasonable time that any judge appoint counsel.</p> <p>§802-5 requires a court to appoint counsel to represent the defendant all stages of the proceedings, including appeal, if it appears to the court that a person requesting appointment of counsel meets the requirements for appointment.</p> <p>§803-9 makes it unlawful to deny a defendant who has been arrested for examination the right of seeing, at reasonable intervals and for a reasonable time at the place of the defendant's detention, counsel or a member of their family.</p>

STATE	CITATIONS	
Idaho	Idaho Code Ann. §19-852 I.C.R. 5; 10; 44	<p>§19-852 provides that an indigent person who is being detained by an officer or who is under formal charge of having committed a serious crime is entitled to be represented by an attorney to the same extent as a person who has employed their own counsel. Specifies that an indigent person who qualifies for appointment of counsel is entitled to be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his or her own counsel would be entitled to be represented.</p> <p>Rule 5 provides that at first appearance a defendant shall be advised of their right to counsel and their right to communicate with counsel, or immediate family, and that reasonable means will be provided for the defendant to do so. Requires that a defendant also be informed of their right to bail. If a defendant appears without counsel the court shall advise the defendant of the right to counsel, the right to apply for court appointed counsel, and the right to request counsel at any stage of the proceedings. If a defendant wishes to waive the right to counsel the court may appoint counsel for the limited purpose of advising and consulting with the defendant regarding the waiver. Following the advisement of rights the court is required to set bail.</p> <p>Rule 10 provides that the defendant is entitled to appear with counsel at an arraignment hearing, or the proceedings may be delayed for a reasonable period of time in order for counsel to be retained or appointed.</p> <p>Rule 44 provides that every defendant who is entitled to appointed counsel shall have counsel assigned to represent them from initial appearance unless the defendant waives counsel.</p>
Illinois	725 Ill. Comp. Stat. Ann. 5/109-1 725 Ill. Comp. Stat. Ann. 5/113-3	<p>5/109-1 requires a court to inform a defendant of their right to counsel and if they are indigent requires the court to appoint a public defender or licensed attorney to represent them. Requires the court to admit the defendant to bail in accordance with law. Prohibits a hearing to deny bail from being conducted by way of closed circuit television.</p> <p>5/113-3 requires that all defendants be allowed counsel prior to pleading to a charge. If a defendant wishes to be represented and is not represented before arraignment the court shall allow time for the defendant to obtain counsel and consult with counsel before pleading. If the court determines that the defendant is indigent and desires counsel the court shall appoint the public defender or other counsel.</p>

STATE	CITATIONS	
Indiana	Ind. Code Ann. §35-33-7-5; §35-33-7-6	<p>§35-33-7-5 requires a court at an initial hearing to inform a defendant that they have a right to retain counsel and the right to assigned counsel at no expense if they are indigent. Requires a court to inform the defendant of the amount and conditions of bail.</p> <p>§35-33-7-6 requires a court to determine whether a person who requests assigned counsel is indigent and, if so, assign counsel prior to the completion of the initial hearing.</p>
Iowa	<p>Iowa Code Ann. §815.10; §811.2</p> <p>Iowa R. Civ. P. 2.2; 2.28; 2.8</p>	<p>§811.2 requires a court to determine pretrial release conditions at the initial appearance. Requires a court to inform a defendant at their initial appearance that they have a right to have conditions of release reviewed by an attorney. If the defendant desires a review and is indigent the court is required to appoint an attorney to represent the defendant for the purpose of review.</p> <p>§815.10 requires the court to appoint the public defender to represent an indigent defendant at any stage of criminal proceedings in which the defendant is entitled to legal assistance at public expense. The court may do so for cause and upon its own motion or upon application by the defendant or a public defender.</p> <p>Rule 2.2 requires the court to inform the defendant at initial appearance of the defendant's right to retain counsel, of the circumstances under which the defendant may secure pretrial release, of the defendant's right to review any conditions imposed on release, and of the right to request appointment of counsel if the defendant is unable to retain counsel due to being indigent. Requires the court to allow the defendant reasonable time and opportunity to consult counsel. Authorizes the court to appoint counsel to represent the defendant at public expense if the magistrate determines the defendant to be indigent.</p> <p>Rule 2.28 specifies that every defendant who is indigent is entitled to have counsel appointed to represent them at every stage of the proceedings from the defendant's initial appearance before the court through appeal.</p> <p>Rule 2.8 requires a court to inform a defendant of their right to counsel if they appear for arraignment unrepresented and ask if they desire counsel before proceeding any further. Requires the court to appoint counsel for indigent defendants if requested.</p>

STATE	CITATIONS	
Kansas	Kan. Stat. Ann. §22-4503	<p>§22-4503 provides that any defendant charged with a felony is entitled to have the assistance of counsel at every stage of the proceedings against such defendant. Requires a court where such a defendant appears unrepresented to inform the defendant of their right to counsel and also that counsel will be appointed to represent the defendant if they are not financially able to employ an attorney. Requires the court to give the defendant an opportunity to employ counsel of the defendant's own choosing if the defendant is able to do so, and requires the court to give the defendant reasonable opportunity to consult with counsel. If a defendant is determined to be indigent under §22-4504, the court shall appoint an attorney from the panel for indigents' defense services or otherwise in accordance with the system for providing legal defense services. Requires that counsel have free access to the defendant at all times for purposes of representation.</p>
Kentucky	<p>Ky. Rev. Stat. Ann. §31.110</p> <p>Ky. RCr 3.05</p>	<p>§31.110 provides that an indigent person who is being detained by an officer or who is under formal charge of having committed a serious crime is entitled to be represented by an attorney to the same extent as a person who has employed their own counsel. Specifies that an indigent person who qualifies for appointment of counsel is entitled to be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his or her own counsel would be entitled to be represented.</p> <p>Rule 3.05 requires the court to inform a defendant of their right to counsel at initial appearance. Requires the court to allow the defendant reasonable time and opportunity to consult with counsel, and release the defendant on personal recognizance or admit the defendant to bail if the offense is bailable. Requires the court to appoint counsel if the defendant is financially unable to do so unless the defendant waives counsel. If the court appoints counsel, the appointment continues for all future stages of the criminal proceeding.</p>
Louisiana	LA C.Cr.P. Art. 230.1; 511; 513	<p>Article 230.1 requires law enforcement to bring an arrested defendant promptly to court, within 72 hours from the time of arrest, for the purpose of appointing counsel. Requires the court to appoint counsel if the defendant is entitled and the court may, at its discretion, determine or review a prior determination of the amount of bail.</p> <p>Article 511 provides that the defendant in every instance has the right to defend himself and to have the assistance of counsel and that counsel shall have free access to the defendant, in private, at reasonable hours.</p> <p>Article 513 requires a court to inform the defendant of the right to have counsel appointed to defend them if they are indigent, prior to the entry of a plea, when a defendant appears for arraignment without counsel. Requires the court to provide counsel before the defendant pleads if the defendant desires counsel and the court finds the defendant to be indigent.</p>

STATE	CITATIONS	
Maine	<p>Me. Rev. Stat. tit. 15, §810</p> <p>ME R U CRIM P Rule 5</p>	<p>§810 requires competent defense counsel to be assigned by the court, prior to arraignment, if it appears to the court that the defendant does not have sufficient means to employ counsel and they are charged with a felony unless the defendant waives counsel after being fully advised of their rights. Authorizes the court to appoint counsel for a defendant in any criminal case when it appears to the court that the defendant does not have sufficient means to employ counsel.</p> <p>Rule 5 requires the court to inform the defendant of their right to retain counsel, and to request the assignment of counsel, and to be allowed a reasonable time and opportunity to consult counsel before entering a plea. Requires the court to assign counsel to represent the defendant no later than the time of the initial appearance, unless the defendant waives counsel. Authorizes a court to assign counsel for the day for the limited purpose of representing the defendant at the initial appearance or arraignment.</p>

STATE	CITATIONS	
Maryland	<p data-bbox="313 180 456 317">Md. Code Ann., Crim. Proc. §16-204</p> <p data-bbox="313 411 475 506">Md. Rule 4-213; 4-213.1; 4-215</p>	<p data-bbox="496 180 1476 317">§16-204 requires that counsel be provided for indigent defendants in criminal proceedings where the defendant is alleged to have committed a serious offense and in criminal proceedings where an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge.</p> <p data-bbox="496 411 1507 915">Rule 4-213.1 provides that a defendant has the right to be represented by an attorney at an initial appearance before a judicial officer. Unless a defendant waives the right to counsel or retains their own counsel, an indigent defendant is entitled to be represented by the public defender or an appointed attorney at their initial appearance. Requires the court to advise a defendant that appears at an initial appearance without counsel that the defendant has a right to an attorney and that if the defendant is indigent then an attorney will be provided. Specifies procedures for determining indigence and provides that a defendant shall be provided with a reasonable opportunity to consult with their attorney in confidence. Requires that the defendant be advised that unless an appointed or private attorney is able to participate within a reasonable amount of time, the initial appearance may need to be continued. If the initial appearance needs to be continued, the commissioner shall proceed to make a preliminary determination regarding release on personal recognizance. Provides for limited representation of a defendant for the initial appearance only in certain circumstances.</p> <p data-bbox="496 1010 1507 1241">Rule 4-213 requires a judicial officer to follow the provisions of Rule 4-213.1 when a defendant appears in district court without an attorney. Requires a judicial officer to follow Rules 4-216 and 4-216.1 regarding pretrial release of the defendant. Requires a judicial officer to address counsel under the provisions of Rule 4-215 when a defendant appears unrepresented at their initial appearance in circuit court and requires the judicial officer to determine eligibility for pretrial release pursuant to Rule 4-216.</p> <p data-bbox="496 1335 1507 1503">Rule 4-215 requires the court to provide a copy of the charging document containing notice of the right to counsel at the defendant's first appearance in court without counsel and inform the defendant of the right to counsel and of the importance of the assistance of counsel. Requires the court to conduct a waiver inquiry if the defendant indicates a desire to waive counsel.</p>

STATE	CITATIONS	
Massachusetts	<p>Mass. Gen. Laws Ann. ch. 263, §5</p> <p>Mass. R. Crim. P. 7; 8</p> <p>S.J.C. Rule 3:10</p>	<p>§5 provides that a person accused of a crime shall at trial be allowed to be heard by counsel, to defend themselves.</p> <p>Rule 7 requires the court to determine conditions of release, if any, at arraignment. Requires the court to assign the Committee for Public Counsel Services to represent a defendant who is found to be indigent or partially indigent and has not knowingly waived the right to counsel.</p> <p>Rule 8 requires a court to follow procedures set forth in Court Rule 3:10 if a defendant initially appears in any court without counsel.</p> <p>Rule 3:10 provides that if any defendant who has a right to be represented by counsel initially appears in any court without counsel, the judge shall advise the defendant the law requires that counsel be available in the proceeding, at public expense if necessary and if the court finds that the defendant wants counsel and cannot afford counsel, the Committee for Public Counsel Services will provide counsel at no cost or at a reduced cost. Requires counsel appointed under this rule to file an appearance in the case within 48 hours of notification of the appointment.</p>
Michigan	<p>Mich. Comp. Laws Ann. §763.1; §775.16</p> <p>MI R CRP MCR 6.005</p>	<p>§763.1 provides that a person accused of a crime shall at trial be allowed to be heard by counsel, to defend themselves.</p> <p>§775.15 provides that a defendant who appears before a magistrate without counsel shall be advised of their right to have counsel appointed. If the defendant states that they are unable to procure counsel, the magistrate shall appoint counsel if the defendant is eligible under the Michigan indigent defense commission act.</p> <p>Rule 6.005 requires the court to advise the defendant at arraignment of the defendant's right to the assistance of a lawyer at all subsequent court proceedings and that the court will appoint a lawyer at public expense if the defendant wants one and is financially unable to retain one. Requires the court to promptly appoint a lawyer if it determines that the defendant is indigent. Requires that the appointed lawyer be promptly notified of the appointment. Requires the court to advise a defendant of the right to an attorney at all subsequent court proceedings if the defendant has waived the right to counsel initially.</p>

STATE	CITATIONS	
Minnesota	<p>Minn. Stat. Ann. §611.15; §611.16; §611.18</p> <p>Minn. R. Crim. P. 5.01; 5.03; 5.04</p>	<p>§611.15 requires the court to advise a defendant who appears without counsel, at a proceeding where they are entitled to counsel, of the right to be represented by counsel and that counsel will be appointed to represent the person if the person is financially unable to obtain counsel.</p> <p>§611.16 authorizes a defendant described in §611.14 to request at any time that the court appoint the public defender to represent them.</p> <p>§611.18 requires the court to order the public defender to represent a qualified defendant requesting appointment of counsel. Authorizes a public defender to represent a person accused of violating the law prior to any court appearance when the defendant appears to be financially unable to obtain counsel. Such representation shall continue unless it is subsequently determined that the person is financially able to obtain counsel and such representation may be made available at the discretion of the public defender, upon the request of the defendant or someone on the defendant's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.</p> <p>Rule 5.01 provides the court shall inform the defendant of the right to have counsel appointed if eligible at the first appearance. Requires the court to set bail and other conditions of release under rule 6.02 at the first appearance.</p> <p>Rule 5.03 requires the court to advise the defendant of the right to counsel in all proceedings and the right to communicate with defense counsel. If the defendant appears without counsel, and is financially unable to obtain counsel but qualifies for representation, the court is required to appoint counsel.</p> <p>Rule 5.04 requires the court to advise the defendant of the right to counsel, and that the court will appoint the district public defender if the defendant has been determined to be financially unable to obtain counsel. Requires the court to advise the defendant of the right to request counsel at any stage of the proceedings.</p>
Mississippi	<p>Miss. Code. Ann. §99-15-15</p> <p>URCCC Rule 6.03</p>	<p>§99-15-15 authorizes the court, in its discretion, to appoint counsel to represent a defendant charged with a felony or misdemeanor, if such person is indigent and is unable to employ counsel. Requires that such representation be available at every critical stage of the proceeding against the defendant where a substantial right may be affected.</p> <p>Rule 6.03 requires the judicial officer to advise a defendant in custody of the right to assistance of an attorney, and that if he or she is unable to afford an attorney, an attorney will be appointed. Requires the judicial officer to advise the defendant of conditions under which he or she may obtain release.</p>

STATE	CITATIONS	
Missouri	<p>Mo. Ann. Stat. §545.820; §600.048</p> <p>Mo. Sup. Ct. R. 31.02</p>	<p>§545.820 requires the court to assign counsel at the request of the defendant when the defendant appears before the court for arraignment unrepresented on a felony charge.</p> <p>§600.048 requires every person in charge of a local detention facility to post a conspicuous notice that every person held in custody under a charge or suspicion of a crime is entitled to an attorney and that any person held in custody on a case specified under §600.042 who wants an attorney but is unable to afford one shall be provided with a lawyer to represent them by the state upon request. Specifies that the notice shall contain a listing of cases specified under §600.042 and contact information for requesting representation by the public defender system. Authorizes entitled defendants to request counsel when they appear in court without counsel at any stage of a case. Authorizes any other person to request counsel on behalf of a defendant at any stage of a case.</p> <p>Rule 31.02 provides that a defendant in all criminal cases has the right to appear and defend in person and by counsel. Requires the court to advise an unrepresented defendant of their right to counsel at the first appearance and advise them that the court may appoint counsel to represent them if the defendant is unable to employ counsel. Requires the court to appoint counsel upon a finding of indigency.</p>
Montana	Mont. Code Ann. §46-8-101	§46-8-101 requires the court to inform a defendant of the right to counsel during the initial appearance and requires the court to inquire whether the defendant desires the aid of counsel. Requires the court to assign counsel to represent a defendant without unnecessary delay, pending determination of eligibility under §47-1-111, when the defendant desires assigned counsel due to financial inability to retain counsel.
Nebraska	Neb. Rev. Stat. Ann. §29-3902	§29-3902 requires the court, at first appearance, to advise the defendant of their right to court-appointed counsel if they are indigent. Requires the court to appoint the public defender to represent the defendant in all proceedings before the court if the court determines the defendant to be indigent.
Nevada	Nev. Rev. Stat. Ann. §178.397	§178.397 provides that defendants who are financially unable to obtain counsel are entitled to have counsel assigned to represent them at every stage of the proceedings from the defendant's initial appearance before a magistrate unless the defendant waives counsel.

STATE	CITATIONS	
New Hampshire	N.H. Rev. Stat. Ann. §604-A:2; §604-A:3	<p>§604-A:2 requires that a court advise a defendant who appears without counsel of the right to be represented by counsel and that counsel will be appointed if the defendant is financially unable to employ counsel. Requires the court to appoint counsel if it finds that the defendant is financially unable to employ counsel. Requires the court to act on any application for appointed counsel on the same day of the defendant's first appearance if the court has information indicating that the defendant has a mental illness. Requires the court to appoint counsel without a formal application process if a defendant appears without counsel and mental illness appears to be interfering with the defendant's ability to communicate, understand the proceedings, or complete a formal application in a timely manner.</p> <p>§604-A:3 requires appointed counsel to represent a defendant from initial appearance before the court through every stage of the proceedings until the entry of final judgment.</p>
New Jersey	<p>N.J. Stat. Ann. §2A:158A-5</p> <p>N.J. Ct. R. 3:4-2</p>	<p>§2A:158A-5 provides that it is the duty of the public defender to provide for the legal representation of any indigent defendant who is formally charged with the commission of an indictable offense.</p> <p>Rule 3:4-2 requires that the first appearance for a defendant in custody shall happen within 48 hours and be held in front of a judge with the authority to set conditions of release. Authorizes the court to assign the public defender to represent the defendant for purposes of first appearance if the defendant is unrepresented. Requires the court to inform defendants charged with an indictable offense of their right to counsel, the right to be represented by a public defender if indigent, and ask the defendant specifically if they want counsel. Requires that an application be provided to a defendant that request counsel and that the application be processed immediately by the court. Requires the court set pretrial release conditions as provided in Rule 3:26 and set a date and time for a hearing if the prosecutor has filed a motion for an order of pretrial detention. Requires the court to inform defendants charged with non-indictable offenses of their right to retain counsel and if indigent and entitled by law, their right to appointment of counsel. Requires the court to set pretrial release conditions and assign counsel for defendants charged with non-indictable offenses if the defendant is entitled by law, found to be indigent and has not waived counsel.</p>

STATE	CITATIONS	
New Mexico	N.M. Stat. Ann. §31-16-3; §31-16-4; §31-15-12	<p>§31-16-3 provides that an indigent person who is being detained by an officer or who is under formal charge of having committed a serious crime is entitled to be represented by an attorney to the same extent as a person who has employed their own counsel. Specifies that an indigent person who qualifies for appointment of counsel is entitled to be counseled and defended at all stages of the matter beginning with the earliest time when a person providing his or her own counsel would be entitled to be represented.</p> <p>§31-16-4 provides that an indigent person must be informed of the right of a needy person to be represented by an attorney at public expense when the defendant is being detained by an officer or who is under formal charge of having committed a serious crime, and is not represented by an attorney under conditions in which a person who has employed their own counsel would be entitled to be so represented. Requires notice again at any later judicial proceedings related to the same matter. Requires the court to promptly assign counsel if the court determines the person is entitled to representation at public expense.</p> <p>§31-15-12 requires a court to inform a defendant who appears in court without counsel of their right to confer with the district public defender and the right to be represented by the district public defender at all stages of proceedings if the defendant is financially unable to obtain counsel. Requires the court to notify the district public defender and continue the proceedings after notice is given until the defendant has applied with the district public defender. Requires peace officers to notify the district public defender of any person not represented by counsel who is being forcibly detained and who is charged with, or under suspicion of committing an offense.</p>

STATE	CITATIONS	
New York	N.Y. Crim. Proc. Law §170.10; §180.10	<p>§170.10 provides that a defendant has the right to the aid of counsel at arraignment and every subsequent stage of action when proceedings are brought upon an information. Provides that a defendant who appears without counsel has the right to an adjournment for the purpose of obtaining counsel, the right to communicate via phone or letter, free of charge, for the purpose of obtaining counsel, and the right to have counsel assigned by the court in any case that is not a traffic or general infraction and where the defendant is financially unable to obtain representation. Requires the court to inform the defendant of all rights specified above. Requires the court to issue a securing order upon arraignment which either releases the defendant on their own recognizance or fixing bail.</p> <p>§180.10 provides that a defendant has the right to the aid of counsel at arraignment and at every subsequent stage of action when proceedings are brought upon a felony complaint. Provides that a defendant who appears without counsel has the right to an adjournment for the purpose of obtaining counsel, the right to communicate via phone or letter, free of charge, for the purpose of obtaining counsel, and the right to have counsel assigned by the court in any case where the defendant is financially unable to obtain representation. Requires the court to inform the defendant of all rights specified above. Requires the court to accord the defendant opportunity to exercise such rights and must itself take such affirmative action as is necessary to effectuate them. Requires the court to issue a securing order upon arraignment which either releases the defendant on their own recognizance, fixes bail, or commits the defendant.</p>
North Carolina	N.C. Gen. Stat. Ann. §7A-451; §15A-511	<p>§7A-451 specifies that an indigent person is entitled to services of counsel. Specifies that entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process and continues through any critical stage of the proceeding.</p> <p>§15A-511 requires the magistrate, at the defendant's initial appearance, to inform the defendant their right to communicate with counsel, and the general circumstances under which they may secure release under Article 26.</p>

STATE	CITATIONS	
North Dakota	<p>N.D. Cent. Code Ann. §29-05-20 et seq. superseded by N.D. R. Crim. P. 5; 44</p>	<p>Rule 5 requires a magistrate to inform a defendant in all cases of the defendant's right to assistance of counsel, the defendant's right to be represented by counsel at each and every stage of the proceedings, the defendant's right to have legal services provided at public expense if the defendant is unable to afford counsel and is qualified, and the defendant's right to be admitted to bail under Rule 46. Requires a court to also advise a defendant charged with a felony of their right to assistance of counsel at the preliminary examination.</p> <p>Rule 44 provides that an indigent defendant facing a felony charge is entitled to have counsel provided at public expense to represent them at every stage of the proceeding from initial appearance through appeal unless the defendant waives counsel. Provides that an indigent defendant facing a non-felony charge is entitled to have counsel provided at public expense to represent the defendant at every stage of the proceeding from initial appearance through appeal unless the defendant waives counsel or does not qualify. Authorizes the court to appoint counsel at a defendant's expense if the defendant is not indigent but is unable to obtain counsel.</p>
Ohio	<p>Ohio Rev. Code Ann. §2937.02; §2937.03</p> <p>Ohio Crim. R. 5, 44</p>	<p>§2937.02 requires the court to inform a defendant at the initial appearance of the right to have counsel and the right to a continuance in the proceedings to secure counsel.</p> <p>§2937.03 requires a court to continue a case after arraignment if the defendant is not represented by counsel and has expressed a desire to consult with an attorney to provide a reasonable time to allow the defendant to send for or consult with counsel. Requires the court to set bail for the later appearance if the offense is bailable. Requires that a defendant be allowed to send a message to any attorney if the defendant is not released to make arrangements for legal counsel or bail.</p> <p>Rule 5 requires a court to inform a defendant at first appearance of their right to counsel, the right to a reasonable continuance in the proceedings to secure counsel, and the right to have counsel appointed without cost if the defendant is unable to employ counsel. Requires the court to admit the defendant to bail if they were not previously.</p> <p>Rule 44 requires that counsel be assigned to represent a defendant who is unable to obtain counsel and is charged with a serious offense. Requires counsel to represent the defendant at every stage of the proceedings from initial appearance through appeal unless the defendant waives counsel. Authorizes a court to appoint counsel for a defendant who is unable to obtain counsel and is charged with a petty offense.</p>

STATE	CITATIONS	
Oklahoma	Okla. Stat. Ann. tit. 22, §13 §251	<p>§13 provides that a defendant in a criminal action is entitled to counsel and to appear and defend in person and with counsel.</p> <p>§251 requires a magistrate to immediately inform a defendant of their right to the aid of counsel at every stage in the proceedings when the defendant is brought before the magistrate upon arrest on a charge of having committed a public offense.</p>
Oregon	Or. Rev. Stat. Ann. §135.040; §135.045; §135.050; §135.070	<p>§135.040 specifies that if the defendant appears for arraignment without counsel, the defendant must be informed by the court that it is the right of the defendant to have counsel before being arraigned. Requires the court to ask if the defendant desires the aid of counsel.</p> <p>§135.045 requires the court to determine if the defendant wants to be represented by counsel when they appear for arraignment or thereafter unrepresented. Requires the court to appoint counsel in accordance with §135.050 if the defendant wishes to be represented.</p> <p>§135.050 requires the court to appoint counsel for a defendant in a criminal matter if the defendant requires counsel and it appears to the court that the defendant is financially unable to hire counsel. Specifies that appointment of counsel shall continue during all criminal proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment.</p> <p>§135.070 requires before any proceedings take place, that a court inform a defendant charged with a felony of the defendant's right to the aid of counsel.</p>
Pennsylvania	Pa. R. Crim. P. 122	<p>Rule 122 requires that counsel be appointed in all summary cases for all defendants who are without the financial resources, or are otherwise unable to employ counsel. Requires appointment in all court cases prior to the preliminary hearing when a defendant is without the financial resources, or is otherwise unable to employ counsel. Authorizes the court to appoint counsel on its own motion when the interests of justice require it.</p>

STATE	CITATIONS	
Rhode Island	Dist. R. Crim. P. 5; 44	<p>Rule 5 provides that a defendant who has been arrested shall be afforded a prompt hearing for the purpose of admission to bail. Requires the court to inform a defendant of their right to retain counsel and of their right to request the assignment of counsel if the defendant is unable to obtain counsel. Requires the court to allow reasonable time and opportunity for the defendant to consult with counsel and where authorized by statute the court shall admit the defendant to bail as provided by law.</p> <p>Rule 44 requires a court to advise a defendant who appears without counsel of their right to be represented and if eligible their right to have counsel assigned to represent them. Requires the court to assign counsel to represent the defendant at every stage of the proceeding unless the defendant is able to obtain their own counsel or elects to proceed without counsel.</p>
South Carolina	S.C. Code Ann. §17-3-10 SCACR 602	<p>§17-3-10 requires that any person entitled to counsel under the U.S. Constitution to be advised of that right and if it is determined that the person is financially unable to retain counsel, then counsel shall be appointed by order of the appropriate judge unless the defendant waives counsel.</p> <p>Rule 602 requires that defendants arrest for commission of a crime be taken as soon as practicable before the clerk of court for the purpose of securing the accused the right to counsel. Requires that the defendant be informed of their right to counsel and their right to appointed counsel if they are financially unable to employ counsel. Requires that the defendant's application for the appointment of counsel or services of the public defender be taken when the defendant represents that they are financially unable to employ counsel. Requires immediate notice of the office of the public defender if an application is approved and requires the public defender to immediately enter their representation. If there is no local public defender the clerk shall immediately notify the court of the request for appointment of counsel and appointment of counsel shall be made immediately with prompt notification to the defendant and to appointed counsel.</p>
South Dakota	S.D. Codified Laws §23A-40-6; §23A-4-3	<p>§23A-40-6 requires the court, upon the request of a defendant who has demonstrated that they lack sufficient resources to employ counsel, to assign counsel at any time following arrest or commencement of detention without formal charges.</p> <p>§23A-4-3 Requires a court to inform a defendant charged with an offense that requires a preliminary hearing of the defendant's right to retain counsel and to request assignment of counsel if the defendant is unable to obtain counsel, and of the general circumstances under which the defendant may secure pretrial release. Requires the court to allow the defendant reasonable time and opportunity to consult with counsel and shall admit the defendant to bail.</p>

STATE	CITATIONS	
Tennessee	<p>Tenn. Code Ann. §40-14-102; §40-14-103; §40-14-202</p> <p>Tenn. R. Crim. P. 5, 44</p>	<p>§40-14-102 provides that every person accused of any crime or misdemeanor is entitled to counsel in all matters necessary for the person's defense.</p> <p>§40-14-103 provides that a defendant is entitled to appointed counsel if they are unable to employ counsel.</p> <p>§40-14-202 requires the court to appoint counsel in all felony cases where the defendant is not represented and the court determines that the defendant is indigent and has not waived counsel. Authorizes a court to call upon legal aid agencies operating in conjunction with accredited law schools to recommend attorneys for appointment. Prohibits further proceedings following appointment of counsel to allow the attorney sufficient opportunity to prepare the case.</p> <p>Rule 5 requires a magistrate to inform a defendant charged with a felony at initial appearance of their right to counsel, their right to appointed counsel if indigent and the circumstances under which the defendant may obtain pretrial release.</p> <p>Rule 44 provides that every indigent defendant is entitled to have counsel assigned for all matters necessary to the defense and at every stage of the proceedings unless the defendant waives counsel.</p>

STATE	CITATIONS	
Texas	Tex. Crim. Proc. Code Ann. art. 1.051; 26.04	<p>Article 1.051 provides that a defendant in a criminal matter is entitled to be represented by counsel in an adversarial judicial proceeding. This includes the right to consult in private with counsel sufficiently in advance of a proceeding to allow adequate preparation. Provides that an indigent defendant is entitled to have an attorney appointed to represent them in any adversary judicial proceeding. If an indigent defendant is entitled to and requests appointed counsel and if adversarial judicial proceedings have been initiated against the defendant, a court or the courts' designee shall appoint counsel as soon as possible, but not later than the end of the third working day after the defendant's request for appointment is received in counties with a population of less than 250,000, and not later than the end of the first working day after a request is received in counties with a population greater than 250,000. Provides that a court may not direct or encourage a defendant to communicate with the attorney representing the state until the court advises the defendant of their right to counsel and the procedure for requesting appointed counsel. Provides for the appointment of counsel when request by an indigent defendant prior to the initiation of adversarial judicial proceedings. Specifies that appointment of counsel is not required until a defendant's first court appearance or when adversarial judicial proceedings are initiated if they are released prior to appointment of counsel.</p> <p>Article 26.04 requires local judges to adopt local rules providing procedures for timely and fairly appointing counsel for indigent defendants. Procedures are required to authorize judges to appoint counsel for indigent defendants, and to ensure that each indigent defendant who appears in court without counsel has the opportunity to confer with appointed counsel before the commencement of judicial proceedings. Provides that a managed assigned counsel program where one exists may appoint counsel to represent a defendant in accordance with program guidelines.</p>
Utah	Utah Code Ann. §77-32-302; §77-1-6	<p>§77-32-302 requires that an indigent criminal defense services provider be assigned to represent each defendant under arrest or charged with an eligible crime if the defendant requests counsel or the court on its own motion orders representation. Authorizes the court to make a determination of indigency at any time.</p> <p>§77-1-6 specifies that in criminal prosecutions a defendant is entitled to appear in person and defend in person or by counsel, and to be admitted to bail or be entitled to trial within 30 days of arraignment if they are unable to post bail.</p>

STATE	CITATIONS	
Vermont	<p>Vt. Stat. Ann. tit. 13, §5231; §5233; §5234</p> <p>Vt. R. Crim. P. 5; 44</p>	<p>§5231 specifies that a needy person, who is being detained by a law enforcement officer without charge or judicial process, or who is charged with having committed a serious crime, is entitled to be represented by an attorney to the same extent as a person having his or her own counsel.</p> <p>§5233 specifies that a needy person who is entitled to be represented by an attorney under §5231 is entitled to be counseled and defended at all stages of the matter beginning with the earliest time when a defendant providing their own counsel would be entitled to be represented by an attorney.</p> <p>§5234 requires a law enforcement officer, magistrate, or court to clearly inform a defendant of the right to be represented by an attorney and of the right of needy persons to be represented at public expense. Requires a law enforcement officer, magistrate, or court to notify the appropriate public defender that the defendant is not represented, if he or she qualifies for representation.</p> <p>Rule 5 specifies that no further proceedings can occur until counsel if authorized has been assigned and until the defendant and counsel have had an adequate opportunity to confer, unless the defendant has waived counsel.</p> <p>Rule 44 provides that every defendant who is charged with a serious crime and is unable to obtain counsel has the right to have counsel assigned to represent them at every stage of the proceedings from initial appearance before the judicial officer through appeal.</p>
Virginia	<p>Va. Code Ann. §19.2-157; §19.2-158</p>	<p>§19.2-157 requires a court to inform a defendant charged with a criminal offense of their right to counsel when they appear before any court without representation. Requires that the defendant be allowed reasonable opportunity to employ counsel, or if appropriate the defendant may complete a statement of indigence provided for in §19.2-159.</p> <p>§19.2-158 requires a court to inform a defendant who is not free on bail of their bail and the right to counsel when they are brought before a court. Requires the court to hear and consider motions by the defendant or the state relating to bail or conditions of release pursuant to §19.2-119. Requires that a hearing on bail or conditions of release be held as soon as practicable but in no event later than three calendar days following the making of a motion. Prohibits a hearing on the charges against the accused until the above requirements have been met and the defendant has been allowed a reasonable opportunity to employ counsel or if appropriate complete the statement of indigence.</p>

STATE	CITATIONS	
Washington	<p>Wash. Rev. Code Ann. §10.101.020</p> <p>Wash. Rev. Code Ann. SUPER CT CR CrR 3.1</p>	<p>§10.101.020 requires that counsel be appointed for a defendant on a provisional basis if a court cannot determine whether a defendant is eligible before the time when the first services are to be rendered.</p> <p>Rule 3.1 provides that the right to a lawyer shall extend to all criminal proceedings for specified offenses. Specifies that the right to a lawyer accrues as soon as feasible after the defendant is taken into custody, appears before a committing magistrate, or is formally charged, whichever occurs earliest. Requires that a lawyer be provided at every stage in the proceedings and that a lawyer initially appointed shall continue to represent a defendant through all stages of the proceeding. Requires that a person taken into custody be advised of their right to a lawyer and the right to have a lawyer appointed if the defendant is unable to afford one. Requires that a defendant be provided with access to a telephone and the contact information for the public defender at the earliest opportunity after being taken into custody. Requires that a lawyer be provided to any person who is financially unable to obtain one.</p>
West Virginia	<p>W. Va. Code Ann. §50-4-3</p> <p>W. Va. R. Crim. P. 44</p>	<p>§50-4-3 requires a magistrate to advise a defendant at their initial appearance of their right to counsel and the right to have counsel appointed if the defendant cannot afford to retain counsel. Requires the magistrate to stay further proceedings if the defendant requests appointment of counsel and request a judge to appoint counsel. Requires that such judge shall appoint counsel. If no judge is available, requires the court clerk to appoint counsel from a list of attorneys in accordance with the rules established by the judge.</p> <p>Rule 44 provides that every defendant who is unable to obtain counsel has the right to have counsel assigned to represent them at every stage of the proceedings from initial appearance before the magistrate or court through appeal.</p>
Wisconsin	<p>Wis. Stat. Ann. §967.06; §970.02</p>	<p>§967.06 requires that a defendant be informed of their right to counsel regardless of ability to pay as soon as is practicable after the person has been detained or arrested. Provides that a defendant who wishes to be represented and indicates as much at any time, and who claims they are not able to pay for a lawyer's services, shall be immediately permitted to contact the authority for indigency determinations as is specified under §977.07.</p> <p>§970.02 requires a judge at initial appearance to inform the defendant of their right to counsel and that an attorney will be appointed to represent them if they are financially unable to employ counsel. Requires the court to admit the defendant to bail in accordance with chapter 969. Requires a judge to refer a defendant who claims or appears to be indigent to the authority for indigency determinations.</p>

STATE	CITATIONS	
Wyoming	<p>Wyo. Stat. Ann. §7-6-104; §7-6-105</p> <p>Wyo. R. Crim. P. 5, 44</p>	<p>§7-6-104 requires the public defender to represent any needy person who is under arrest or formally charged with having committed a serious crime if the defendant requests counsel or the court orders appointment of counsel on its own motion. Requires appointed counsel to represent the defendant at every stage of the proceedings, from the time of the initial appointment by the court until the entry of final judgment.</p> <p>§7-6-105 Requires a court to advise a defendant at their initial appearance of the right to be represented by an attorney at public expense. Requires the court to notify an available public defender for the judicial district or appoint an attorney if the defendant indicates that they wish to be represented by an attorney.</p> <p>Rule 5 requires a court to inform the defendant of their right to retain counsel and their right to appointed counsel unless they are charged with an offense for which appointment of counsel is not required. Requires the court to inform the defendant of the circumstances under which pretrial release may be secured in cases that are not required to be tried in district court. If an offense is required to be tried in district court, the court is required to provide the defendant reasonable time and opportunity to consult counsel and shall detain or conditionally release the defendant as authorized by statute.</p> <p>Rule 44 provides defendants charged with specified offenses are entitled to be represented by appointed counsel, a right which extends from the first appearance through appeal. Provides that an attorney should be appointed at the earliest time after a defendant makes a request, but only after appropriate inquiry into the defendant's financial circumstances and a determination of eligibility.</p>

Source: National Conference of State Legislatures, 2016

Westlaw was used to conduct this research.

[Return to Pretrial Policy Homepage](#)



Citation in Lieu of Arrest

October 2018

“Citations in lieu of arrest” are permitted in every state—most commonly for low-level crimes. A citation is a written or electronic order issued by a law enforcement officer or other authorized official. Instead of an arrest or continued detention, the citation releases the person on the promise to appear in court (or another government office) or pay a fine.

Generally, a custodial arrest must be made if one or more of the factors below are present:

- There are reasonable grounds to believe the person will not appear in court, or the person has previously failed to appear.
- There are reasonable grounds to believe the person poses a danger to persons or property, or that the offense will continue.
- The person has outstanding warrants.
- A legitimate investigation or prosecution would be jeopardized by release.
- The person requires physical or behavioral health care—one example being intoxication.

State laws generally prohibit a citation from being issued in two common scenarios:

- The person refuses to sign a written promise to appear or requests to be taken before a judge.
- The person does not have or will not provide valid identification, or the provided identification cannot be verified and the person is unwilling to provide fingerprints.

The chart below provides more information on “citation in lieu of arrest” state laws (however named). It focuses on general authority provided to law enforcement for crimes and traffic offenses. Citation authority specific to other agencies are not identified in this chart (e.g., wildlife/fishing, off-road vehicles, boating, fire code regulations).

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Alabama § 11-45-9.1	Class C misdemeanors	Offenses involving violence, threat of violence, alcohol or drugs	No	After arrest	Law enforcement officers
§ 32-1-4	Traffic misdemeanors	Offenses involving accident resulting in injury or death; impaired driving; felonies	Yes	After arrest	Law enforcement officers
Alaska § 12.25.180 (a)	Class C felonies; misdemeanors; municipal ordinances	Offenses involving violence to property or person; when there is probable cause that domestic abuse was involved	No	Prior to arrest	Peace officers
§ 12.25.180 (b)	Infractions or violations	Probable cause person violated conditions of release or failed to appear	Yes	Prior to arrest	Peace officers
Arizona § 13-3903	Misdemeanors and petty offenses	Violations of certain orders issued in marital and dissolution cases (§§ 25-315, -808) Prior to release for the following offenses, one or two-digit fingerprinting required: domestic violence involving injury or weapons,	No	After arrest	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
		sexual offense, impaired driving (See § 13-3602)			
Arkansas § 27-50-603	Traffic misdemeanors	Negligent homicide; impaired driving; failure to stop for or involved in accident causing death, injury, or property damage (§ 27-50-602)	No	After arrest	Law enforcement officers
Crim. Proc. R. 5.2	Misdemeanors	Violation of a post-conviction, no contact order (§ 5-4-106)	No	Either	Law enforcement officer or ranking officer
California Penal Code § 853.6	Misdemeanors	Offenses involving domestic violence or abuse (unless officer determines no reasonable likelihood that: (1) offense will continue or (2) safety of persons or property is imminently endangered); offenses that require a bail hearing, rather than release according to a bail schedule	Yes	After arrest	Law enforcement officers or their superiors (extends to custodial officers per § 831(f)(4) and public officers or employees per § 856.5)

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 853.5	Infractions	None identified	Yes	After arrest	Law enforcement officers or their superiors
§ 818	Vehicle code misdemeanors or ordinances relating to stopping, standing, parking, operating a vehicle	None identified	No	Prior to arrest	Law enforcement officers or their superiors
Colorado § 16-3-105	Misdemeanors or petty offenses	Domestic violence offenses; protection order violations (§ 18-6-803.5)	No	After arrest	Law enforcement officers; responsible command officers
§§ 42-4-1705; -1707	Vehicle misdemeanors or petty misdemeanors; misdemeanor traffic offenses	Offenses causing accident resulting in injury or death; impaired driving; failure to stop in accident causing death, injury, or property damage (§ 42-4-1705)	No	Either	Law enforcement officers
Connecticut § 54-1h	Misdemeanors; offenses with maximum punishment of one year imprisonment or a \$1,000 fine	Family violence crimes (§ 46b-38b)	No	After arrest	Arresting officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 14-140	Motor vehicle violations	Impaired driving, using vehicle without permission, evading responsibility for injury, death, or damage.	No	After arrest	Arresting officers
Delaware 11 Del. C. § 1907	Misdemeanors	Probable cause of protection order violation (10 Del. C. § 1046)	No	Not specified	Peace officers
21 Del. C. §§ 703, 712	Violations of title 21 (traffic)	None identified	Yes	After arrest	Peace officers
District of Columbia § 23-584	Eligible misdemeanors	Charged with a dangerous crime, crime of violence, domestic violence, or felony	No	After arrest	Law enforcement officers or releasing officials
Florida § 901.28 superseded by R. Crim. Proc. 3.125	1st or 2nd degree misdemeanors; municipal and county ordinances	None identified	No	After arrest	Law enforcement officers or booking officers
§ 316.650	Traffic violations	None identified	No	Not specified	All traffic enforcement agencies

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 162.23	Code or ordinance violations	None identified	No	No arrest	Code enforcement officers
Georgia § 17-4-23	Motor vehicle violations; purchase or attempt to purchase alcohol by a minor; or misdemeanor violations for criminal trespass, shoplifting, theft by refund fraud, and possession of certain drugs	None identified	No	After arrest	Law enforcement officers
§§ 17-6-11; 17-7-71	Any motor vehicle violation of title 40 and certain additional offenses (See §§ 15-5-21.1; 40-13-1)	Homicide by vehicle; use of vehicle in commission of a felony; leaving accident; racing; eluding an officer; driving without a license; serious traffic accidents (§ 40-5-54)	Yes	After apprehension	Law enforcement officers
Hawaii § 803-6	Misdemeanors and petty misdemeanors	None identified	No	Prior to arrest	Police officers
§ 286-10	Traffic offenses	None identified	Yes	After arrest	Authorized persons

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Idaho §§ 19-3901; 49-1409	Misdemeanors or infractions triable by magistrate; misdemeanor traffic violations	Negligent homicide; impaired driving; failure to stop for accident resulting in death or injury (§ 49-1405)	No	Not specified	Law enforcement officers
Illinois 725 ILCS § 5/107-12	When there are reasonable grounds to believe that a person is committing or has committed a crime (See Sup. Ct. R. 552)	None identified	No	Not specified	Peace officers
Indiana § 35-33-4-1(f)	Misdemeanors	Traffic misdemeanors	No	Not specified	Law enforcement officers
§ 9-30-2-5	Traffic misdemeanors	Impaired driving; offense involving accident causing death, injuries, or property damage; driving with invalid license (§ 9-30-2-4)	Yes	After arrest	Law enforcement officers
Iowa § 805.1	When a crime has been committed in the presence of the police officer or reasonable grounds to believe that a crime has been committed	Offenses not eligible for bail; stalking	No	Either	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 805.6 (1)(a)	Traffic offenses; scheduled offenses for vehicles	Offenses listed in § 321.485	Yes	Not specified	Officers from depts. of public safety & transportation
§ 321.485 (written citation)	Simple, serious, or aggravated misdemeanors for ch 321 violations (vehicles and laws of the road)	None identified	No	Either	Officers; peace officers
Kansas § 22-2408	Misdemeanors	Traffic violations	No	After arrest	Law enforcement officers
§ 8-2106	Traffic misdemeanors, infractions, and additional listed offense	Impaired driving or fleeing; felonies (§ 8-2104)	No	Not specified	Law enforcement officers
Kentucky § 431.015 (1) (b) – (d); (2)	Misdemeanor impaired driving; assault; sexual crimes; crimes involving firearms or weapons; 4th degree assault in a hospital; possession of burglar tools; receiving stolen property; trespass on domestic violence shelter;	Violation of protective order (§ 431.005 (5), (7))	No	Prior to arrest	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
	false ID to officer; certain traffic violations; 3d degree trespass; harassment				
§ 431.015 (1) (a) (3)	Misdemeanors (not listed above)	Violation of protective order (§ 431.005 (5), (7))	Yes - if committed in officer's presence. No - if not committed in officer's presence	Prior to arrest	Peace officers
§ 431.450 (4)	Felonies	None identified	Not specified	Not specified	Peace officers
Louisiana C. Crim. Proc. Art. 211	Misdemeanors; felony theft or illegal possession of stolen items worth \$500-\$1,000; writing worthless checks; driving without license in possession	Felony charges when person has prior conviction	No, except for driving without license in possession	Prior to arrest	Peace officers
C. Crim. Proc. Art. 211.1	Outstanding warrant or attachment for misdemeanor	Impaired driving; offense with weapon or use of force or violence (except simple battery); domestic abuse battery; failure to pay child support; and any felony warrants	No	Prior to arrest	Peace officers (& magistrates)

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Maine 17-A § 15-a	When there is probable cause to believe a crime has been or is being committed.	None identified	No	Prior to arrest	Law enforcement officers
Maryland Crim. Proc. Code § 4-101(c)(1)(i)	Misdemeanors that do not carry a penalty of imprisonment; any misdemeanors with up to 90-day maximum penalty; and possession of marijuana.	Violation of peace or protective order; violation of a condition of pretrial release while charged with a sex crime against a minor; possession of an electronic control device after conviction of a drug felony or violent crime; abuse or neglect of an animal	Yes	Either	Peace officers
Crim. Proc. Code § 4-101(c)(1)(ii)	Sale of alcohol to minor or intoxicated person; malicious destruction property <\$500; misdemeanor theft	None identified	No	Either	Peace officers
§§ Transp. Code 26-201, -202, -203	Traffic laws	Impaired driving; failure to assist or provide information at accident; driving with invalid license; any offense resulting in bodily harm/death; fleeing; racing	Yes	Prior to arrest	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
		resulting in serious bodily injury; falsification of vehicle documents			
Massachusetts 90C § 3 (B)	Automobile law misdemeanors	None identified	No	Prior to arrest	Police officers
Michigan § 764.9c	Misdemeanors with a maximum of 93 days' imprisonment	Domestic assault; violation of a protection order; crimes subject to mandatory confinement or mandatory condition of pretrial release	No	After arrest	Police officers
	Any offense less than felony	Domestic assault; violation of a protection order; crimes subject to mandatory confinement or mandatory condition of pretrial release	No	Prior to arrest	Authorized public servants
Minnesota § 626.862	Offenses not specified. Statute gives law enforcement officers the power to issue citations in lieu of arrest	Stalking; domestic abuse; violation of an order for protection; violation of a domestic abuse no contact order (§ 629.72)	No	Either	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 169.91	Motor vehicle violations (registration, operation, or use of highways)	Accident resulting in injury or death; negligent homicide; impaired driving; failure to stop for accident causing injury or damage	Yes	After arrest	Peace officers
Crim. Proc. R. 6.01, subd. 1	Misdemeanors and petty misdemeanors		Yes, unless citation is for the following misdemeanors: drug paraphernalia, prostitution, loitering, vehicle tampering, property damage, dangerous weapons, trespass, local drug ordinance violation. (§ 609.135)	Either	Peace officers
Crim. Proc. R. 6.01, subd. 2	Felonies and gross misdemeanors without warrant	Aggravated impaired driving (§ 169A.40)	No	After arrest	Peace officers; officer in charge of police or sheriff station
Mississippi § 99-3-18	Misdemeanors	Domestic violence; protection order violations (§ 99-3-7(3)(a))	No	After arrest	Police officers; booking officers; superiors

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§§ 63-9-21, -23	Traffic violations under chapters 3, 5, 7	None identified	Not specified	Not specified	Police officers
Missouri § 300.580	Traffic law violations (See also Sup. Ct. R. 37)	None identified	No	Prior to arrest	Police officers
Montana § 46-6-310	When the officer has probable cause to believe a person has committed a crime	Arrest is preferred response for: partner or family member assault involving injury to victim, use of a weapon, violation of restraining order, or imminent danger to victim (§ 46-6-311)	No	Not specified	Peace officers
Nebraska § 29-422	Misdemeanors and infractions	Violations of protection order for domestic violence or sexual assault (§§ 28-311.11; 42-928)	No - misdemeanors Yes - infraction	Either	Peace officers
§ 60-684	Traffic infractions	None identified	Yes	Not specified	Peace officers
Nevada §§ 171.1771; -177; -.122	Misdemeanors	Misdemeanors that require a bail hearing (§ 171.178) Domestic battery (§ 171.137)	No	Prior to arrest	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 484A.630	Traffic misdemeanors	Failure to stop for mechanical condition inspection or weight restriction; impaired driving (§ 484A.730)	No	Prior to arrest	Peace officers
New Hampshire § 594:14	Misdemeanors	None identified	No	Prior to arrest	Peace officers
§ 262:44	Traffic violations	Reckless driving; impaired driving; transporting explosives or hazardous materials; certain speeding violations; traffic misdemeanors; traffic felonies	Yes	Not specified	Peace officers
New Jersey § 2B:12-21; Crim. Proc. R. 3:4-1	Offenses committed in an officer's presence	Violation of domestic violence protection order (§ 2C:25-31)	No	After arrest	Law enforcement officers
§ 39:5-25	Motor vehicle and traffic violations	None identified	No	Prior to arrest	Law enforcement officers
New Mexico § 31-1-6	Petty misdemeanors	None identified	No	After arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 66-8-123	Motor vehicle misdemeanors	Impaired driving; failure to stop in accident causing injury, death, or damage; reckless driving; driving with invalid license for impaired driving/implied consent (§ 6-8-122)	Yes	After arrest	Law enforcement officers
New York Crim. Proc. Law §§ 140.10, 140.27, 150.20	When authorized to arrest without a warrant for an offense or crime (includes certain class E felonies) (See also Veh. & Traffic § 207)	Class A, B, C, D felonies; 3rd degree rape; 3rd degree criminal sex act; 2nd degree escape; 1st degree absconding from a temporary release; absconding from a community treatment facility, 2nd degree bail jumping (§ 150.20) Violation of a protection order; felony against a family or household member, or misdemeanor family offense (§ 140.10 (4))	No	Either	Police officers; authorized public servants
Crim. Proc. Law § 150.75	Possession of marijuana	None identified	Yes	After arrest	Police officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
North Carolina § 15A-302	Misdemeanors or infractions	None identified	No	Not specified	Law enforcement officers; other authorized persons
North Dakota § 29-05-31 (traffic); Crim. Proc. R. 5(e)	Crimes committed in an officer's presence; motor vehicle offenses	None identified	No	Either	Law enforcement officers
Ohio § 2935.26 (see Crim. Proc. R. 4.1)	Minor misdemeanors	None identified	Yes	Prior to arrest	Law enforcement officers
Crim. Proc. R. 4	Misdemeanors	None identified	No	Prior to arrest	Law enforcement officers
Oklahoma 22 § 209	Misdemeanors	None identified	No	After arrest	Law enforcement officers
Oregon §§ 133.055; - .070	Misdemeanors; felonies authorized by law to be reduced to misdemeanors; certain ordinances	Domestic disturbance with probable cause to believe that: an assault occurred between family or household members, or a person is in fear of imminent serious	No	Either	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
		bodily injury; violation of a protection or restraining order (§ 133.310)			
§ 810.410	Traffic crimes or violations	None identified	No	Prior to arrest	Police officers
Pennsylvania Crim. Proc. R. 519; 441	2nd degree misdemeanors; 1st degree misdemeanors for impaired driving	None identified	Yes	After arrest	Law enforcement officers
Crim. Proc. R. 402	Summary offenses—punishable by a maximum of 90 days' incarceration (<i>See also</i> 18 Pa.C.S.A. § 106)	None identified	Yes	Prior to arrest	Law enforcement officers
Rhode Island §§ 12-7-11; -12	Misdemeanors	Domestic violence offenses and violent crimes against the elderly (§§ 12-29-1.4; -3)	No	Either	Peace officers; officer in charge of a police station
§ 31-27-12	Traffic offenses or possession of marijuana—observed by officer	None identified	Yes	Prior to arrest	Police officers
South Carolina § 56-7-10 (A)	Offenses enumerated in § 56-7-10 (all traffic offenses,	None identified	Yes	After arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
	plus 50+ non-traffic related offenses)				
§§ 56-7-10 (B); - 15	Misdemeanor offenses under magistrate's jurisdiction committed recently or in the officer's presence (maximum penalty of 30 days' jail and \$500 fine) (§ 22-3-540)	None identified	No	After arrest	Law enforcement officers
South Dakota § 23-1A-7	Public offenses (<i>See also</i> § 22-1-2)	Probable cause of aggravated domestic assault or domestic assault involving injury or threat of injury AND a protection order exists or there was an assault in the preceding 48 hours (§ 23A-3-2.1)	No	Prior to arrest	Law enforcement officers
§§ 23-1A-2, -5, - 11	Traffic petty and misdemeanor offenses	None identified	Not specified	Not specified	Law enforcement officers
§ 32-33-2	Misdemeanor motor vehicle violations	Offenses causing an accident resulting in injury or death; reckless driving; impaired	Yes	After arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
		driving; driving with invalid license; driving through roadblock (§ 32-33-4)			
Tennessee § 40-7-118 (b) (1)	Misdemeanors	Driving under the influence unless the offender was admitted to a hospital or detained for medical treatment for at least three hours; misdemeanor traffic offenses (§ 40-7-118 (b) (2)) Accidents resulting in serious bodily injury or death where driver has neither a valid license nor proof of insurance (§ 55-10-119)	Yes	After arrest	Peace officers
§ 40-7-118 (b) (3)	Shoplifting; writing bad checks; use of invalid or fraudulent driver's license; in certain cases, assault and prostitution	None identified	No	After arrest	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
§ 55-10-207	Certain traffic misdemeanors; no proof of insurance; mobile home transport violations	Criminally negligent homicide; voluntary manslaughter or murder; impaired driving; accident causing death, injury, or property damage (§ 55-10-203)	Yes, except for mobile home transport violations	After arrest	Law enforcement officers
Texas C. Crim. Proc. Art. 14.06.	Class C misdemeanors; Class A or B misdemeanors (occurring in county of residence) for driving while license invalid; contraband in correctional facility; theft of service; theft; graffiti; criminal mischief; possession of substance penalty group 2-A; possession of marijuana		No	After arrest	Peace officers
Transp. Code § 543.003	Misdemeanor violations – traffic laws	Failure to stop in accident causing damage to property (§ 543.002)	No	After arrest	Peace officers
Transp. Code § 543.004	Speeding, using wireless device while driving, open container violations	(See § 543.002)	Yes	Not specified	Peace officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Utah § 77-7-18	Misdemeanors and infractions	Domestic violence if believe violence will continue or evidence of serious bodily injury or use of dangerous weapons (§ 77-36-2.2)	No	Either	Peace officers; public officials charged with enforcement of law authorized volunteers
Vermont R. Crim. Proc. 3 (b), (f)	Misdemeanors committed outside the presence of officer	Assault against a family member; impaired driving; hate-motivated crimes; stalking; simple assault; reckless endangerment; cruelty to children; failure to comply with sex offender registration; abuse of a vulnerable adult; violation of a protection order	Yes	Prior to arrest	Law enforcement officers
Virginia § 19.2-74	Class 1 – 4 misdemeanors; nonjailable misdemeanors; ordinances	Impaired driving; public drunkenness; protection order violation; domestic assault (§ 19.2-81.3)	Yes	After arrest	Arresting officer; conservators of the peace
§ 46.2-936	Misdemeanor vehicle violations	Impaired driving of commercial vehicles	Yes	After arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Washington § 10.31.100 Crim. R. Cts. Ltd Juris. 2.1 (appendix tit. 10)	Misdemeanors or gross misdemeanors committed in the presence of an officer	Offenses enumerated in § 10.31.100, including protection order violations, domestic assault	No	Either	Peace officers
§ 46.64.015	Traffic violations punishable as misdemeanor or by fine (committed in officer's presence)	Offenses enumerated in § 10.31.100 (3), including impaired driving, reckless driving, driving without a license	No	After arrest	Peace officers
West Virginia § 62-1-5a	Misdemeanors; shoplifting	Offenses involving injury to a person (§ 62-1-5a); domestic assault or battery (§ 48-27-1002 (c))	No	Prior to arrest	Law enforcement officers
§ 17C-19-4	Traffic misdemeanors	Negligent homicide; impaired driving; failure to stop in accident causing death, injury or property damage (§ 17C-19-3)	No	After arrest	Law enforcement officers

State & Statute	For What Offenses Can a Citation be Issued?	Exceptions	Presumption of Citation	When is Citation Issued?	Who Issues Citation?
Wisconsin § 968.085	Misdemeanors	Domestic abuse offenses if believe abuse will continue, involves physical injury, or the arrestee is the predominant aggressor (§ 968.075). Violation of protection order involving domestic abuse, child abuse, or harassment. (§ 968.07 (1m))	No	Either	Law enforcement officers
§ 345.23	Traffic regulations	In certain impaired driving cases (§ 346.63)	Yes	After arrest	Law enforcement officers
Wyoming § 7-2-103	Misdemeanors	None identified	No	After arrest	Peace officers
§ 31-5-1205	Traffic misdemeanors	Vehicular homicide; impaired driving; failure to stop in accident resulting in injuries	Yes, except at scene of an accident	Not specified	Peace officers

NCSL's Criminal Justice Program is in Denver, Colorado, at 303-364-7700; or cj-info@ncsl.org

Statutes & bills may be edited or summarized; full text can be retrieved through:

<http://www.ncsl.org/aboutus/ncslservice/state-legislative-websites-directory.aspx>

Information is provided for representative purposes; this may not be a complete list or analysis.

Westlaw was used to conduct this research

Pretrial Release Eligibility

3/13/2013



"All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great."

—Article 1, section 7 of the Minnesota Constitution

Minnesota's constitutional provision is similar to that of many states' laws governing pretrial release. Nearly every state has a presumption in favor of releasing all but a specified few defendants before trial. Forty states have such a provision in the state constitution. Where the constitution is silent on this, eight states have created a statutory presumption.

State constitutions and statutes specify which defendants may be detained before trial. Most commonly, defendants charged with capital offenses are barred from pretrial release. Other common circumstances in which release can be denied include violent and sex crimes, when the victim is a child or family member, or if the defendant has previous convictions for certain serious offenses. Defendants facing serious drug or alcohol charges, such as trafficking in a controlled substance or driving under the influence resulting in serious injury, may be denied release in a few states. However, denial of release is not absolute. A court must make certain determinations before ordering detention. For example, the court must find that "the proof is evident or the presumption great" against the defendant. Or, a court may deny release if it is determined that no conditions can reasonably assure the appearance of the defendant or if the defendant is a danger to himself or herself or the community.

While state laws broadly provide for presumption of release, they also define who is and is not eligible for pretrial release, and under what conditions.

The chart below provides more information on state laws governing pretrial release eligibility. (An additional chart provides more information on statutory guidance for setting pretrial release conditions.)

50 State Chart | Pretrial Release Eligibility

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Alabama Const. art. 1 §16; §15-13-108	X	X	Capital offenses	Same as constitution
Alaska Const. art. 1 §11; §12.30.011(d)	X		Capital offenses	Unclassified felonies; class A felonies; sexual felonies; felony operating a vehicle while under influence of alcohol or drugs; felony refusing to submit to a chemical test; felony crimes against a person or any domestic violence offense if have a previous similar conviction in last five years; felonies committed while on pretrial release; arrested for felonies committed in another state.
Arizona Const. art. 2 §22; §13-3967(a); §13-3961(a)	X	X	Capital offenses; sexual assault; sexual conduct or molestation of a minor; serious felony offenses if the defendant is in the country illegally,* as defined by the Legislature; felony committed while on pretrial release for a felony offense; felony offenses.	Same as constitution plus aggravated driving under the influence by a person in the country illegally; felonies involving dangerous crimes against children; terrorism; if defendant is a street gang member.
Arkansas Const. art. 2 § 8; §16-84-110	X		Capital offenses	None specified
California Const. art. I § 12; Penal Code §1271 & 1270.5	X	X	Capital offenses; felonies involving acts of violence; felony sexual assault; felonies involving threats of great bodily harm.	Capital offenses
Colorado Const. art. II § 19; §16-4-101	X	X	Capital offenses; violent crimes committed while on pretrial release for a violent crime; violent crimes if there is a previous violent crime conviction or two previous convictions for any felony.	Same as constitution plus illegal possession of weapon due to criminal record; sexual assault; sexual assault on a child.
Connecticut Const art 1 § 8	X		Capital offenses	None specified

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Delaware Const. art. 1 § 12; 11 Del. C. §2103; 11 Del. C. §2116	X		Capital offenses	Same as constitution plus violent felonies committed while on pretrial release for a violent felony.
District of Columbia §23-1322			None specified	1 st and 2 nd degree murder; assault with intent to kill; any offense while on pretrial release for a felony or misdemeanor; crime of violence or dangerous crime as enumerated in §23-1331; obstruction of justice; illegal possession of a firearm as enumerated in §23-1322(c)(7)& (8).
Florida Const. art. 1 § 14; §907.041(4)	X		Capital offenses or offenses punishable by life.	Defendant has threatened, intimidated or injured a victim, witness, juror or judicial officer; trafficking controlled substances; driving under the influence manslaughter and has a previous conviction for driving under the influence manslaughter, was driving with a suspended license, or was previously convicted for driving with a suspended license; dangerous offenses; any offense while on pretrial release for a dangerous offense; manufacturing a controlled substance.
Georgia §17-6-1(e); §17-6-13		X	None specified	Serious violent felony if there is a previous conviction for a serious violent felony; family violence crime involving serious injury.
Hawaii Const. art. 1 §12; §804-4(a); §804-3		X	Offenses punishable by life	Serious crimes as enumerated in §804-3(a).
Idaho Const. art. 1 §6; §19-2902	X	X	Capital offenses	None specified

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Illinois Const. art. 1 §9; 725 ILCS 5/110-4	X	X	Capital offenses; offenses punishable by life or life without parole.	Same as constitution plus stalking; aggravated stalking; felonies not eligible for probation; unlawful use of weapons when the offense occurred in a school zone; terrorist threats.
Indiana Const. art. 1 § 17; §35-33-8-2	X		Murder and treason.	Murder
Iowa Const. art. 1 § 12; §811.1	X	X	Capital offenses	None specified
Kansas Const. Bill of Rights § 9; §22-2802 §59-29a20	X	X	Capital offenses	Sexually violent predator
Kentucky Const. §16	X		Capital offenses	None specified
Louisiana Const. art. 1 § 18; C. Cr. P. Art. 330 & Art. 331	X	X	Capital offenses; violent offenses; production, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense a controlled substance.	Same as constitution
Maine Const. art. 1 §10; 15 § 1003(3)&(4)		X	Crimes that are currently or were formerly a capital offense, regardless of current penalty.	Same as constitution
Maryland CR. Pr. Law § 5-202				Violent offenses if have a previous conviction for a violent offense; offenses enumerated in CR. PR. Law § 5-202(d)(1) committed while on pretrial release for a similar offense; violation of a protection order involving threats or abuse of a family member; offenses enumerated in CR. PR. Law § 5-202(f)(1) if have a previous similar conviction; any offense if a registered sex offender.

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Massachusetts 276 §58; 276 §58A		X	None specified	Capital offenses; burglary; arson; violation of a protection order; offenses involving domestic abuse; drug offenses with a mandatory minimum sentence of three years; intimidation of a witness; 3 rd or subsequent driving under the influence; illegal possession of a firearm as enumerated in 269 §10(a), (c) & (m) & 269 §10G.; new crime while on pretrial release.
Michigan Const. art. 1 § 15; §765.5, §765.6(1)	X	X	Murder; treason; violent felonies if there are two previous violent felony convictions within 15 years; 1 st degree criminal sexual conduct; armed robbery; kidnapping with intent to extort money; violent felony while on pretrial release for a violent felony.	Murder and treason.
Minnesota Const. art. 1 § 7	X		Capital offenses	None specified
Mississippi Const. art. 3 §29; §99-5-33	X		Capital offenses; crimes punishable by life in prison; offenses punishable by 20 or more years; defendant has a previous conviction for a capital offense; felony committed while on pretrial release as enumerated in Const. Art. 3 § 29(2).	If there is potential for a murder charge, defendant is not eligible for bail until it is known if the wounded victim will recover.
Missouri Const. art 1 § 20; §544.455; § 544.470	X	X	Capital offenses	Illegal alien charged with any offense.
Montana Const. art. 2 § 21; §46-9-102	X	X	Capital offenses	Same as constitution
Nebraska Const. art. 1, § 9;	X		Murder; treason; sexual offenses involving penetration by force.	None specified

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Nevada Const. art. 1, §7; §178.484	X	X	Capital offenses or murder punishable by life without parole.	1 st degree murder
New Hampshire §597:1; §597:1c; §597:2(III-a)		X	None specified	Offenses punishable by life; abuse of a family or household member; violation of a protection order for domestic violence.
New Jersey Const. art. 1 §11	X		Capital offenses	None specified
New Mexico Const. art. 2 §13	X		Capital offenses; any felony and if there are two or more previous felony convictions; felonies involving use of a deadly weapon and if there is a prior felony conviction.	None specified
New York C. Pr. Law §510.10		X	None specified	None specified
North Carolina Const. art. 1 §27; §15A-533, §15A-534.6			None specified	Capital offenses; drug trafficking while on pretrial release for another offense and there is a prior similar conviction within the previous five years; offense associated with a criminal street gang while on pretrial release for another offense and there is a prior similar conviction within the previous five years; manufacture of methamphetamine committed to maintain dependence on or illegal use of the drug.
North Dakota Const. art. 1 §11	X		Capital offenses	None specified
Ohio Const. art. 1 §9; §2937.222	X		Capital offenses; felonies that pose a substantial risk of serious physical harm, as determined by the General Assembly.	Noncapital aggravated murder; murder; 1 st or 2 nd degree felony; aggravated vehicular homicide; vehicular homicide; vehicular manslaughter; felony stalking; felony driving under the influence of drugs or alcohol.

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Oklahoma Const. art. 2 §8; 22 § 1101	X	X	Capital offenses; violent offenses; offenses punishable by life or life without parole; felony when there are two or more prior felony convictions; dangerous controlled substance offenses when maximum sentence is a minimum of 10 years.	Same as constitution plus kidnapping.
Oregon Const. art. 1 §14 & §43; §135.240	X		Murder; treason; aggravated murder; violent felonies.	Same as constitution plus any offense while on pretrial release.
Pennsylvania Const. art. 1 §14; 42 Pa.S.C.A. 5701	X	X	Capital offenses or offenses punishable by life.	Same as constitution
Rhode Island Const. art. 1 §9; §12-13-1	X	X	Offenses punishable by life; offenses involving use or threat of use of a dangerous weapon when there is a previous similar conviction or previous life sentence; drug crimes punishable by more than 10 years.	None specified
South Carolina Const. art. 1 §15; § 22-5-510	X		Capital offenses; offenses punishable by life; violent offenses, as defined by the General Assembly.	Same as constitution plus violent offenses enumerated in § 16-1-60.
South Dakota Const. art. 6 §8	X		Capital offenses	None specified
Tennessee Const. art. 1, §15; §40-11-102	X	X	Capital offenses	Same as constitution

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Texas Const. art. 1 § 11, 11a & 11c; C. Cr. P. Art. 17.152 & Art. 17.153	X		Capital offenses; felonies when there are two previous felony convictions; felonies while on pretrial release for a felony; offenses involving a deadly weapon when there is a previous felony conviction. Authorizes the legislature to enact a law to deny release for a violation of a protection order that is a condition of pretrial release for a family violence offense.	Violation of a protection order that is a condition of pretrial release related to family violence or a child victim.
Utah Const. art. 1 §8; §77-20-1; §77-36-2.5(10)	X	X	Capital offenses; felonies while on pretrial release for a felony; crimes designated by statute as non-bailable.	Same as constitution plus felonies and domestic violence offenses.
Vermont Const. art. 2 §40; 13 § 7553, 13 §7553a, 13 §§ 1043, 1044, 1063	X		Offenses punishable by life or death; felonies that involve violence.	Same as constitution plus first and second degree aggravated domestic assault; aggravated stalking.

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Virginia §19.2-120, §19.2-120.1		X	None specified	Violent offenses as enumerated in §19.2-297.1; offense punishable by life or death; drug offenses if punishable by 10 or more years and there is a prior similar conviction or conviction as drug kingpin; firearm offenses carrying a mandatory minimum penalty; any felony if there are two or more prior convictions for violent offenses or offenses punishable by life or death; sex assault on a child; aggravated sexual battery; crimes against nature; incest; taking indecent liberties with a child and there is a previous conviction for a similar offense; child pornography; driving under the influence resulting in death or injury and there are three prior convictions for a similar offense; a 2 nd or subsequent violation of a protection order; disarming a law enforcement or correctional officer; threatening witnesses related to drug or violent offenses; illegal aliens charged with offenses enumerated in §19.2-120.1.
Washington Const. art. 1 §20	X		Capital offenses; offenses punishable by life in prison, as set by the Legislature.	None specified
West Virginia §62-1C-1		X	None specified	Life imprisonment

STATE & STATUTE	PRESUMPTION OF PRETRIAL RELEASE		WHEN PRETRIAL RELEASE MAY BE DENIED	
	IN CONSTITUTION	IN STATUTE	IN CONSTITUTION	IN STATUTE
Wisconsin Const. art. 1 §8; §969.01; §969.035	X	X	Authorizes the Legislature to enact a law denying release for murder punishable by life, sexual assault punishable by a maximum of 20 years, and for felonies involving serious bodily injury or threat of serious bodily injury if there is a previous similar conviction within limits enumerated in Const. Art. 1 §8(3).	1 st degree intentional homicide; 1 st or 2 nd degree sexual assault of a child; repeated acts of sexual assault on the same child; sexual assault of a child placed in substitute care; violent crime or attempted violent crime and has a previous similar conviction.
Wyoming Const. art. 1 §14; §7-10-101;	X	X	Capital offenses	Same as constitution

Source: National Conference of State Legislatures, 2013
Westlaw was used to conduct this research.

*Held unconstitutional by the United State Court of Appeals for the Ninth Circuit. See *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772 (9th Cir. 2014), *cert. denied*, No. 14-825, 575 U.S. ____ (2015).

Constitutional and statutory provisions provide a framework for pretrial release decision-making, but court rule and case law provide further guidance. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included. Laws governing the release of defendants charged with a crime when they are already under the supervision of the criminal justice system (in prison or on community supervision) also are not included in this chart.



NATIONAL CONFERENCE OF STATE LEGISLATURES

State Pretrial Risk Assessments

January 2019

The following states have required, incentivized, addressed, or encouraged the use of risk assessment tools to provide courts and other release officials with additional information about risk of non-appearance and risk to public safety. To date, no state has prohibited the use of a risk assessment tool to assist courts in making release determinations, but states have specified in law that courts may not rely only upon the results of a risk assessment to make their release determination. In Alaska, California*, Delaware, Hawaii, Indiana, Kentucky, New Jersey and Vermont legislation has required the use of a risk assessment on a statewide basis for at least some defendants.

Alaska – [AK SB 91](#) (2016) - Requires the corrections department to create a pretrial services program, and to approve a validated pretrial risk assessment tool for use by the program. Requires the pretrial services office to conduct a risk assessment and prepare a pretrial release report that includes the risk score, a notation of any potential substance abuse treatment need if indicated by the offense or criminal history, and recommendation to the judge before a defendant's first appearance. Establishes a pretrial release decision-making framework for courts with limitations on the use of secured money bond based on a defendant's charge and risk level.

California* – [CA SB 10](#) (2018) - Requires persons arrested and detained to be subject to a pretrial risk assessment conducted by Pretrial Assessment Services, as defined. Requires the courts to establish pretrial assessment services. Requires a person arrested for a misdemeanor to be booked and released without a risk assessment.

Colorado – [HB 1236](#) (2013) - Requires, if a bond schedule is used, factors addressing the individual risk that a particular defendant poses be considered and prohibits the bail decision from being based solely on the alleged offense. Requires courts, if practical, to consider results of an "empirically developed" risk assessment instrument to improve the effectiveness of release decisions. Allows a judge to have any bail-eligible defendant evaluated by a pretrial services program so that recommendations on appropriate release conditions can be made. Requires that the chief judge in every judicial district consult annually with counties to develop pretrial services programs.

Delaware – [DE SB 226](#) (2012) See also [HB 204](#) (2018) - Required implementation of an objective tool that gauges defendants' risk of flight and re-arrest to help magistrates make informed decisions about



the conditions of pretrial release. Required that the tool be responsive to the needs of victims of domestic and sexual violence. Required the Statistical Analysis Center to provide magistrates with data on rates of re-arrest and failures to appear for a scheduled court date. Requires reporting annually for three years after implementation.

HB 204 (2018) updates the language of §2104 to specify the use of an empirically developed risk assessment instrument if available. Requires consideration of the results of an instrument designed to assess the likelihood or predicted severity of further violence in cases involving domestic or intimate partner violence. Specifies that any such risk assessment tools are not binding on the court and that they are factors to be considered in the totality of the circumstances when determining conditions of release imposed on the defendant. Authorizes courts to consider other factors such as pretrial success and the protection of the victim, witnesses or any other person. Deletes reference to risk instruments being responsive to the needs of victims of domestic violence and sexual assault. See also the [interim rule](#) adopted by the Delaware Courts in response to HB 204.

Hawaii – [HI SB 2776](#) (2012) Made permanent by [HI HB 1135](#) (2017) - Requires pretrial risk assessments for adult offenders within three working days of admission to a community correctional center, which must then be provided to the court for consideration when determining conditions of release.

Illinois – [IL SB 2034](#) (2017) - Creates the Bail Reform Act of 2017. Provides a right to counsel at a bail hearing. Creates a presumption that any conditions of release imposed shall be non-monetary in nature and the court shall impose the least restrictive conditions necessary. Provides that the Supreme Court may establish a risk-assessment tool for establishing bail. Establishes a “second look” provision for defendants detained only due to inability to make monetary bail. The IL Supreme Court issued [this statewide policy statement](#) prior to enactment of SB 2034.

Indiana – [IN HB 1137](#) (2017)- Requires the supreme court to adopt rules to establish the Indiana pretrial risk assessment system before Jan. 1 2020 to assist courts in assessing an arrestee's likelihood of committing a new criminal offense or failing to appear. Requires a court to consider the pretrial risk assessment (if available) and bail guidelines when setting bail and conditions of release (with exceptions for certain offenses and circumstances). See also the [2016 Rule 26](#) adopted by the Indiana Supreme Court.

Kentucky – [KY HB 463](#) (2011)– Formally defined pretrial risk assessment and requires the supreme court to establish recommended guidelines for judges to use the assessment.

Montana – MT [SB 59](#) (2017) – Requires the office of the court administrator, within the limits of available funds to develop and administer a pretrial program for felony defendants that includes the use of a validated pretrial risk assessment tool. Requires courts accepting specified funds to use a validated risk assessment tool to assign release conditions and determine placement options. Adds permissive language authorizing courts to use the results of a validated pretrial risk assessment tool when determining whether a defendant should be released or detained.

New Jersey – [NJ SB 946](#) (2014) - Establishes procedures for denying pretrial release and creates speedy trial deadlines for detained defendants. Establishes a statewide pretrial services program which would



administer risk assessments on most defendants and make recommendations for the release decision and appropriate conditions. Requires the pretrial services organization to supervise pretrial defendants. Authorizes the judiciary to revise fees to support a pretrial risk assessment and monitoring program.

Pennsylvania – [SB 449](#) (2018) – Authorizes the presiding judges of courts of common pleas to adopt a pretrial risk assessment tool. Instructs the Pennsylvania Commission on Sentencing to develop a model pretrial risk assessment tool which may be used in the state as provided by law.

Rhode Island – [SB 10/](#)[HB 5064](#) (2017)– enacted 9/28/2017. The relevant section 4 had an effective date of January 1, 2018. The language was permissive – “the pre-arraignment report MAY include: (i) the results of a risk screen...which is defined as a validated, empirically-based pretrial risk tool composed of a brief set of questions that may be answered without interviewing the defendant and are designed to predict failure to appear and risk to re-offend.”

Vermont – [VT SB 295](#) (2014) - Requires the Department of Correction to adopt risk assessment tools to provide information to courts for the purpose of determining bail and appropriate conditions of release, and to inform decisions made by the State's Attorney and court related to a defendant's participation, and level of supervision, in an alternative justice program. Requires criminal justice officials to receive training on the tools. (Subsequent legislation has expanded the use of assessments beyond the originally defined population in this bill).

Virginia – §19.2-152.3 Instructs the Department of Criminal Justice Services to develop a risk assessment to be used by pretrial services agencies in jurisdictions that elect to establish pretrial services. Tasks the Department with prescribing standards for the development, implementation, operation and evaluation of pretrial services.

West Virginia – [WV SB 307](#) (2014) - Authorizes the Supreme Court of Appeals of West Virginia to adopt a standardized pretrial risk assessment for use by pretrial release programs. Authorizes any county or circuit to establish and operate a pretrial program and a local community pretrial committee. States that the purpose of pretrial release programs is to provide for uniform statewide risk assessment and monitoring of those released prior to trial, facilitating a statewide response to the problem of overcrowded regional jails and costs to county commissions. Requires any county, circuit or combination thereof that establishes a pretrial program intended to provide pretrial release services to submit a grant proposal to the Community Corrections Subcommittee of the Governor's Committee on Crime, Delinquency and Correction for review and approval.

Other State Actions

Arizona – [State court rules](#) adopted in 2017 require a risk assessment be used statewide.

Connecticut – Connecticut’s statutory release laws do not specifically require the use of a risk assessment tool. However, the statute does specify a set of weighted criteria that the state had used to inform release staff since the 1980s. The state adopted their first actuarial risk assessment in 2003. Additional information can be found [here](#).



Michigan – [SB 848](#) (2018) – Appropriated funds and requires the state court administrative office to pilot a pretrial risk assessment tool.

New Mexico – [New court rules](#), effective in 2017, require courts to consider any available results from a pretrial risk assessment instrument which has been approved by the Supreme Court for use in the jurisdiction.

Utah – the [Utah courts](#) have been piloting the Public Safety Assessment.

*California SB 10 (2018) is listed here as added information. The implementation of the bill is currently on hold because sufficient signatures were gathered under the Article II §9 constitutional referendum process allowing voters to approve or reject legislative enactments. The measure's fate will be decided in November of 2019.

NCSL's Criminal Justice Program is in Denver, Colorado, at 303-364-7700; or cj-info@ncsl.org

Statutes & bills may be edited or summarized; full text can be retrieved through:

<http://www.ncsl.org/aboutus/ncslservice/state-legislative-websites-directory.aspx>

Information is provided for representative purposes; this may not be a complete list or analysis.

Powered by

LexisNexis® State Net®

[Lexis Nexis Terms and Conditions](#)

Guidance for Setting Release Conditions

5/13/2015



The majority of defendants charged with a crime are afforded the opportunity to be released prior to trial provided they agree to return for future court dates and do not commit new crimes. The United States Constitution and almost every state constitution specifies that “[e]xcessive bail shall not be required.” Statutes and case law limit additional release conditions that can be imposed by courts to those which ensure the appearance of the defendant and the safety of victims, witnesses and the public. Examples of how some states have codified these provisions include:

The purpose of Delaware’s pretrial release laws are “...to empower and equip the courts to utilize a system of personal recognizance or an unsecured personal appearance bond to be used whenever feasible consistent with a reasonable assurance of the appearance of the accused and the safety of the community...” [11 Del. C. §2101].

In Kansas, the purpose of imposing release conditions “...is to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges or to testify, or pending appeal, when detention serves neither the ends of justice nor the public interest.” [§22-2801].

Within these parameters, about half of states have adopted laws that provide additional guidance to courts when setting conditions of pretrial release.

Twenty one states provide a presumption in favor of releasing defendants on personal recognizance or an unsecured appearance bond. Personal recognizance is a written promise by the defendant to appear in court. For an unsecured appearance bond, the court sets a monetary bail amount but payment is required only if the defendant fails to appear. An additional two states—Florida and Illinois—provide a presumption in favor of releasing defendants on non-monetary conditions. Additional conditions can be imposed only if the court determines it necessary to ensure appearance and safety.

In 16 states, the courts are required to impose the least restrictive condition, or combination of conditions, that will reasonably ensure appearance and safety. Five states—Iowa, Minnesota, Nebraska, North Carolina and South Dakota—do not specifically require the least-restrictive conditions; rather they enumerate one or more conditions of release that courts must consider. Statutes in these states provide that if the court determines release on personal recognizance or an unsecured appearance bond will not reasonably assure court appearance or safety, then the court must require supervision by a person or organization. If that primary condition does not provide adequate assurance, the court can impose a combination of other enumerated conditions that include restrictions on travel, association or residence; house arrest; night reporting; or financial bond.

An emerging area of pretrial policy involves use of risk assessment to evaluate the risk posed by an individual defendant and the likelihood that he or she will commit a new offense or fail to appear. While empirical risk assessment tools are used around the country by local jurisdictions, it is only recently that lawmakers have provided statewide, statutory guidance on their use. Fifteen states—Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maine, New Jersey, Oklahoma, South Carolina, Vermont, Virginia and West Virginia—authorize courts to consider the results of a risk assessment when making the pretrial release decision. Six States—Delaware, Colorado, Kentucky, New Jersey, South Carolina and West Virginia—require risk assessments for all defendants. Kansas and Oklahoma assessments apply to defendants who will potentially be supervised by pretrial services program. Maine and Louisiana require assessments for domestic violence offenses. In Hawaii and Virginia, assessments are utilized at the court’s discretion.

The chart below provides more information on statutory guidance for setting pretrial release conditions.

50 State Chart - Guidance for Setting Release Conditions

State	Statute	Presumption Of Personal Recognizance or Unsecured Appearance Bond	Least Restrictive Conditions Required	Instructed to Use a Risk Assessment
Alabama	No statute located			Not specified
Alaska	Stat. §12.30.011(a) & (b)	X	X	Not specified
Arizona	No statute located			Not specified
Arkansas	No statute located			Not specified
California	Penal Code §1270 (a)	X For misdemeanors		Not specified
Colorado	Rev. Stat. §16-4-113; §16-4-103	X For class 3 misdemeanors and petty offenses	X	Yes, applies to all defendants.

State	Statute	Presumption Of Personal Recognizance or Unsecured Appearance Bond	Least Restrictive Conditions Required	Instructed to Use a Risk Assessment
Connecticut	Gen. Stat. §54-63d(a); §54-63c; §54- 63b		X Applies to defendants not released by law enforcement or who are unable to meet financial conditions enumerated in §54-63c(a).	Yes, for defendants not released on personal recognizance bond, unsecured appearance bond or for those unable to meet financial conditions.
Delaware	Code Ann. tit. 11 Del. C. § 2105; 11 Del. C. § 2104	X		Yes, applies to all defendants.
District of Columbia	Code §23- 1321(b) & (c)	X	X	Not specified
Florida	Stat. §907.041(3); §907.041(2) authorizes R. Cr. P. 3.131	Presumption of non-monetary conditions	X	Not specified
Georgia	No statute located			Not specified
Hawaii	Rev. Stat. §353-10			Yes, at the court's discretion.
Idaho	No statute located			Not specified
Illinois	725 ILCS 5/110-2; 725 ILCS 185/20; 725 ILCS 5/110-5 (f)	Presumption of non-monetary conditions		Yes, for victims' offenses enumerated in 725 ILCS 5/110-5(f) or when a pretrial services agency provides release recommendations to the court.
Indiana	No statute located			Not specified
Iowa	Code §811.2	X	Must impose conditions as enumerated in §811.2(1).	Not specified
Kansas	Stat. Ann. §22-2815			Yes, when considering release to a personal recognizance program.

State	Statute	Presumption Of Personal Recognizance or Unsecured Appearance Bond	Least Restrictive Conditions Required	Instructed to Use a Risk Assessment
Kentucky	Rev. Stat. Ann. §431.520; §431.066(a)	X		Yes, applies to all defendants.
Louisiana	Rev. Stat. Ann. C. Cr. P. Art. 330.3			Yes, for felony offenses against a family or household member or dating partner.
Maine	Rev. Stat. tit. 15 §1026 (2- A); (3-A); (4) (9-A)	X	X	Yes, for domestic violence offenses.
Maryland	No statute located			Not specified
Massachusetts	Gen. Laws ch. 276 §58; 276 §58A(2) (B)	X	X	Not specified
Michigan	No statute located			Not specified
Minnesota	Stat. §629.715(1) (a); §629.53 authorizes R. Cr. P. 6.02	X	Must impose conditions as enumerated in Rule 6.02(1).	Not specified
Mississippi	No statute located			Not specified
Missouri	No statute located			Not specified
Montana	Code Ann. §46-9-108(2)		X	Not specified
Nebraska	Rev. Stat. §29-901	X	Must impose conditions as enumerated in §29-901.	Not specified
Nevada	No statute located			Not specified
New Hampshire	Rev. Stat. Ann. §597:2(II); (VI)	X		Not specified

State	Statute	Presumption Of Personal Recognizance or Unsecured Appearance Bond	Least Restrictive Conditions Required	Instructed to Use a Risk Assessment
New Jersey	Stat. Ann. §2A:162-16; §2A:162-17	X	X	Yes, as enumerated in §2A:162-16.
New Mexico	Stat. Ann. §38-1-3 authorizes R. Cr. P. 5- 401(A) & (D) (2)	X	X	Not specified
New York	No statute located			Not specified
North Carolina	Gen. Stat. §15A-534		Must impose conditions as enumerated in §15A-534(a) & (b).	Not specified
North Dakota	Cent. Code §29-08 superseded in part by R. Cr. P. 46	X		Not specified
Ohio	No statute located			Not specified
Oklahoma	Stat. tit. 22 §1105.3(B)			Yes, when considering release to a pretrial services program.
Oregon	Rev. Stat. §135.245(3)	X	X	Not specified
Pennsylvania	No statute located			Not specified
Rhode Island	Gen. Laws §12-13-1.3(e)		X	Not specified
South Carolina	Code Ann. §17-15-10; § 22-5-58	X		Yes, applies to all defendants eligible for release.
South Dakota	Codified Laws §23A- 43-2; §23A- 43-3	X	Must impose conditions as enumerated in §23A-43-3.	Not specified
Tennessee	Code Ann. §40-11-116		X	Not specified

State	Statute	Presumption Of Personal Recognizance or Unsecured Appearance Bond	Least Restrictive Conditions Required	Instructed to Use a Risk Assessment
Texas	No statute located			Not specified
Utah	No statute located			Not specified
Vermont	Stat. Ann. tit. 13 §7554(a); 13 §7554(c)	X	X	Yes, for defendants as enumerated in 13 §7554(c)
Virginia	Code Ann. §19.2-152.3			Yes, at the court's discretion.
Washington	Rev. Code §10.19 superseded in part by Super. Ct. Crim. R. §3.2	X	X	Not specified
West Virginia	Code §62-11F-1 et seq.			Yes, for all defendants eligible for release.
Wisconsin	No statute located			Not specified
Wyoming	Stat. Ann. §7-10-102 authorizes R. Cr. P. 46.1(b); (c)(B)	X	X	Not specified

Source: National Conference of State Legislatures, 2015
Westlaw was used to conduct this research.

Court rule and case law provide further guidance to courts for setting conditions of release. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

PRETRIAL RELEASE CONDITIONS

9/15/2016

State law provides a framework for judges and other officials who are authorized to release defendants from custody prior to trial. Statute authorizes various methods of pretrial release which are generally known as “bonds.”

Bonds can be unsecured, or they can be secured by a commercial surety (professional bail bondsmen), cash, property, or other statutorily authorized security such as government issued bonds. Unsecured bonds do not require the defendant to post monetary or other security with the court. These include unsecured appearance bonds, release on non-monetary conditions, and release on personal recognizance.

In addition to the types of bond described above, state law also specifically authorizes other additional conditions of release. Other conditions frequently codified in state law include supervision, electronic monitoring, and restrictions on travel, place of residence and association with certain persons or places.

Collectively, the types of bond and additional conditions that can be imposed by courts are known as conditions of pretrial release. Some state laws are more prescriptive about what kind and under what circumstances release conditions should be imposed and specifically authorize individual conditions of release. However, most courts also have broad discretion to impose any condition determined to be reasonably necessary to ensure the appearance of the defendant or the safety of victims, witnesses, and the public.

Comprehensive state information on the most common statutory conditions of pretrial release is available in the interactive map below.

TYPES OF BOND

Commercial Surety

A secured bond agreement where a compensated surety guarantees a defendant’s appearance for court by promising to pay a financial condition of bond if the court finds that the defendant violated conditions of release.

Alabama	Ala. Code §15-13-111
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967
Arkansas	Ark. Code Ann. §16-84-103; See also Rule of Criminal Procedure 9.2
California	Cal. Penal Code §1269b; §1276
Colorado	Colo. Rev. Stat. §16-4-104
Connecticut	Conn. Gen. Stat. §54-53; §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321; §23-1303
Delaware	Del. Code Ann. Tit. 11 §2102; §2104
Florida	Fla. Stat. §903.011; §903.045; §903.18; §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-15; See also §17-6-12 and Uniform Superior Court Rule 27.3 and 27.4
Hawaii	Haw. Rev. Stat. §804-10.5; §804-62
Idaho	Idaho Code Ann. §19-2905; §19-2907
Illinois	NO COMMERCIAL BAIL BONDSMEN
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.1; §811.2; §811.3
Kansas	Kan. Stat. Ann. §22-2802; Kansas HB 2056 (2016)
Kentucky	NO COMMERCIAL BAIL BONDSMEN
Louisiana	La. Code Crim. Proc. Ann. art. 321

Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-203; §5-209; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §58; §61B
Michigan	Mich. Comp. Laws §765.6; §765.6a; Court Rule 6.106
Minnesota	Minn. Stat. §629.70
Mississippi	Miss. Code Ann. §99-5-1; §99-5-7
Missouri	Mo. Rev. Stat. §544.455; See also Mo. Rev. Stat. §374.695 et. seq.
Montana	Mont. Code Ann. §46-9-401
Nebraska	Neb. Rev. Stat. §29-901
Nevada	Nev. Rev. Stat. §178.502; §178.504
New Hampshire	N.H. Rev. Stat. Ann. §597:2; §597:7-b
New Jersey	N.J. Stat. Ann. §2A:162-12; §2A:162-16
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §510.10; §500.10; §510.40; §520.10
North Carolina	N.C. Gen. Stat. §15A-534; §15A-531
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22; §2937.281; See also Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 59 §1301 et seq.
Oregon	NO COMMERCIAL BAIL BONDSMEN
Pennsylvania	42 Pa. Cons. Stat. §5702; Rules of Criminal Procedure 524; 528
Rhode Island	R.I. Gen. Laws §12-13-1; §12-13-8; §12-13-21
South Carolina	S.C. Code Ann. §17-15-10; §17-15-230; §38-53-10
South Dakota	S.D. Codified Laws §23A-43-3; §23a-43-20
Tennessee	Tenn. Code Ann. §40-11-122
Texas	Tex. Crim. Proc. Code Ann. art. 17.06
Utah	Utah Code Ann. §77-20-4; §77-20b-100
Vermont	Vt. Stat. Ann. tit. 13 §7554; §7554a
Virginia	Va. Code. Ann. §19.2-123; §19.2-119; §9.1-185
Washington	Wash. Rev. Code §10.19.010 et seq.; §18.185.010; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-4
Wisconsin	NO COMMERCIAL BAIL BONDSMEN
Wyoming	Wyo. Stat. Ann. §7-10-102 et seq.; Rules of Criminal Procedure 46; 46.1

Cash Bond

A secured bond agreement where the defendant or an authorized third party posts a percentage of bail or the full bail amount in cash with the court. The money is returned, sometimes less an administrative fee, if the defendant is found to have complied with all conditions of release.

Alabama	Ala. Code §15-13-111; §15-13-158; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967
Arkansas	Ark. Code Ann. §16-84-115; See also Rule of Criminal Procedure 9.2
California	Cal. Penal Code §1295
Colorado	Colo. Rev. Stat. §16-4-104
Connecticut	Conn. Gen. Stat. §54-53; §54-63c; §54-63d; §54-66
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2102; §2104
Florida	Fla. Stat. §903.011; §903.105; §903.16; §903.17; §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-4; See also §17-6-12; Uniform Superior Court Rules 27.3; 27.4
Hawaii	Haw. Rev. Stat. §804-11; §804-11.5

Idaho	Idaho Code Ann. §19-2905; §19-2907; See also Rule of Criminal Procedure 46
Illinois	725 Ill. Comp. Stat. 5/110-5.1; 725 Ill. Comp. Stat. 5/110-8
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.530; §431.532; §431.540
Louisiana	La. Code Crim. Proc. Ann. art. 321; 326
Maine	Me. Rev. Stat. tit. 15 §1026, 1074
Maryland	Md. Code. Ann. Crim. Proc. §5-201, §5-204, §5-205; See also Md. Rules 4-216; 4-217
Massachusetts	Mass. Gen. Laws ch. 276 §57; §58A; §79
Michigan	Mich. Comp. Laws §765.6; §756.6a; §765.12; Court Rule 6.106
Minnesota	Minn. Stat. §629.53; See also Rule of Criminal Procedure 6.02
Mississippi	Miss. Code Ann. §99-5-9
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code Ann. §46-9-401
Nebraska	Neb. Rev. Stat. §29-901
Nevada	Nev. Rev. Stat. §178.502
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-12; §2A:162-16
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §510.10; §500.10; §510.40; §520.10
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22; See also Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 59 §1301; §1323
Oregon	Or. Rev. Stat. §135.230; §135.245; §135.265
Pennsylvania	42 Pa. Cons. Stat. §5702; Rules of Criminal Procedure 524; 528
Rhode Island	R.I. Gen. Laws §12-13-10
South Carolina	S.C. Code Ann. §17-15-15; §38-53-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-118
Texas	Tex. Crim. Proc. Code Ann. art. 17.02
Utah	Utah Code Ann. §77-20-4
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-2
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-103; Rule of Criminal Procedure 46.1

Property Bond

A secured bond agreement that creates a secured interest in real property posted by the defendant or a third party as security with the court to ensure a defendant's appearance.

Alabama	Ala. Code §15-13-111; §15-13-152 et seq.
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.1
Arkansas	Rule of Criminal Procedure 9.2
California	Cal. Penal Code §1298
Colorado	Colo. Rev. Stat. §16-4-104
Connecticut	Conn. Gen. Stat. §54-66
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2102; §2104

Georgia	Ga. Code Ann. §17-6-15; See also §17-6-12 and Uniform Superior Court Rule 27.4
Hawaii	Haw. Rev. Stat. §804-11; §804-11.5
Idaho	Idaho Code Ann. §19-2905; §19-2907; §19-2909
Illinois	725 Ill. Comp. Stat. 5/110-5.1; 725 Ill. Comp. Stat. 5/110-8
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.4
Kentucky	Ky. Rev. Stat. Ann. §431.535
Louisiana	La. Code Crim. Proc. Ann. art. 319
Maine	Me. Rev. Stat. tit. 15 §1026, 1071, 1074
Maryland	Md. Code. Ann. Crim. Proc. §5-204
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.20; §765.21
Montana	Mont. Code Ann. §46-9-401
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-12
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §500.10; §520.10
North Carolina	N.C. Gen. Stat. §15A-534
Ohio	Ohio Rev. Code Ann. §2937.22; §2937.25; See also Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 59 §1301; §1324
Oregon	Or. Rev. Stat. §135.230; §135.245; §135.265
Pennsylvania	42 Pa. Cons. Stat. §5702; Rules of Criminal Procedure 528
Rhode Island	R.I. Gen. Laws §12-13-22
South Carolina	S.C. Code Ann. §17-15-10; §38-53-10
Tennessee	Tenn. Code Ann. §40-11-122
Virginia	Va. Code. Ann. §19.2-123; §19.2-119
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Other Secured Bond

A secured bond agreement where security other than cash or property are posted by the defendant or a third party with the court to ensure a defendant's appearance. Other specifically authorized security includes U.S. bonds, state issued bonds, local government bonds, or other personal property.

Alabama	Ala. Code §15-13-43
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rule of Criminal Procedure 9.2
California	Cal. Penal Code §1298
Connecticut	Conn. Gen. Stat. §54-56f
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2102; §2104
Florida	Fla. Stat. §903.16
Georgia	Ga. Code Ann. §17-6-90
Hawaii	Haw. Rev. Stat. §804-11; §804-11.5
Illinois	725 Ill. Comp. Stat. 5/110-8
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2; §811.9
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.535
Louisiana	La. Code Crim. Proc. Ann. art. 321, 324
Massachusetts	Mass. Gen. Laws ch. 276 §57; §61; §79
Michigan	Mich. Comp. Laws §765.6; §765.12
Minnesota	Minn. Stat. §629.53; See also Rule of Criminal Procedure 6.02
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code Ann. §46-9-401

Nevada	Nev. Rev. Stat. §178.502
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New York	N.Y. Crim. Proc. Law §500.10; §520.10
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22
Oregon	Or. Rev. Stat. §135.230; §135.245 §135.265
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 528
South Dakota	S.D. Codified Laws §23A-43-3
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code Ann. §19.2-123
West Virginia	W. Va. Code §62-1C-2; §62-1C-9
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Unsecured Appearance Bond

An unsecured bond agreement that requires the defendant to appear for all court dates and sets a financial penalty that is payable only if the defendant fails to appear. No monetary security or payment is initially required for release.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rule of Criminal Procedure 9.2
Colorado	Colo. Rev. Stat. §16-4-104
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2102; §2104; §2105
Florida	Fla. Stat. §907.41; See also Rule of Criminal Procedure 3.131
Illinois	725 Ill. Comp. Stat. 5/110-2
Iowa	Iowa Code §811.2; §811.3
Kansas	Kan. Stat. Ann. §22-2802; §22-2806
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.066
Louisiana	La. Code Crim. Proc. Ann. art. 312, 317, 321
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code Ann. Crim. Proc. §5-203; See also Md. Rule 4-216, 4-217
Massachusetts	Mass. Gen. Laws ch. 276 §58A; §61
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.15; §629.67; See also Rule of Criminal Procedure 6.02
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-16
New Mexico	N.M. Stat. ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §520.10
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22
Oklahoma	Okla. Stat. tit. 59 §1301; §1334; tit. 22 §1108.1
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 524
Rhode Island	R.I. Gen. Laws §12-13-25
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-2
Tennessee	Tenn. Code Ann. §40-11-115
Utah	Utah Code Ann. §77-20-4
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2

West Virginia	W. Va. Code §62-1C-2
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-103; Rule of Criminal Procedure 46.1

Conditional Release

An unsecured bond agreement that authorizes the release of a defendant on a promise to appear in combination with other non-monetary conditions. Includes conditional release where a financial amount is set, but no payment or security is required for release.

Alabama	Ala. Code §15-13-146; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
California	Cal. Penal Code §1318
Colorado	Colo. Rev. Stat. §16-4-104
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	§907.041; §907.043; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-12; See also Uniform Superior Court Rule 27 through 27.5
Hawaii	Haw. Rev. Stat. §804-3; §804-7.1
Idaho	Idaho Rule of Criminal Procedure 46
Illinois	725 Ill. Comp. Stat. 5/110-6.5; 725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.1; §811.2
Kansas	Kan. Stat. Ann. §22-2802; §22-2814
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.066
Louisiana	La. Code Crim. Proc. Ann. art. 320, 321
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-101; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.6; Court Rule 6.106
Minnesota	Minn. Stat. §629.72; §629.715; See also Rule of Criminal Procedure 6.02
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-111
Nebraska	Neb. Rev. Stat. §29-901; §29-903
Nevada	Nev. Rev. Stat. §178.4851
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-16
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §216.05
North Carolina	N.C. Gen. Stat. §15A-535
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 59 §1301; §1334; tit. 22 §1108.1
Oregon	Or. Rev. Stat. §135.230; Or. Rev. Stat. §135.230
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 524
Rhode Island	R.I. Gen. Laws §12-13-1.3
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-116
Texas	Tex. Crim. Proc. Code Ann. art. 17.03
Utah	Utah Code Ann. §77-20-1; §77-20-3
Vermont	Vt. Stat. Ann. tit. 13 §7554

Virginia	Va. Code Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.170; Superior Court Criminal Rule 3.2
Wisconsin	Wis. Stat. §969.01
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Personal Recognizance

An unsecured bond agreement that requires a defendant to promise to appear for future court dates.

Alabama	Ala. Code §15-13-4; §15-13-111
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.1
Arkansas	Rule of Criminal Procedure 9.1
California	Cal. Penal Code §1270
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2102; §2104; §2105
Florida	Fla. Stat. §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1; §17-6-12
Hawaii	Haw. Rev. Stat. §804-3
Idaho	Idaho Code Ann. §19-2904
Illinois	725 Ill. Comp. Stat. 5/110-2
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.1; §811.2
Kansas	Kan. Stat. Ann. §22-2802; §22-2814
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.066
Louisiana	La. Code Crim. Proc. Ann. art. 321, 323, 325
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code Ann. Crim. Proc. §5-101; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §27; §58; §65
Michigan	Mich. Comp. Laws §765.24; Court Rule 6.106
Minnesota	Minn. Stat. §629.715; See also Rule of Criminal Procedure 6.02
Mississippi	Miss. Code Ann. §99-5-11
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code Ann. §46-9-111
Nebraska	Neb. Rev. Stat. §29-901; §29-903
Nevada	Nev. Rev. Stat. §178.4851
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-12; §2A:162-16
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §510.10; §510.40
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.29; See also Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.230; §135.245
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 524
Rhode Island	R.I. Gen. Laws §12-13-1.3
South Dakota	S.D. Codified Laws §23A-43-2
Tennessee	Tenn. Code Ann. §40-11-115
Texas	Tex. Crim. Proc. Code Ann. art. 17.03
Utah	Utah Code Ann. §77-20-4; §77-20-1
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code Ann. §19.2-123; §19.2-119
Washington	Wash. Rev. Code §10.19.170; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-1a

Wisconsin	Wis. Stat. §969.01
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

ADDITIONAL CONDITIONS OF RELEASE

Any Reasonable Condition Necessary

Authorizes courts to impose any condition of release the court deems reasonably necessary.

Alabama	Ala. Code §15-13-111; See also Rules of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967
Arkansas	Rule of Criminal Procedure 9.1
California	Cal. Penal Code §1269c
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Idaho	Idaho Code Ann. §19-2904; §19-2905
Illinois	725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.064
Louisiana	La. Code Crim. Proc. Ann. art. 320
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.6b; Court Rule 6.106
Minnesota	Minn. Stat. §629.72; See also Rule of Criminal Procedure 6.02
Mississippi	Miss. Code Ann. §99-5-37; §99-5-38
Missouri	Mo. Rev. Stat. §544.457; §544.676
Montana	Mont. Code. Ann. §46-9-106; §46-9-111
Nebraska	Neb. Rev. Stat. §29-901
Nevada	Nev. Rev. Stat. §178.484; §178.4851
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 22 §1105.3
Oregon	Or. Rev. Stat. §135.240; §135.250; §135.260
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 527
Rhode Island	R.I. Gen. Laws §12-13-1.3
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-116; §40-11-150
Texas	Tex. Crim. Proc. Code Ann. art. 17.40; 17.032
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
Wisconsin	Wis. Stat. §969.02; §969.03

Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1
---------	--

Supervision

Authorizes supervision by a pretrial services program, or other authorized individual, organization, or agency. Sometimes called third party custody.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011; §12.30.021
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Ark. Code Ann. §16-17-127; §16-93-1202; See also Rules of Criminal Procedure 9.1 and 9.3
California	Cal. Penal Code §1203.018
Colorado	Colo. Rev. Stat. §16-4-105
Connecticut	Conn. Gen. Stat. §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §907.041; §907.043; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1.1; §17-6-3; §17-6-12; See also Uniform Superior Court Rule 27 through 27.5
Hawaii	Haw. Rev. Stat. §804-3; §804-7.1
Illinois	725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802; §22-2814; §22-2816
Kentucky	Ky. Rev. Stat. Ann. §431.520
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §58A; §87
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.53; See also Rule of Criminal Procedure 6.02
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §29-901
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Carolina	N.C. Gen. Stat. §15A-534; §15a-535
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 22 §1105.3
Oregon	Or. Rev. Stat. §135.260
Pennsylvania	42 Pa. Cons. Stat. §5702; Rules of Criminal Procedure 527; 530
Rhode Island	R.I. Gen. Laws §12-13-1.3; §12-13-25
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-116
Vermont	Vt. Stat. Ann. tit. 13 §7554; §7573
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Electronic Monitoring

Authorizes the use of technology to including monitor a defendant's compliance with other conditions of release.

Alabama	Ala. Code §15-20A-20
Arizona	Ariz. Rev. Stat. Ann. §13-3967; §13-3551
Arkansas	Ark. Code Ann. §9-15-217
California	Cal. Penal Code §1203.018; §136.2
Colorado	Colo. Rev. Stat. §16-4-105
Connecticut	Conn. Gen. Stat. §54-64a
Florida	Fla. Stat. §907.043
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §353-10.5
Idaho	Idaho Code Ann. §18-2505; §18-2506; See also Rule of Criminal Procedure 46
Illinois	725 Ill. Comp. Stat. 5/110-5; 725 Ill. Comp. Stat. 5/5-8A-7; 725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-11; §35-31.5-2-343.5
Kansas	Kan. Stat. Ann. §22-2802; §21-6609
Kentucky	Ky. Rev. Stat. Ann. §431.517; §431.518; §431.520; §431.066; §431.067
Louisiana	La. Code Crim. Proc. Ann. art. 313, 320
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code Ann. Crim. Proc. §5-201; See also Md. Code Ann. Bus. Occ. & Prof. §20-401
Michigan	Mich. Comp. Laws §765.6b
Minnesota	Minn. Stat. §629.72; §629.531
Mississippi	Miss. Code Ann. §99-5-38
Missouri	Mo. Rev. Stat. §544.455
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-17
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §12-67-02
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 22 §1105.2; §1105.3; tit. 63 §2-420
South Carolina	S.C. Code Ann. §24-13-1530; §24-13-1560
Tennessee	Tenn. Code Ann. §40-11-118; §40-11-150; §40-11-152
Texas	Tex. Crim. Proc. Code Ann. art. 17.292; 17.43; 17.44; 17.49
Utah	Utah Code Ann. §77-36.2.4
Vermont	Vt. Stat. Ann. tit. 13 §7554; §7554b
Virginia	Va. Code Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-11B-4

Partial Confinement

Restricts physical location of the defendant at least part-time. Includes house arrest, work release, curfew and in-patient treatment.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rule of Criminal Procedure 9.1
California	Cal. Penal Code §1203.018
Colorado	Colo. Rev. Stat. §16-4-105
D.C.	D.C. Code §23-1321
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 ILCS 5/110-10
Iowa	Iowa Code §811.2

Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.517; §531.520
Louisiana	La. Code Crim. Proc. Ann. art. 313, 320
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §29-901
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.260
Rhode Island	R.I. Gen. Laws §12-13-24.1
South Carolina	S.C. Code Ann. §24-13-1530
South Dakota	S.D. Codified Laws §23A-43-9; §23A-43-14
Tennessee	Tenn. Code Ann. §40-11-118
Texas	Tex. Crim. Proc. Code Ann. art. 17.43; 17.44
Vermont	Vt. Stat. Ann. tit. 13 §7554b
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-11B-4
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Appearance

Makes appearance a specifically listed condition of pretrial release.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Ark. Code Ann. §16-84-207
California	Cal. Penal Code §1318
Colorado	Colo. Rev. Stat. §16-4-105
Connecticut	Conn. Gen. Stat. §54-63e
Delaware	Del. Code Ann. Tit. 11 §2104
Florida	Fla. Stat. §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-17
Hawaii	Haw. Rev. Stat. §804-7.4
Illinois	725 ILCS 5/110-10
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §520.070; §520.080
Louisiana	La. Code Crim. Proc. Ann. art. 320
Maine	Me. Rev. Stat. tit. 15 §1003
Maryland	Md. Code. Ann. Crim. Proc. §5-203; See also Md. Rule 4-217
Massachusetts	Mass. Gen. Laws ch. 276 §20D; §65
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.53; See also Rule of Criminal Procedure 6.02
Nevada	Nev. Rev. Stat. §178.484; §178.4851
New Hampshire	N.H. Rev. Stat. Ann. §597:25
Oregon	Or. Rev. Stat. §135.250; §135.265

Pennsylvania	42 Pa. Cons. Stat. §5702; Rules of Criminal Procedure 524; 526
South Carolina	S.C. Code Ann. §17-15-20
Utah	Utah Code Ann. §77-20-1
Virginia	Va. Code. Ann. §19.2-135
Wisconsin	Wis. Stat. §969.09

Crime Prohibition

Prohibits commission of a new criminal offense while on pretrial release.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rule of Criminal Procedure 9.3
Colorado	Colo. Rev. Stat. §16-4-105
Connecticut	Conn. Gen. Stat. §54-64e
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2104
Florida	Fla. Stat. §903.047
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.4
Illinois	725 ILCS 5/110-10
Massachusetts	Mass. Gen. Laws ch. 276 §58; §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Montana	Mont. Code Ann. §46-9-108
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §530.12
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 526
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-11B-4; §62-11B-5
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Movement Restrictions

Restricts where a defendant is permitted to travel or move, including across jurisdictional lines or certain geographic locations.

Alabama	Ala. Code §15-13-146; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rules of Criminal Procedure 9.2 and 9.3
California	Cal. Penal Code §1318
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1; §804-7.4
Idaho	Idaho Code Ann. §18-2505; §18-2506; See also Rule of Criminal Procedure 46
Illinois	725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802

Kentucky	Ky. Rev. Stat. Ann. §431.520
Louisiana	La. Code Crim. Proc. Ann. art. 320
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §42A; §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.53; See also Rule of Criminal Procedure 6.02
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §29-901
Nevada	Nev. Rev. Stat. §178.484
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Carolina	N.C. Gen. Stat. §15A-534
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.250; §135.260
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 527
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-116
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123; §19.2-135
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Change of Address Notice

Requires a defendant to notify the court or other specified entity of any change in residence as designated by law.

Alabama	Ala. Code §15-13-111; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Illinois	725 ILCS 5/110-12
Maine	Me. Rev. Stat. tit. 15 §1026
Pennsylvania	42 Pa. Cons. Stat. §5702; Rule of Criminal Procedure 526
South Carolina	S.C. Code Ann. §24-13-1570
West Virginia	W. Va. Code §62-11B-4; §62-11B-5
Wisconsin	Wis. Stat. §969.10

Residence Restrictions

Restricts where a defendant can or must reside.

Alabama	Ala. Code §15-13-146; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rule of Criminal Procedure 9.1
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §903.047; §907.041; See also Rule of Criminal Procedure 3.131
Illinois	725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2

Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.520; §431.064
Louisiana	La. Code Crim. Proc. Ann. art. 335.1
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §42A; §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.72; See also Rule of Criminal Procedure 6.02
Mississippi	Miss. Code Ann. §99-5-38
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §29-901
New Jersey	N.J. Stat. Ann. §2A:162-17; §2C:25-26
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §530.12; §530.13
North Carolina	N.C. Gen. Stat. §15A-534; §15A-534.1; §15A-534.4
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.260
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3; §25-10-41
Tennessee	Tenn. Code Ann. §40-11-116; §40-11-150
Texas	Tex. Crim. Proc. Code Ann. art. 17.292; 17.41; 17.46; 17.49
Utah	Utah Code Ann. §77-36-2.5
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-17a; §62-1C-17c
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Association Restrictions

Restricts a defendant's contact with specifically named people, groups or places.

Alabama	Ala. Code §15-13-146; See also Rule of Criminal Procedure 7.3
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Arkansas	Rules of Criminal Procedure 9.1 and 9.3
California	Cal. Penal Code §1269b; §136.2
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §903.047; §907.041; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1; §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-4; §804-7.1
Illinois	725 Ill. Comp. Stat. 5/110-5; 725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.520
Louisiana	La. Code Crim. Proc. Ann. art. 335.1
Maine	Me. Rev. Stat. tit. 15 §1026

Maryland	Md. Code. Ann. Crim. Proc. §5-201; See also Md. Rule 4-216
Massachusetts	Mass. Gen. Laws ch. 276 §42A, §58; §58A
Michigan	Mich. Comp. Laws §765.6b; Court Rule 6.106
Minnesota	Minn. Stat. §629.72; See also Rule of Criminal Procedure 6.02
Mississippi	Miss. Code Ann. §99-5-38
Missouri	Mo. Rev. Stat. §544.455
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §29-901
Nevada	Nev. Rev. Stat. §178.484
New Jersey	N.J. Stat. Ann. §2A:162-17; §2C:25-26
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §530.12; §530.13
North Carolina	N.C. Gen. Stat. §15A-534; §15A-534.1; §15A-534.4
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.260
South Carolina	S.C. Code Ann. §17-15-10
South Dakota	S.D. Codified Laws §23A-43-3
Tennessee	Tenn. Code Ann. §40-11-116
Texas	Tex. Crim. Proc. Code Ann. art. 17.292; 17.41; 17.46; 17.49
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-17c
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Protection Order or No Contact Order

Restricts a defendant's communication and contact with victims, witnesses or other specifically named persons. Occasionally the entry of a protection order is mandatory in cases involving violence.

Alabama	Ala. Code §15-13-190
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967; §13-3551
Arkansas	Rule of Criminal Procedure 9.3
California	Cal. Penal Code §136.2
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-56f; §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Florida	Fla. Stat. §903.047; See also Rule of Criminal Procedure 3.131
Georgia	Ga. Code Ann. §17-6-1; §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1 See also §804-32; §804-33; §804-35
Idaho	Idaho Code Ann. §18-920; See also Rule of Criminal Procedure 46 and 46.2
Illinois	725 ILCS 5/110-10
Indiana	Ind. Code §35-33-8-3.2; §35-33-8-3.6
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.064
Louisiana	La. Code Crim. Proc. Ann. art. 320; 335.1
Maine	Me. Rev. Stat. tit. 15 §1026
Maryland	Md. Code. Ann. Crim. Proc. §5-201
Massachusetts	Mass. Gen. Laws ch. 276 §58; §58A

Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.75; §629.72; §629.715
Mississippi	Miss. Code Ann. §99-5-37
Montana	Mont. Code. Ann. §46-9-108
Nebraska	Neb. Rev. Stat. §28-311.09
Nevada	Nev. Rev. Stat. §178.484
New Hampshire	N.H. Rev. Stat. Ann. §597:2
New Jersey	N.J. Stat. Ann. §2A:162-17; §2C:25-26
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §530.11; §530.12
North Carolina	N.C. Gen. Stat. §15A-534.4
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2903.213; §2919.26; See also Rule of Criminal Procedure 46
Oregon	Or. Rev. Stat. §135.247; §135.250; §135.260
South Carolina	S.C. Code Ann. §16-3-1525
South Dakota	S.D. Codified Laws §25-10-41; §25-10-23
Tennessee	Tenn. Code Ann. §40-11-150
Texas	Tex. Crim. Proc. Code Ann. art. 17.292; 17.41; 17.47
Utah	Utah Code Ann. §77-20-1; §77-36-2.5
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code. Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
West Virginia	W. Va. Code §62-1C-17a; §62-1C-17c
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Weapons Prohibition

Prohibits possession of a firearm or firearm license during the period of pretrial release.

Alabama	Ala. Code §15-13-190
Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967
Arkansas	Rule of Criminal Procedure 9.3
California	Cal. Penal Code §136.2
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 ILCS 5/110-10
Kentucky	Ky. Rev. Stat. Ann. §431.064
Louisiana	La. Code Crim. Proc. Ann. art. 320; 335.1
Maine	Me. Rev. Stat. tit. 15 §1026
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.6b; Court Rule 6.106
Minnesota	Minn. Stat. §629.72; §629.715
Montana	Mont. Code. Ann. §46-9-108
New Jersey	N.J. Stat. Ann. §2A:162-17; §2C:25-26
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §530.14
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
South Dakota	S.D. Codified Laws §25-10-24
Tennessee	Tenn. Code Ann. §40-11-150
Texas	Tex. Crim. Proc. Code Ann. art. 17.292; 17.293
Virginia	Va. Code. Ann. §19.2-123

Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
Wisconsin	Wis. Stat. §969.02; §969.03
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Domestic Violence Threats Prohibition

Requires a defendant to refrain from making threats of domestic violence.

Alabama	Ala. Code §15-13-190
Georgia	Ga. Code Ann. §17-6-1
Kentucky	Ky. Rev. Stat. Ann. §431.064
Minnesota	Minn. Stat. §629.72
Mississippi	Miss. Code Ann. §99-5-37
New York	N.Y. Crim. Proc. Law §530.12; §530.13
North Carolina	N.C. Gen. Stat. §15A-534.4
Tennessee	Tenn. Code Ann. §40-11-150
Texas	Tex. Crim. Proc. Code Ann. art. 17.292
Utah	Utah Code Ann. §77-36-2.5

Attorney Contact

Requires that the defendant stay in regular contact with their attorney.

Alaska	Alaska Stat. §12.30.011
Delaware	Del. Code Ann. Tit. 11 §2108
Maine	Me. Rev. Stat. tit. 15 §1026

Employment or Education

Requires a defendant to maintain employment, seek employment, continue an education program or seek enrollment in an educational program.

Alaska	Alaska Stat. §12.30.011
Connecticut	Conn. Gen. Stat. §54-64a
D.C.	D.C. Code §23-1321
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 ILCS 5/110-10
Kansas	Kan. Stat. Ann. §22-2816
Maine	Me. Rev. Stat. tit. 15 §1026
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Montana	Mont. Code Ann. §46-9-108
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Rhode Island	R.I. Gen. Laws §12-13-24.1
Virginia	Va. Code Ann. §19.2-123
West Virginia	W. Va. Code §62-11B-4; §62-11B-5
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Change of Employment Notice

Requires a defendant to provide notice of change of employment.

Alaska	Alaska Stat. §12.30.011
Maine	Me. Rev. Stat. tit. 15 §1026

Controlled Substances Prohibition

Prohibits the use or possession of controlled substances.

Alaska	Alaska Stat. §12.30.011
Arizona	Ariz. Rev. Stat. Ann. §13-3967
Arkansas	Rule of Criminal Procedure 9.3
Colorado	Colo. Rev. Stat. §16-4-105; §18-1-1001
Connecticut	Conn. Gen. Stat. §54-63c; §54-63d; §54-64a
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Georgia	Ga. Code Ann. §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 Ill. Comp. Stat. 5/110-6.5; 725 ILCS 5/110-10
Iowa	Iowa Code §811.2
Kentucky	Ky. Rev. Stat. Ann. §431.064
Louisiana	La. Code Crim. Proc. Ann. art. 320
Maine	Me. Rev. Stat. tit. 15 §1026
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Minnesota	Minn. Stat. §629.72
Mississippi	Miss. Code Ann. §99-5-37
Montana	Mont. Code Ann. §46-9-108
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Carolina	N.C. Gen. Stat. §15A-534; §15A-534.1
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
South Dakota	S.D. Codified Laws §25-10-41
Tennessee	Tenn. Code Ann. §40-11-150
Virginia	Va. Code Ann. §19.2-123
Washington	Wash. Rev. Code §10.19.010 et seq.; Superior Court Criminal Rule 3.2
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Substance Monitoring or Treatment

Requires a defendant to submit to testing for use of controlled substances and/or participate in some kind of addiction treatment.

Alaska	Alaska Stat. §12.30.011; §47.38.020
Colorado	Colo. Rev. Stat. §16-4-105
Connecticut	Conn. Gen. Stat. §54-64a
D.C.	D.C. Code §23-1321
Georgia	Ga. Code Ann. §17-6-1; §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 Ill. Comp. Stat. 5/110-6.5; 725 ILCS 5/110-10
Iowa	Iowa Code §811.2
Kansas	Kan. Stat. Ann. §22-2802
Kentucky	Ky. Rev. Stat. Ann. §431.518; §431.520; §431.525; §431.066; §431.068
Louisiana	La. Code Crim. Proc. Ann. art. 320
Maine	Me. Rev. Stat. tit. 15 §1026
Massachusetts	Mass. Gen. Laws ch. 276 §58A; §87A

Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Montana	Mont. Code Ann. §46-9-108
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
New York	N.Y. Crim. Proc. Law §216.05
North Carolina	N.C. Gen. Stat. §15A-534; §15A-534.1
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2937.22 et seq.; Rule of Criminal Procedure 46
Oklahoma	Okla. Stat. tit. 22 §1105.3
Rhode Island	R.I. Gen. Laws §12-13-5.2; §12-13-24.1
Tennessee	Tenn. Code Ann. §40-11-118
Texas	Tex. Crim. Proc. Code Ann. art. 17.03; 17.44
Vermont	Vt. Stat. Ann. tit. 13 §7554
Virginia	Va. Code Ann. §19.2-123
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Other Treatment

Requires a defendant to take part in mental health treatment, domestic violence specific counseling or classes, or take part in courses of treatment that are medically recommended.

Alaska	Alaska Stat. §12.30.011
Colorado	Colo. Rev. Stat. §16-4-105
D.C.	D.C. Code §23-1321
Delaware	Del. Code Ann. Tit. 11 §2108
Georgia	Ga. Code Ann. §17-6-1; §17-6-1.1
Hawaii	Haw. Rev. Stat. §804-7.1
Illinois	725 ILCS 5/110-10
Kansas	Kan. Stat. Ann. §22-2816
Maine	Me. Rev. Stat. tit. 15 §1026
Massachusetts	Mass. Gen. Laws ch. 276 §58A
Michigan	Mich. Comp. Laws §765.1 et seq.; Court Rule 6.106
Montana	Mont. Code Ann. §46-9-108
New Jersey	N.J. Stat. Ann. §2A:162-17
New Mexico	N.M. Stat. Ann. §38-1-1 et seq.; Rule 5-401
North Dakota	N.D. Cent. Code §29-08-01 et seq.; Rule of Criminal Procedure 46
Ohio	Ohio Rev. Code Ann. §2919.271
Rhode Island	R.I. Gen. Laws §12-13-25
South Carolina	S.C. Code Ann. §16-3-1840
South Dakota	S.D. Codified Laws §25-10-41
Texas	Tex. Crim. Proc. Code Ann. art. 17.032; 17.45
West Virginia	W. Va. Code §62-11B-4; §62-11B-5
Wisconsin	Wis. Stat. §969.02
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

DNA Submission

Makes DNA submission that would be otherwise required in relation to arrest a condition of pretrial release.

Arizona	Ariz. Rev. Stat. Ann. §13-3967; Rule of Criminal Procedure 7.3
Nevada	Nev. Rev. Stat. §176.09123
North Carolina	N.C. Gen. Stat. §15A-534
Texas	Tex. Crim. Proc. Code Ann. art. 17.47

Extradition Waiver Agreement

Requires a defendant to waive extradition as a condition of release.

California	Cal. Penal Code §1318
Colorado	Colo. Rev. Stat. §16-4-105
Michigan	Mich. Comp. Laws §765.6d
Nevada	Nev. Rev. Stat. §178.484; §178.4851
Wyoming	Wyo. Stat. Ann. §7-10-102; Rule of Criminal Procedure 46.1

Source: National Conference of State Legislatures, 2016

Pretrial Detention

6/7/2013



States provide most defendants the opportunity for release prior to trial. Pretrial detention is limited to only those charged with the most serious crimes and other specified circumstances such as violating conditions of, or committing a new crime while on pretrial release.

A court must make certain determinations before ordering detention. Commonly, state laws require the court to determine there is probable cause to believe the accused committed the crime or that no release conditions will reasonably assure the defendant's appearance. States also permit denial of release in order to protect the safety of the victim or the community.

Laws in 18 states and the District of Columbia require a hearing to determine if a defendant will be detained or released. These hearings provide the court with the opportunity to consider information presented by the prosecution and defense. State laws have placed certain parameters on the hearings.

Generally, denial hearings take place shortly after arrest. Twelve states have set specific time frames for when the hearing must be held. For example, Massachusetts law requires the hearing at the defendant's first court appearance unless there is a continuance. The law further specifies that a continuance by the defense cannot exceed seven days and a maximum of three days when requested by the prosecution.

Laws in eight states and the District of Columbia address detainment of the accused pending the outcome of the hearing. The District of Columbia, Massachusetts and Ohio require the defendant to be held for the duration of the hearing.

Procedural rights are enumerated for defendants in eight states and the District of Columbia. These include the right to counsel, the right to be present during the hearing, the opportunity to testify and to present and cross-examine witnesses.

The chart "Hearings Required to Deny Pretrial Release" below provides more information on these hearings.

Limits on Pretrial Detention

The purpose of Kansas' pretrial release laws are "... to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges... when detention serves neither the ends of justice nor the public interest." [§28-2201]

Courts generally have the authority to review and amend conditions of pretrial release at any time prior to trial, as they deem appropriate. But in 14 states and the District of Columbia, courts are required to review, upon application, the conditions of defendants who have been granted release but remain in jail because they are unable to meet those conditions. (More information on common conditions of release, such as cash or secured bonds, supervision and electronic monitoring is included in the "Pretrial Release Conditions" chart.)

Under Alaska's law, a defendant who remains detained after the review can appeal to a higher court. In South Dakota, if the conditions are not modified and the accused remains in jail, the court is required to record the reasons for the imposed conditions.

The chart "States Requiring a Judicial Review When Defendant is Unable to Meet the Pretrial Release Conditions" below provides more information on review of release conditions.

Hearings Required to Deny Pretrial Release*

STATE & CITATION	CRIMES THAT REQUIRE A HEARING TO DENY PRETRIAL RELEASE	TIME FRAMES SPECIFIED	DETAINMENT OF DEFENDANT ADDRESSED	RIGHTS OF DEFENDANT ENUMERATED
Alaska §12.30.011	Capital offenses; unclassified felonies; class A and sexual felonies; felony operating a vehicle while under the influence; felony refusing to submit to a chemical test; felony crimes against a person; any domestic violence offense if the defendant has a prior similar conviction in last five years.			
Arizona §13-3961	Capital offenses; felony offenses; sexual conduct or molestation of a minor; aggravated driving under the influence by a person in the country illegally; felonies involving dangerous crimes against children; terrorism; the defendant is a street gang member.	X	X	X
Colorado §16-4-101	Capital offenses; violent crimes if the defendant has a prior violent crime conviction or two prior convictions for any felony; illegal possession of weapon due to criminal record; sexual assault; sexual assault on a child.	X		

STATE & CITATION	CRIMES THAT REQUIRE A HEARING TO DENY PRETRIAL RELEASE	TIME FRAMES SPECIFIED	DETAINMENT OF DEFENDANT ADDRESSED	RIGHTS OF DEFENDANT ENUMERATED
Delaware 11 §2103	Capital offenses			
District of Columbia §23- 1322	1st and 2nd degree murder; assault with intent to kill; crime of violence or dangerous crime as enumerated in §23-1331; obstruction of justice; illegal possession of a firearm as enumerated in §23-1322(c)(7)&(8).	X	X	X
Florida §907.041	Capital offenses or offenses punishable by life; defendant has threatened, intimidated or injured a victim, witness, juror or judicial officer; trafficking controlled substances; driving under the influence manslaughter and has a prior conviction for driving under the influence manslaughter, was driving with a suspended license, or was prior convicted for driving with a suspended license; dangerous offenses; manufacturing a controlled substance.	X	X	X
Hawaii §804-3	Offenses punishable by life; serious crimes as enumerated in §804-3(a).			
Illinois 725 ILCS 5/110-6.1; 5/110-6.3	Capital offenses; offenses punishable by life or life without parole; stalking; aggravated stalking; felonies not eligible for probation; unlawful use of weapons when the offense occurred in a school zone; terrorist threats.	X	X	X
Indiana §35- 33-8-2	Murder.			
Louisiana C. Cr. P. Art. 330.1	Capital offenses; violent offenses; production, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense a controlled substance.	X	X	
Maine 15 § 1027; §1029	Crimes that are currently or were formerly a capital offense, regardless of current penalty.	X		
Massachusetts 276 §58A	Burglary; arson; offenses involving domestic abuse; drug offenses with a mandatory minimum sentence of three years; intimidation of a witness; 3rd or subsequent driving under the influence; illegal possession of a firearm as enumerated in 269 §10(a), (c) & (m) & 269 §10G.	X	X	X

STATE & CITATION	CRIMES THAT REQUIRE A HEARING TO DENY PRETRIAL RELEASE	TIME FRAMES SPECIFIED	DETAINMENT OF DEFENDANT ADDRESSED	RIGHTS OF DEFENDANT ENUMERATED
Mississippi Const. Art. 3, §29	Capital offenses; crimes punishable by life in prison; offenses punishable by 20 or more years; defendant has a prior conviction for a capital offense.			
Ohio §2937.222	Felonies that pose a substantial risk of serious physical harm; noncapital aggravated murder; murder; 1st or 2nd degree felony; aggravated vehicular homicide; vehicular homicide; vehicular manslaughter; felony stalking; felony driving under the influence of drugs or alcohol.	X	X	X
Oregon §135.240	Murder; treason; aggravated murder; violent felonies.	X		X
Rhode Island §12-13-1.1	Offenses punishable by life; offenses involving use or threat of use of a dangerous weapon when there is a prior similar conviction or prior life sentence; drug crimes punishable by more than 10 years.			
Texas Const. Art. 1, § 11a	Felonies when there are two prior felony convictions; offenses involving a deadly weapon when there is a prior felony conviction.			
Washington §10.21.040; §10.21.060	Capital offenses; offenses punishable by life in prison.	X	X	X
Wisconsin Const. Art. 1, § 8;	1st degree intentional homicide; 1st or 2nd degree sexual assault of a child; repeated acts of sexual assault on the same child; sexual assault of a child placed in substitute care; violent crime or attempted violent crime and has a prior similar conviction.	X	X	X

Source: National Conference of State Legislatures, 2013

* No statute located for states not listed.

Court rule and case law provide further guidance regarding mandatory financial conditions. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Judicial Review When Defendant is Unable to Meet Pretrial Release Conditions *

STATE & CITATION	POLICY
Alaska §12.30.006	Review conditions after 48 hours in custody.
Colorado §16-4-107	Review conditions after 7 days in custody and there are new factors for the court to consider.
Connecticut §54-63d	Requires court staff to report to the court when unable to meet conditions.
District of Columbia §23-1321	Review conditions after 24 hours in custody.
Kansas §22-2802	Review conditions without unnecessary delay after receiving request.
Kentucky §431.520	Review conditions after 24 hours in custody.
Maine 15 §1028	Review conditions within 48 hours of receiving request.
Maryland Criminal Procedure §5-215	Review conditions immediately upon not meeting conditions.
Missouri §544.455	Review conditions after 24 hours in custody.
Nebraska §29-901.3	Review conditions after 24 hours in custody.
New Hampshire §597:39	Permits modification of conditions upon notice to the prosecutor.
New Mexico R. Cr. P. Rule 5-401	Review conditions after 24 hours in custody.
North Dakota §29-08 authorizes R. Cr. P. Rule 46	Review conditions after 48 hours in custody.
South Dakota §23A-43-8	Review conditions after 24 hours in custody.
Vermont 13 §7554	Review conditions after 48 hours in custody.
Wisconsin §969.08	Review conditions after 48 hours in custody.

Source: National Conference of State Legislatures, 2013

Westlaw was used to conduct this research.

*No statute located for states not listed.

[Return to Pretrial Policy Homepage](#)

Full text of statutes can be retrieved using NCSL's State Legislatures Internet Links database.

Court rule and case law provide further guidance regarding mandatory financial conditions. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Bail Bond Agent Licensure

4/23/2013



The most common way defendants satisfy the financial condition of their bail is through an arrangement with a bail agent in the commercial bond industry.

A bail agent, also referred to in states as a surety bondsman or professional bondsman, is a person who, for financial gain, guarantees a defendant's appearance to the court and promises to pay the full financial amount of bond if the defendant fails to appear or otherwise triggers forfeiture.

States often require licenses for professional bail agents to practice in the commercial bail industry. Thirty-seven states have licensing requirements for bail agents and four prohibit commercial bond all together. In all but a few states, a state agency is responsible for regulating bond agents and their licensing. Often an insurance department or commission has this responsibility, while a few states use a financial services agency or the judicial branch for this function.

Common state requirements for bail agent licensure include reaching a certain age, paying a fee, passing an exam, completing education requirements, and submitting a criminal background check. There are additional prohibitions against employment in specified professions, most commonly judicial officers, members of law enforcement and attorneys.

To maintain licenses, bail agents generally must meet continuing education requirements, pay renewal fees and abstain from committing enumerated criminal offenses. For example, most states will not issue nor renew a license to those who commit a felony, a crime of moral turpitude or offenses involving misappropriation of money or property.

The chart below provides information on licensure requirements of persons who are authorized to issue bail bonds, either as an individual or under the auspices of a bail bond company.

[Return to Pretrial Policy Homepage](#)

Bail Bond Agent Licensure

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
Alabama § 15-13-22 § 15-13-159 § 15-13-160 § 15-13-101	Professional Bondsman	The Alabama Department of Insurance		X				Felony; crimes of moral turpitude.	Enumerated judicial officials; attorney; person authorized to accept an appearance bond.

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
Alaska § 21.27.150 § 21.27.020 § 21.27.060	Bail Bond Limited Producer	The Director of the Alaska Division of Insurance	X 18+	X	X			Act that is a cause for denial or revocation of a bondsman license.	
Arizona § 20-340.01	Bail Bond Agent	Director of Insurance of the State of Arizona		X	X		X	Theft; felony; carrying, illegal use or possession of a deadly weapon or dangerous instrument.	Law enforcement; court officials; attorneys; officials authorized to admit to bail; state and county officers.
Arkansas § 17-19-201	Professional Bail Bondsman	The Professional Bail Bond Company and Professional		X	X	X	X	Felony; crime of moral turpitude.	Attorney; court officials; sheriff; law enforcement officials
§ 17-19-110	Bail Bond Agent	Bail Bondsman Licensing Board. None specified		X			X		Attorney; court officials; sheriff; law enforcement officials

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
California Ins. Code § 1802	Bail Agent Bail	California Department of Insurance Commissioner		X	X	X			Enumerated misdemeanor or felony; crimes which involve a misappropriation of money or property.
Ins. Code § 1802.5	Permittee	California Department of Insurance Commissioner		X	X	X			Enumerated misdemeanor or felony; crimes which involve a misappropriation of money or property.
Ins. Code § 1803	Bail Solicitor	California Department of Insurance Commissioner		X	X	X			Enumerated misdemeanor or felony; crimes which involve a misappropriation of money or property.
Colorado § 10-23-101	Cash-Bonding Agent	Colorado Division of Insurance							
§ 10-23-102	Professional Cash-Bail Agent	Colorado Division of Insurance							
§ 10-2-415.5; § 10-2-418	Insurance Producer/Bail Bond Agent	Colorado Division of Insurance							
Connecticut § 29-145	Professional Bondsman	Commissioner of Emergency Services and Public Protection					X	Felony	Law enforcement or others with police powers.
§ 38a-660	Surety Bail Bond Agent	Connecticut Insurance Commissioner	X 18+	X U.S. citizen	X		X	Felony; enumerated misdemeanors.	Law enforcement or others with police powers.

[illegible]

[illegible]

[illegible]

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
	Bail Solicitor	Nevada Division of Insurance	X 18+	X	X	X		Felony; offense involving moral turpitude; unlawful use, sale or possession of a controlled substance.	Jailers; police officers; justices of the peace; municipal judges; sheriffs, deputy sheriffs and constables; any person with arrest power; enumerated prison officials.
New Hampshire § 597:7-b	Bail Agent	None specified							
New Jersey §17:31-10	Bail Agent	New Jersey Department of Banking and Insurance							
New Mexico S. A. 1978, § 59A-51-3 S. A. 1978, § 59A-51-6	Bail Bondsman	Superintendent of the New Mexico Division of Insurance	X 18+	X U.S. citizen	X	X		Felony, with the exception of a conditional discharge of a felony conviction.	Law enforcement, adjudication, jail, court or prosecution official or an employee thereof; attorney; official authorized to admit to bail; state or county officer.
	Solicitor	Superintendent of the New Mexico Division of Insurance	X 18+	X U.S. citizen	X	X		Felony, with the exception of a conditional discharge of a felony conviction.	Law enforcement, adjudication, jail, court or prosecution official or an employee thereof; attorney; official authorized to admit to bail; or state or county officer.
New York McKinney's Insurance Law § 6802	Professional Bondsmen	New York Superintendent of Insurance			X		X	Offense involving moral turpitude; any crime.	

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
North Carolina § 58-71-40 § 58-71-40	Professional Bondsman	Commissioner of the North Carolina Department of Insurance	X 18+	X	X	X	X	No current or prior enumerated violations.	Sheriff, deputy sheriff, other law-enforcement officer; judicial official; attorney; parole officer; probation officer; jailer; assistant jailer; employee of the General Court of Justice; employee or spouse of employee with criminal justice duties, those with commercial bond interests.
	Surety Bondsman	Commissioner of the North Carolina Department of Insurance	X 18+	X	X	X		No current or prior enumerated violations.	Sheriff, deputy sheriff, other law-enforcement officer; judicial official; attorney; parole officer; probation officer; jailer; assistant jailer; employee of the General Court of Justice; employee or spouse of employee with criminal justice duties, those with commercial bond interests.
North Dakota § 26.1-26.6-01; § 26.1-26-03	Bail Bond Agent	North Dakota Insurance Commissioner		X					Jailers; police officers; committing magistrates; magistrate court judges; sheriffs, deputy sheriffs and constables; any person with arrest powers or prison officials.

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
Ohio § 3905.84	Surety Bail Bond Agents	The Ohio Department of Commerce and the Superintendent of Insurance.	X 18+	X				If the person was convicted of a criminal offense, the nature of the offense, whether the conviction was based on acts or omissions taken under any professional license, whether the offense involved the breach of a fiduciary duty, the amount of time that has passed, and the person's activities subsequent to the conviction.	Jailers or other persons employed in a detention facility; prisoners incarcerated in any jail, prison, or any other place used for the incarceration of persons; peace officers, including volunteer or honorary peace officers; employees of a law enforcement agency; committing magistrates; judges; employees of a court; employees of the clerk of any court; attorneys or any person employed at an attorney's office; any persons having the power to arrest; any persons who have authority over or control of, federal, state, county, or municipal corporation prisoners.
Oklahoma 59 Okl. St. Ann. § 1306 59 Okl. St. Ann. § 1301	Surety Bondsman	Insurance Commissioner of the State of Oklahoma	X 21+			X		Felony; misdemeanor involving dishonesty or moral turpitude.	Jailers; police officers; committing judges; municipal or district court judges; prisoners; sheriffs, deputy sheriffs and any person having the power to arrest or prison officials; enumerated alcohol- based businesses.

State and Statute	Title of Licensed Entity	Regulating Entity	Requirements					Prohibited Criminal Activity	Prohibited Persons / Professions
			Age	State Residency	Exam	Education	Criminal Background Check		
	Professional Bondsman	Insurance Commissioner of the State of Oklahoma				X			
Oregon §§ 135.255, .260, .265	Commercial Bondsmen Prohibited								
Pennsylvania 42 Pa.C.S.A. § 5742	Professional Bondsmen	Pennsylvania Insurance Department						Criminal offense	Law enforcement officer; employee of a penal institution, or any who derives profit from bondsmen.
Rhode Island § 12-13-21, Superior Court Professional Bondsmen Rule 1	Professional Bondsman	The Rhode Island Superior Court							
South Carolina § 38-53-90 § 38-53-90	Professional Bondsman	The South Carolina Director of the Department of Insurance	X 18+	X	X	X		Felony; crime involving moral turpitude w/n the past 10 years.	Sheriff, deputy sheriff, other law enforcement officer; judicial official; attorney; parole officer; probation officer; jailer; assistant jailer; employee of any court of this state.
	Surety Bondsman	The South Carolina Director of the Department of Insurance	X 18+	X	X	X		Felony; crime involving moral turpitude within the past 10 years.	Sheriff, deputy sheriff, other law enforcement officer; judicial official; attorney; parole officer; probation officer; jailer; assistant jailer; employee of any court of this state.

[illegible]

[illegible]

Source: National Conference of State Legislatures, 2013

Westlaw was used to conduct this research.

Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Bail Bond Agent Business Practices

4/23/2013



State law provides regulations for how bail agents conduct their business. As part of executing a bond on behalf of defendants, bail agents advertise their services, meet with their clients in jails, police stations, courts and other offices and interact with members of law enforcement, court personnel and other public officials. For each of these activities, state lawmakers have put legal guidelines in place.

Premium Rates

The premium is a fee that a bail agent charges a defendant in order to execute a bond. While the premium is the primary payment made by a defendant to a bail agent, states also allow for other money to be collected for collateral, or to pay fees or other costs. For example, Mississippi law allows bail agents to charge defendants for fees related to “court-approved electronic monitoring or drug testing.” Many states that enable the commercial bond practice vest the power to determine rates for premiums in insurers and the regulatory bodies that oversee them. For example, in Arizona premium rates are established by a surety insurer and approved by the director of insurance. At least 16 states have specific percentages or dollar amounts specified in statute for bond premiums.

Other state regulations on premiums are aimed at ensuring that defendants released on cash bond pay some sum of money to a bail agent before they are released, rather than enabling 100 percent of the sum to be financed. In Florida, for example, it is unlawful to execute a bail bond without charging a premium and in Indiana bail agents must collect a full premium for the bail bond as specified by the state’s commissioner of insurance. Maryland law expressly authorizes bail agents to collect their premiums in installment payments.

Prohibited Location

To manage how bail agents can pursue new clients, states also regulate locations where they can solicit in person. Courts, police stations and jails are commonly prohibited locations. General exceptions to these laws include if a bail agent is called to the location by a new client, or is on the

premises to conduct business or some other legitimate task with an existing client. For example, in Virginia a bail agent cannot “loiter by any jail or magistrate’s office unless there on legitimate business.”

Prohibited Activity

State law often aims at preventing bail agents from gaining a business advantage through improper relationships with government employees or other professionals. These laws vary in structure. Some prevent jailers, police officers or other officials from suggesting the services of a particular bail agent to a defendant. Others prevent a bail agent from giving financial incentives to these professionals and still more prevent any arrangements where an official gives a bail agent information about a defendant’s status. Sixteen states prohibit bail agents from suggesting the professional services of another person to a defendant, with attorneys being the position most commonly mentioned. In addition, 17 states do not allow bail agents to act as an attorney, give legal advice, or participate in any legal capacity for their client at their client’s trial.

Regulation on Advertisements

Print advertising by bail agents is also subject to state regulation. The most common prohibition in statute prevents bail agents from advertising as surety insurance companies. Other standards focus on clarity in advertisement, such as prominently displaying the name of the bail agency, mandating specific contact information and preventing the inclusion of words deemed to be deceptive.

This chart provides more information on state statutory regulations of bail agent business practices.

[Return to Pretrial Policy Homepage](#)

Bail Bond Agent Business Practices

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Alabama No statute located						
Alaska No statute located						
Arizona § 20-340.03		Any place where prisoners are confined; any court.		X	X	May not advertise as a surety company.

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Arkansas § 17-19-301 § 17-19-105	\$50 or 10% rounded up to the nearest \$5, whichever is greater.		X			
§ 17-19-109		Any place where prisoners are confined, police stations, jails, or sheriff's office; any court.		X	X	
						Advertisements by professional bail bond companies must make apparent the company name. Any advertisement for an individual professional bail bondsmen must include bail bond company name and no indication that the individual is independent of the company.
California No statute located						
Colorado § 10-23-109	\$50 or 15%, whichever is greater.					

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Connecticut § 29-151 § 29-152b	No more than: \$50 on amounts below \$500; 10% on amounts \$500 to \$5000; 7% on amounts above \$5000.		X	X		Print advertising in enumerated facilities can be telephone directory listings and postings of the professional bondsman's contact information in a prominent designated location, with enumerated prohibitions for clarity.
		Correctional institutions, community correctional centers, detention facilities; any court.				
Delaware 18 Del.C. § 4350		Any place where prisoners are confined; any court.	X	X	X	A bail agent shall not advertise as a surety insurance company.
Florida § 648.33 § 648.44		A jail, prison, or other place where prisoners are confined; any court.				Print advertising in jails is limited to a telephone directory listing and the posting of the bail bond agent's or agency's contact information in a designated location.

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
			X	X		No bail bond agency shall advertise as a bail bond or surety company. Enumerated advertising requirements and prohibitions against false advertisement or deceptive trade practice.
Georgia § 17-6-30; § 17-6-53 § 17-6-50 § 17-6-51 § 17-6-52	No more than: 12% on amounts below \$10,000; 15% on amounts above \$10,000.					
		Jails, places where prisoners are confined; any court.				
			X			
				X		
					X	
Hawaii § 804-62	Between 5% and 15%; Minimum \$50					
Idaho No statute located						
Illinois	No Commercial Bondsmen					
Indiana § 27-10-4-2		Any place where prisoners are confined; any court.	X	X	X	

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Iowa No statute located						
Kansas No statute located						
Kentucky	No Commercial Bondsmen					
Louisiana § 22:1443	\$120 or 12% , whichever is greater.					
§ 22:1556					X	
Maine No statute located						
Maryland Criminal Procedure§ 5-210		Correctional facility; any court.			X	
Massachusetts No statute located						
Michigan No statute located						
Minnesota No statute located						
Mississippi § 83-39-25	\$100 or 10%, whichever is greater; \$100 or 15% for capital offense charges or out of state residency.					
§ 83-39-27			X	X	X	
Missouri § 374.717					X	

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
§374.755			X			
Montana No statute located						
Nebraska No statute located						
Nevada § 697.300	\$50 or 15%, whichever is greater.					
§ 697.340		Any place where prisoners are confined; any court.	X	X	X	A bail agent, bail enforcement agent, bail solicitor or general agent may not advertise as a surety insurance company.
New Hampshire No statute located						
New Jersey No statute located						
New Mexico § 59A-51-13			X	X	X	No bail bond agency may advertise as a surety insurer.

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
New York McKinney's Insurance Law § 6804	\$10 for amounts below \$200. No more than 10% on amounts below \$3,000. For amounts above \$3,000, no more than 10% for first \$3,000, 8% on additional amounts below \$10,000, and 6% on excess amounts.					
North Carolina § 58-71-95	No more than 15%.	Any court or the office of any magistrate; any place where prisoners are confined.	X		X	
North Dakota § 26.1-26.6-08 § 26.1-26.6-05	\$75 or 10%, whichever is greater.					
		Any place where prisoners or persons are confined, arraigned, or in custody.		X	X	A bail bond agent or bail bond agency may not advertise as a surety company.

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Ohio § 3905.901 § 3905.932 § 3905.934	No less than 6.5% of outstanding bail bond premiums.	Detention facilities; any court.				Print advertising in a detention facility is limited to a telephone directory listing and the posting of the surety bail bond agent's contact information in a designated location.
			X	X	X	
						A surety bail bond agent must not engage in false advertisement or deceptive trade practice. All advertisements must include the address of record of the agent on file with the department of insurance.
Oklahoma 59 Okl.St.Ann. §1310		Any place where prisoners are confined, arraigned, or in custody.	X	X	X	No bail bondsman or bail bond agency may advertise as a surety company.
Oregon	No Commercial Bondsmen					
Pennsylvania 42 Pa.C.S.A. § 5748 42 Pa.C.S.A. § 5749	No more than 10% on amounts below \$100 and 5% for each additional \$100.					
		Any court or tribunal.			X	

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
Rhode Island No statute located						
South Carolina § 38-53-170	\$25 or 15%, whichever is greater.	Any court or the office of any magistrate; any place where prisoners are confined.	X		X	
South Dakota § 58-22-35		Any place where prisoners are confined.				
§ 58-22-32			X			
§ 58-22-36				X		
§ 58-22-34					X	
Tennessee § 40-11-316	No more than 10%.					
§ 40-11-310			X		X	
§ 40-11-309					X	
Texas Occupations Code § 1704.304		A police station, jail, prison, detention facility, or other place of detainment for persons in the custody of law enforcement.		X	X	-----
Occupations Code §						

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
1704.303 Occupations Code § 1704.302		-----		-----	-----	Advertisements must clearly indicate the county or counties in which the person holds a license and the telephone number shown must be for that or those counties only.
		-----			X	
Utah No statute located						
Vermont No statute located						
Virginia § 9.1-185.8	No more than 10%, no less than 15%.		X		X	
§ 9.1-185.9		Any court, jail, lock-up, or surrounding government property.		X		
Washington No statute located						

State and Statute	Premium Rates	Locations Where Soliciting Business Is Prohibited	Prohibited Activity			Regulation on Advertisements
			Offering Legal Advice	Suggesting Business Arrangements	Arrangements With Public Officials	
West Virginia § 51-10-7		A police precinct, jail, prisoner's dock, house of detention, justice of the peace court, or other place where persons in the custody of the law are detained.			X	
§ 51-10-3					X	
§ 51-10-4					X	
Wisconsin	No Commercial Bondsmen					
Wyoming No statute located						

Source: National Conference of State Legislatures, 2013

Westlaw was used to conduct this research.

Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Recovery Agents

5/2/2013



When a defendant fails to appear in court after release on financial bail, their surety—the person guaranteeing their appearance—must pay the cash bond to the court. To avoid or mitigate financial liability, the surety can attempt to arrest and return the defendant. Sureties often work with a recovery agent, a person whose profession it is to lawfully apprehend fugitive defendants. Sureties transfer arrest authority to recovery agents by signing over to them a certified copy of the bond. Recovery agents, also called bounty hunters and bail enforcement agents, and how they arrest fugitive defendants, are subject to regulations provided by state

law.

Standards and Licensure

At least 22 states require licenses for professional recovery agents. California and Kansas also have provisions that regulate recovery agents, but do not require licenses. California's law mandates recovery agents carry certificates of completion for certain training courses and Kansas outlines several requirements to act as an "agent of a surety" including not having been convicted of enumerated crimes in the last 10 years.

In addition to license requirements, state statutes also regulate the conduct of recovery agents while executing their duties. Issues addressed in these laws include disclosure of association with bail agents, regulation of their attire while performing their duties, and their ability to enter private dwellings or property to make an arrest.

Affiliation with Bail Agents

At least 15 States, including Georgia and Indiana, address how commercial sureties work with and identify recovery agents they use to arrest fugitive defendants. In Georgia, professional bondsmen are required to register a list of all bail recovery agents who may be employed by that particular bondsman to the appropriate county's sheriff. Under Indiana law, a bail agent can use any licensed recovery agent to arrest a defendant. When the bail agent renews their license, they must provide a list of all recovery agents they used during the previous year to the commissioner of Insurance.

Regulation of Attire

In at least nine states, laws address how a recovery agent can represent themselves with the attire they wear. In Iowa, for example, a recovery agent can only wear a uniform within the specifications given by the commissioner of Public Safety and cannot wear a uniform or make any statement that gives the impression they are a member of law enforcement. Washington law requires recovery agents to wear a shirt or vest with the words “Bail Bond Recovery Agent,” “Bail Enforcement,” or “Bail Enforcement Agent” during an arrest.

Procedure for Entering Dwellings

Laws in at least 10 states address if, when and how recovery agents can enter private property. Arizona law only allows bail recovery agents to go into a dwelling with the consent of people inside at the time of entry. In Missouri, state law authorizes a surety recovery agent, who has probable grounds to believe someone has absconded on their bond agreement, to enter private property in order to arrest the fugitive

Washington law provides detailed requirements for bail bond recovery agents who plan to enter a defendant’s home to arrest them. The law requires recovery agents to have a “reasonable cause to believe that the defendant is inside” the dwelling or other building, to notify local law enforcement with specific details of the defendant and premises.

While in Georgia Code, penalties are provided for bail recovery agents and who enter the wrong property and causes damage or injury to any person or property. And in Virginia, the law requires a bail enforcement agent to verbally notify those inside before they enter.

Notification to Law Enforcement

All states that address recovery agents require law enforcement to be notified when, or near when, they intend to arrest a defendant. For example, Connecticut and New York law similarly require that recovery agents, prior to attempting to arrest a person, notify a local law enforcement agency where the person is believed to be located and of the “bail enforcement agent's intentions.”

Virginia law requires that a bail enforcement agent give law enforcement at least 24 hours notice before arresting a bail fugitive. In addition, the bail enforcement agent must report the arrest to local law enforcement within 60 minutes of apprehension.

[Return to Pretrial Policy Homepage](#)

50 State Chart | Enforcement Agent Licensure and Regulation*

STATE & STATUTE	LICENSING OR REGULATORY OVERSIGHT?	ASSOCIATION WITH BAIL AGENT	REGULATION REGARDING ATTIRE	PROVISIONS RE: DWELLINGS

Arizona § 20-340.04	X ²	X		
California Penal Code § 1299.01 Penal Code § 1299.09 Penal Code § 1299.07		X		
				X
			X	
Connecticut § 29-152f § 29-152l	X ³			
			X	
Delaware 24 Del. C. § 5502	X ⁴			
Georgia § 17-6-56 § 17-6-57 § 17-6-58	X ¹	X		
				X
			X	X
Indiana § 27-10-3-1 § 27-10-3-14	X ¹			
		X		
Iowa § 80A.3A § 80A.9	X ⁶			
			X	
Kansas § 22-2809a		X		
Louisiana § 22:1581 § 22:1583	X ²			
Mississippi § 83-39-5	X ¹			
Missouri § 374.783 § 374.788	X ¹			
			X	X
Nevada § 697.173 § 697.260	X ¹			
		X		
New Hampshire § 597:7-b	X ⁵			
New Jersey § 45:19-30 § 45:19-37	X			
				X
New Mexico § 59A-51-6 § 59A-51-12	X ¹			
		X		

New York Gen. Bus. Law § 70 Gen. Bus. Law § 84	X ¹ See also Gen. Bus. Law § 71			
			X	
North Carolina § 58-71-40 § 58-71-125	X ¹			
		X See also § 58-71-65		
South Carolina § 38-53-90 § 38-53-120	X ¹			
		X		
South Dakota § 58-22-1	X ¹			
Tennessee § 40-11-318 § 40-11-320	X ²	X		
				X
Utah § 53-11-111 § 53-11-121 § 53-11-123	X ⁶	X		
			X	
				X
Virginia § 9.1-186.4 § 9.1-186.10 § 9.1-186.12	X ¹ See also § 9.1-186.5			
			X	
		X		X
Washington §18.185.250 §18.185.300 §18.185.280	X ³			
			X	X
		X		
West Virginia § 51-10A-2 § 51-10A-4	X ⁵	X		
		X	X	X

+ No statute located for states not listed

1 Same / similar to bail bond agent licensure

2 Same regulatory authority as bail agent, lesser requirements

3 Same regulatory authority as bail agent, more requirements

4 Different regulatory authority as bail agent, lesser requirements

5 Different regulatory authority as bail agent, more requirements

6 Bail agent not licensed

Source: National Conference of State Legislatures, 2013

Westlaw was used to conduct this research.

Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Victims' Pretrial Release Rights and Protections

5/12/2015



Crime victims have “...the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court...” —Article I, section 24 of the Alaska State Constitution

Laws in every state provide rights for and services to victims. Most states have laws that specifically address victim interests related to pretrial release. Victims’ rights laws in California, Delaware, Illinois, Louisiana, Mississippi, Missouri, Oklahoma, Oregon and Texas specifically instruct judges to consider the safety of victims

when determining conditions of pretrial release. Laws in other states address various victim-specific rights and protections at the pretrial stage.

Right to Notification and Participation

Notice and participation rights laws afford the victim the choice to actively participate in criminal proceedings or stay removed.

Forty one states provide a victim with the right to be notified when a defendant is released prior to trial. In at least 10 of these states, the victim also is required to be notified of the release conditions. Twenty five states require that the victim be notified of the pretrial release hearing.

Most states provide victims the right to participate in the criminal justice process. This can include the right to attend and be heard at all “critical” stages of criminal justice proceedings. Laws in 19 states address participation in hearings related to pretrial release and conditions. Victim participation can include consultation about the possibility of release or appropriate release conditions, the right to attend release hearings and the opportunity to be heard during the hearing.

This chart provides more information on laws covering pretrial victim notification and participation rights.

Victim Notification and Participation Rights in Pretrial Release*

Right to Notification

State and Citation	Of Pretrial Release	Of Pretrial Release Hearing	Right to Participation
Alabama Code §15-23-75(4)	X		
Alaska Stat. §12.30.016(f); §12.30.027(d); Const. art. I, § 24	X**	X	Attend and be heard
Arizona Rev. Stat. Ann. §13-4407; §13-4412; §13-4422; §13-4406; Const. art. II, § 2.1	X**	X	Attend and be heard
Arkansas Code Ann. §16-21-106(a)		X	
California Const. art. I, § 28; Penal Code §679.02(12)	X	X	Attend and be heard
Colorado Rev. Stat. §24-4.1-302.5(b) & (c)	X	X	Attend
District of Columbia Code §23-1902(c)(2)	X		
Florida Stat. §960.001(b), (e) & (g)	X	X	Be consulted and attend
Georgia Code Ann. §17-17-5; §17-17-7	X	X	
Hawaii Rev. Stat. §801D-4(a)	X		
Idaho Code Ann. §19-5306(1)(j)	X		
Illinois Const. art I §8.1(5); 725 ILCS 120/4.5(b) & (c)	X	X	Be heard
Indiana Code §35-40-5-2; §35-40-7-2	X	X	
Iowa Code §915.16	X**		

Right to Notification

State and Citation	Of Pretrial Release	Of Pretrial Release Hearing	Right to Participation
Kentucky Rev. Stat. Ann. §421.500(5); §431.064; §421.500(6)	X**	X	Be consulted
Louisiana Rev. Stat. Ann. §46:1844(A)(3)	X	X	
Maine Rev. Stat. tit. 17-A, §1175-A(2)	X		
Maryland Const. DECL OF RIGHTS, art. XLVII; Code Ann., Crim. Proc. §11-104		X	
Massachusetts Gen. Laws ch. 209A, §6	X		
Michigan Comp. Laws §780.755; §780.815	X		
Minnesota Stat. §629.72(6) & (7); §629.725; §629.73	X**	X	Attend
Mississippi Code Ann. §99-43- 35(d)	X		
Missouri Rev. Stat. §595.209(4), (5) & (7); Const. art. I, §32	X	X	Be consulted, attend and be heard
Montana Code Ann. §46-24- 203(1); §46-9-108(3); §46-24- 104	X		Be consulted
Nebraska Rev. Stat. §178.5698	X		
Nevada Rev. Stat. §178.5698	X**		
New Jersey Stat. Ann. §2C:25- 26.1; §52:4B-44	X	X	
New York Exec. Law §641, §646, §642; §647	X		Be consulted

Right to Notification

State and Citation	Of Pretrial Release	Of Pretrial Release Hearing	Right to Participation
North Dakota Cent. Code §12.1-34-02(4)	X**	X	
Ohio Rev. Code Ann. §2930.05(A)	X		
Oklahoma Const. art. II, §34	X		
Oregon Const. art. I, §42		X	Attend and be heard
Pennsylvania 18 Pa. Cons. Stat. §11.201(2) & (9)	X		
Rhode Island Gen. Laws §12-28-11(b); §12-28-3(a)(2)	X	X	
South Carolina Code Ann. §16-3-1525(A), (B), (H) & (I); Const. art. I, §24	X	X	Attend and be heard
South Dakota Codified Laws §23A-28C-1	X	X	
Tennessee Code Ann. §40-11-150; §40-11-106(c); §40-38-110(a); Const. art. I, §35	X**	X	Attend and be heard
Texas Code Crim. Proc. Ann. art. 17.29	X		
Utah Code Ann. §77-36-2.5(6) & (9); §77-38-4(1)	X**	X	Attend and be heard
Vermont Stat. Ann. tit. 13, §5305; §5308	X**	X	Be consulted and attend
Virginia Code Ann. §19.2-11.01; §40.1-28.7:2	X		Attend
Washington Const. art. I, §35	X	X	Attend and be heard

Right to Notification

State and Citation	Of Pretrial Release	Of Pretrial Release Hearing	Right to Participation
West Virginia Code §61-11A-6(4)-(5); §62-1c-17c(c)	X	X	Be consulted
Wyoming Stat. Ann. §1-40-204(b)(iv)	X		

*No statute located for states not listed

**State also requires victim be notified of the defendant's pretrial release conditions

Source: National Conference of State Legislatures, 2015

Westlaw was used to conduct this research.

Court rule and case law provide further guidance regarding victim notification. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Victim Protection: Hearings

In some states, all defendants must see a judge to have the conditions of their release set. Other states use bail schedules, bail commissioners or law enforcement officers to set conditions of release for the bulk of defendants. Under the latter circumstance, states may require a court official to determine release conditions for more serious charges. Often these are crimes that involve a victim. A pretrial release hearing allows the court to take individual circumstances of the crime into consideration when determining release.

This chart lists the states and offenses in which a pretrial release hearing is required.

Required Pretrial Release Hearings for Victim-Related Crimes*

State and Statute	Applicable Crimes
Alabama Code §15-13-190(a)	Domestic violence offenses involving physical contact with the victim; violation of protection order.

State and Statute	Applicable Crimes
-------------------	-------------------

Alaska Stat. §12.30.027	Domestic violence
-----------------------------------	-------------------

Arkansas Code Ann. §16-81-113(a)	Domestic violence
--	-------------------

California Penal Code §1270.1(a); §853.6(2)	Serious felonies; violent felonies except residential burglary; felony intimidation of a witness; rape of a spouse; corporal injury to a family member; threat of injury by an electronic communication device to a family member; stalking; domestic violence battery; violation of protection order by threat or use of violence or going to the workplace or residence of the protected party; misdemeanor violation of protection order involving domestic violence.
---	--

Delaware Code Ann. tit. 10, §1046	Violation of protection order
--	-------------------------------

District of Columbia Code §23-1323(a); §23-1322(b)	Violent crime if defendant is believed to be addicted to narcotic drugs.
---	--

Florida Stat. 741.2901(3); §903.046(l) & (m)	Domestic violence offenses; offenses related to criminal gangs; burglary; sexual offenders; sexual predators.
---	---

Georgia Code Ann. §17-6-1	Treason; murder; rape; aggravated sodomy; armed robbery; home invasion in the first degree; aircraft hijacking; motor vehicle hijacking; aggravated child molestation; aggravated sexual battery; kidnapping, arson, aggravated assault, or burglary with a prior similar conviction or was on pretrial release for a similar offense or other offenses enumerated in §17-6-1(a)(11); aggravated stalking; family violence offense; violation of a criminal family violence order; homicide by vehicle.
-------------------------------------	---

Illinois 725 ILCS 5/110-5.1	Violent crime against a family or household member with a prior similar conviction or the offense involved physical harm, threat of physical harm or possession of a deadly weapon.
---------------------------------------	---

Indiana Code §35-33-8-3.5	Sexually violent predator; child molestation; child solicitation.
-------------------------------------	---

Iowa Code §708.11(5); §664A.3(2)	Stalking; violation of protection order.
---	--

Kansas Stat. Ann. §22-2901(7)	Criminal trespass in violation of a protection order
---	--

Louisiana Code Crim. Proc. Ann. art. 330.3	Felony family or household member or dating partner offenses.
---	---

State and Statute

Applicable Crimes

Maine Rev. Stat. tit. 15, §1023(4)	Offenses against family or household member as enumerated in 15 §1023(B-1) & (4)(c); domestic violence, sexual assault, or sexual exploitation of a minor while on pretrial release.
Maryland Code Ann., Crim. Proc. §5-202	Violent crime with a prior similar conviction; crimes enumerated in Cr.Pr. Law §5-202(d)(1) while on pretrial release; violation of protection order; firearm offenses enumerated in Cr.Pr. Law §5-202(f)(1) with a prior similar conviction; defendants required to register as a sex offender.
Massachusetts Gen. Laws ch. 276, §57; §58A	Violation of protection order; misdemeanor or felony abuse of family or household member in violation of protection order; other offenses involving physical force or abuse enumerated in 276 §58A.
Minnesota Stat. §629.72	Harassment; domestic abuse; violation of protection order; violation of domestic abuse no contact order.
Mississippi Code Ann. §99-5-37	Misdemeanor domestic violence; aggravated domestic violence; aggravated stalking; violation of pretrial release related to a domestic violence offense; violation of domestic violence protection order.
Montana Code Ann. §46-9-302	Assault on a partner or family member; stalking; violation of protection order.
Nebraska Rev. Stat. §42-929	Violation of protection or restraining order
Nevada Rev. Stat. §178.484(7) & (8)	Domestic violence battery; violation of domestic violence protection order that involved threat of harm, has a previous violation of protection order, or has a concentration of alcohol of .08 or more or under the influence of a prohibited substance.
New Hampshire Rev. Stat. Ann. §594:20-a	Violation of protection order
New York Crim. Proc. Law §530.20	Class A felony; any offense with two prior felony convictions.
North Carolina Gen. Stat. §15A-534.1	Assaulting, stalking, threatening, or committing a felony upon a spouse, former spouse or person whom the defendant has lived with as if a spouse; domestic criminal trespass; violation of domestic violence protection order.
North Dakota Cent. Code §14-07.1-10(3)	Domestic violence
Ohio Rev. Code Ann. §2919.251; §2937.23	Violent offenses against family or household member if the offense was in violation of protection order or the offense involved physical harm, possession of a deadly weapon, or threat of serious physical harm; assault on a peace officer.
Oklahoma Stat. tit. 22, §1105(B)	Violation of protection order; domestic abuse; stalking; harassment; domestic assault; domestic assault or battery with a deadly weapon.

State and Statute	Applicable Crimes
Rhode Island Gen. Laws §12-29-4; §12-29.1-5	Crimes involving domestic violence; crimes involving violence against an elderly person.
South Dakota Codified Laws §25-10-40	Assault of a person involved in one of the following relationships: spouse or former spouse, significant romantic relationship, has or is expecting a child with the defendant, parent and child; violation of protection order.
Utah Code Ann. §77-20-1(3)(a); §77-36-2.5(2)	Violation of a jail release agreement; domestic violence.
Washington Rev. Code §10.19.055	Class A and B felonies.

*No statute located for states not listed

Source: National Conference of State Legislatures, 2015

Westlaw was used to conduct this research.

Court rule and case law provide further guidance regarding required pretrial release hearings. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Victim Protection: Detention

Defendants accused of domestic violence, sex offenses, stalking, violation of a protection order and other violent offenses are often presumed by law to pose a higher risk to victim and community safety.

For example, Utah law states:

"(B)ecause of the unique and highly emotional nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of an offender who has been arrested for domestic violence, it is the finding of the Legislature that domestic violence crimes are crimes for which bail may be denied if there is substantial evidence to support the charge, and if the court finds by clear and convincing evidence that the alleged perpetrator would constitute a substantial danger to an alleged victim of domestic violence if released on bail." — §77-36-2.5(12)

Seven states and the District of Columbia mandate or allow a limited period of detention before release in these cases. In Nevada, defendants accused of certain domestic violence crimes must be detained for at least 12 hours after arrest. Mississippi and Texas permit judges to order a short stay in jail as a condition of the defendant's release.

This chart shows state laws that authorize a period of detention for certain defendants.

Detention Prior to Pretrial Release*

State and Statute	Applicable Offenses	Duration of Detention
District of Columbia Code §23-1323(a); §23-1322(b)	Violent offenses if defendant is believed to be addicted to narcotic drugs.	Up to three days after arrest.
Indiana Code §35-33-8-6.5	Domestic violence	Eight hours after arrest.
Massachusetts Gen. Laws ch. 276, §42A	Domestic abuse or domestic violence	Six hours after arrest or until hearing.
Mississippi Code Ann. §99-5-37	Misdemeanor domestic violence; aggravated domestic violence; aggravated stalking; violation of pretrial release related to a domestic violence offense; violation of domestic violence protection order.	Up to 24 hours after pretrial release hearing.
Nevada Rev. Stat. §178.484 (7)-(8)	Domestic violence battery; violation of domestic violence protection order that involved threat of harm, and has a previous violation of protection order or has a concentration of alcohol of .08 or more or under the influence of a prohibited substance.	At least 12 hours after arrest.
Tennessee Code Ann. §40-11-150(h)-(k)	Stalking; aggravated stalking; person offenses that involve domestic abuse; offenses involving harm or abuse of an elderly person.	At least 12 hours after arrest.
Texas Code Crim Proc. Ann. art. 17.291	Prevention of family violence	Maximum of four hours and up to an additional 48 hours after release hearing.
Utah Code Ann. §77-36-2.5(2); §77-36-2.6(1)	Domestic violence	Cannot be released "prior to the close of the next court day following the arrest"

*No statute located for states not listed

Source: National Conference of State Legislatures, 2015

Westlaw was used to conduct this research.

Court rule and case law provide further guidance regarding detention prior to release. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Technology

Electronic monitoring technology is often authorized as a pretrial condition to ensure the defendant's appearance.

States also have begun using electronic monitoring to help protect victims in cases involving threats or harm. Courts commonly place area restrictions on the defendant, prohibiting them from locations such as the victim's home or place of work.

Electronic monitoring helps to ensure that a defendant is compliant and provides alerts to law enforcement if area restrictions are violated. Newer technology also notifies the victim when a defendant gets too close to restricted locations. Seven states have specifically authorized use of electronic receptors to warn victims, if the victim chooses to participate.

This chart shows statutory provisions with regard to pretrial electronic monitoring and victim technology.

Pretrial Electronic Monitoring and Victim Technology*

State and Statute	Applicable Offenses	Victim Technology
Alabama Code §15-20A-20	Sex offenses that will require registration	None specified
Arizona Rev. Stat. Ann. §13-3967(E)	Sexual exploitation of children	None specified
Arkansas Code Ann. §9-15-217	Violation of protection order	Notifies the victim if the defendant is close.
California Penal Code §136.2(a)(7)(D)**	Violent crimes	None specified
Connecticut Gen. Stat. §46b-38c(f); §18-100f(d)**	Violation of restraining or protection order and determined to be high-risk.	Warns the victim and law enforcement if the defendant is within a specified distance.

State and Statute	Applicable Offenses	Victim Technology
	Class D or E felonies or misdemeanors except 4 th degree sex assault; 3 rd degree sex assault; 1 st degree stalking; or 2 nd degree assault involving a firearm or motor vehicle or where the victim is elderly, blind, disabled, pregnant or has an intellectual disability.	None specified
Florida Stat. §907.041	Dangerous offenses as enumerated in §907.041(4).	None specified
Illinois 730 ILCS 5/5-8A-7	Violation of protection order	Communicates with the victim when boundaries are violated.
Indiana Code §35-33-8-11	Domestic violence	None specified
Kentucky Rev. Stat. Ann. §431.520(5)	Sex offenses	None specified
Louisiana Code Crim. Proc. Ann. art. 336.1(B); 335.1; 330.3	Aggravated rape	None specified
	Felony offenses against a family or household member or dating partner	None specified
Michigan Comp. Laws §765.6b(6)	Domestic violence or any assaultive crime.	Electronic receptor device
Minnesota Stat. §629.72**	Domestic violence crimes enumerated in §609.135(5a) (b).	None specified
Mississippi Code Ann. §99-5-38	Domestic violence	Electronic receptor device
New Hampshire Rev. Stat. Ann. §597:2(III-a)	Abuse of a family or household member; violation of protection order for domestic violence.	None specified
Oklahoma Stat. tit. 2,2 §60.17	Domestic assault and battery; stalking; harassment; sexual assault; forcible sodomy; violation of protection order involving domestic assault and battery, stalking, harassment, sexual assault, or forcible sodomy.	Allows the victim to monitor location of the defendant.
Tennessee Code Ann. §40-11-150; §40-11-152	Stalking; aggravated stalking; person offenses that involve domestic abuse; offenses against a person where the victim is defined as a domestic abuse victim, a sexual assault victim or stalking victim as enumerated in §36-3-601 .	Electronic receptor device
Texas Code Crim. Proc. Ann. art. 17.49	Offenses involving family violence	Electronic receptor device.
Utah Code Ann. §77-36-2.5(4)	Domestic violence	None specified

State and Statute	Applicable Offenses	Victim Technology
Washington Rev. Code §10.99.040; §7.90.150	Domestic violence; sex offenses enumerated in §99.94A.030(46); attempt, solicitation or conspiracy to commit a sex offense enumerated in §99.94A.030(46); communication with a minor for immoral purposes.	None specified

*No statute located for states not listed

**Law requires local jurisdictions to adopt a policy on use of electronic monitoring before the court may order electronic monitoring as a condition of release.

Source: National Conference of State Legislatures, 2015
Westlaw was used to conduct this research.

Court rule and case law provide further guidance regarding electronic monitoring and victim technology. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

Restitution and Financial Assistance

All states give victims the right to an order of restitution for damages and all have set up funds to support victim compensation or other assistance programs.

In 10 states—Alaska, California, Illinois, Indiana, Kansas, Minnesota, Montana, Nevada, Washington and Wisconsin—statutes authorize funds from forfeited bail bonds be directed to victims. Montana and Wisconsin laws allow the court to order, without making a determination of guilt, that restitution be awarded to the victim and the forfeited bond is applied directly to the restitution order. Upon conviction in Alaska, California and Indiana, forfeited bonds are applied to any restitution ordered. A portion of funds forfeited in Illinois, Kansas, Nevada and Washington are allocated to victim-specific funds. In Nevada, 90 percent of each forfeiture is deposited into the state crime victim compensation fund and Washington has a fund to support testimony by victims and witnesses.

This chart lists laws that allow forfeited bonds be directed to victims.

Forfeited Bail Bond Funds Disbursed to Victims*

State and Statute	Recipient of Forfeited Funds
-------------------	------------------------------

Alaska Stat. §12.30.075	Victim
California Penal Code §1463.009	Victim
Illinois 705 ILCS 105/27.6	Violent Crime Victims Assistance Fund
Indiana Code §35-33-8-3.2(a); §35-33-8-7; §35-33-8-8	Victim
Kansas Stat. Ann. §74-7336	Crime Victims Assistance Fund and Victims Compensation Fund.
Minnesota Stat. §485.018	Victim
Montana Code Ann. §46-9-512	Victim
Nevada Rev. Stat. §178.518	Fund for Compensation of Victims of Crime
Washington Rev. Code §7.68.035	Fund that supports local victim and witness programs.
Wisconsin Stat. §969.13(5)	Victim

*No statute located for states not listed

Source: National Conference of State Legislatures, 2015

Westlaw was used to conduct this research.

Court rule and case law provide further guidance regarding forfeited bail bond funds. Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.

[1] Cal. Const. art. I, §28(b)(3); Miss. Code Ann. §99-36-5(1)(b); Mo. Const. art. I, §32(2); Ore. Const. art. I, §43(b); Vernon's Ann. Texas C.C.P. Art. 56.02(a)(2).



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Population Specific Diversion

September 2017

Legend

P-diversion program authorized;

C-problem solving court authorized;

PC-both problem-solving court and diversion program authorized.

State	Population					
	Substance Abuse	Mental Health	Veterans/ Active Military	Domestic Relations	Worthless Check	Other
Alabama	C §12-23A-1 et seq.				P §12-17-224	P Property crimes §12-17-226 et seq. P Prostitution §13A-6-181
Alaska no statute located						
Arizona	C §13-3422	C §12-132 §22-601 et seq.	C §22-601 et seq.		P §13-1810	C Homeless defendants §22-601 et seq.
Arkansas	P §16-98-201 C §16-98-301 et seq.	C §16-100-210 et seq.; §16-10-139	C §16-10-139			
California	P Penal Code §1000-§1000.6; §1000.8-§1000.10 C Penal Code §1000.5	P Penal Code §1001.20 et seq.	P Penal Code §1001.80	P Penal Code §1000.12; §1001.70 et seq.	P Penal Code §1001.60 et seq.	P Young adults (18-21) charged with a felony Penal Code §1000.7

	Law Enforcement Assisted Diversion Penal Code §1001.85 et seq.					
Colorado			C §13-5-144	P §19-3-310		P Prostitution §13-10-126
Connecticut	P §54-56i §17a-696 C 51-181b	P §54-56l	P §54-56l	P §46b-38c		C Community-specific needs §51-181c P Specified weapons crimes §29-33; §29-37a; §53- 202l; §53-202w
Delaware	P Tit. 16 §4767			P Tit. 10 §1024	P Tit. 11 §900A	
District of Columbia	P §48-904.01(e)					
Florida	P §948.16 C §397.334	C §394.47892; §948.16	P §948.16 C §394.47891		P §832.08	
Georgia	P §16-13-2 C §15-1-15	C §15-1-16	C §15-1-17			
Hawaii no statute located						
Idaho	C §19-5601 et seq.	C §19-5601 et seq.				
Illinois	C 730 §166/1 et seq.	C 730 §168/1 et seq.	C 730 §167/1 et seq.; 330 §135/1 et seq.		P 720 §5/17-1b	P First time weapon offenders 730 §5/5-6-3.6
Indiana	P §12-23-5-1 et seq.; §12-23-6.1- 1; §12-23-7.1-1 et seq. C	P §11-12-3.7-1 et. seq. C §33-23-16-1 et seq.	C §33-23-16-1 et seq.	C §33-23-16-1 et seq.		C Community-specific needs §33-23-16-1 et seq.

	§33-23-16-1 et seq.					
Iowa				P §708.2B		
Kansas	P §12-4414 et seq.					
Kentucky	P §533.251 C §26A.400	C*				
Louisiana	C §13:587.4	C §13:587.4 §13:5351 et seq.	C §13:5361 et seq.			P Human trafficking §13:587.4 P Purchase of sexual activity crimes §15:243
Maine	C Title 4 §421	C Title 4 §431	C Title 4 §433		P Title 32 §11013-A	
Maryland	C [Cts. & Jud. Proc] §13-101.1					
Massachusetts			P 276A §10			P Young adults (18-22) 276A §1 et seq.
Michigan	P §333.7411 C §600-1060 et seq.	C §600-1090 et seq.	C §600.1200 et seq.	P §769.4a		
Minnesota	P §152.18				P §628.69	
Mississippi	C §9-23-1 et seq.	P HB 1089 (2017)	C §9-25-1			
Missouri	C §478.001 et. seq.		C §478.008			
Montana	C §46-1-1101 et seq.	C §46-1-1201 et seq.				
Nebraska	C §6-1201 et. seq.; §24-1301 et. seq.	C	C			

		§6-1201 et. seq.; §24-1301 et. seq.	§6-1201 et. seq.; §24-1301 et. seq.			
Nevada	P §453.580	P §176A.250 et seq.	P §176A.280 et seq.			
New Hampshire	P §490-G:2 et seq. C §490-G:2 et seq.	C §490-H:1 et seq.				
New Jersey	P §2C:36A-1 Law Enforcement Assisted Addiction and Recovery Referral Programs §30:6c-11 et seq.		P §2C:43-23 et seq.			
New Mexico no statute located						
New York	P Criminal Procedure Law §216.05					
North Carolina	P §90-96 C §7A-793 et seq. §15A-1341				P §14-107.2	P Prostitution §14-204 C Substance abuse & mental illness §7A-272
North Dakota no statute located						
Ohio no statute located						
Oklahoma	P 63 §2-901 et seq. C 22 § 471 et seq.	C 22 §472			P 22 §111	P Property crimes 22 §991f-1.1
Oregon	P §430.450 et. seq.; §475.245 C §3.450	C §137.680	C §137.680		P §135.925	

Pennsylvania	P 35 §780-117 C 42 §916	C 42 §916				
Rhode Island	C §8-2-39.2					
South Carolina		C §14-31-10 et seq.	C §14-29-10 et seq.		P §17-22-710	
South Dakota no statute located						
Tennessee	C §16-22-101 et seq.		C §16-6-101 et seq.		P §40-3-203	
Texas	C §122.001 et seq.; §123.001 et seq.	C §125.001 et seq.	C §124.001 et seq.			C Public safety employees §129.001 et seq. P Human trafficking victims §126.001 et seq.
Utah	C §78a-5-201 et. seq.		C §78a-5-301			
Vermont no statute located						
Virginia	P §18.2-251 C §18.2-254.1			P §18.2-57.3		
Washington	P §10.05.010 et seq. C §2.30.010 et seq.	C §2.30.010 et seq. P §10.05.010 et seq.	C §2.30.010 et seq.	C §2.30.010 et seq.		C §2.30.010 et seq. Gambling crimes, community-specific needs, homeless defendants and on campus defendants.
West Virginia	C §62-15-1 et seq.				P §61-3-39m et seq.	
Wisconsin				P §971.37	P §971.41	

Wyoming	P §35-7-1037					
---------	-----------------	--	--	--	--	--

*Programs are authorized only for specific local jurisdictions.

NCSL's Criminal Justice Program is in Denver, Colorado, at 303-364-7700; or cj-info@ncsl.org

Statutes & bills may be edited or summarized; full text can be retrieved through: <http://www.ncsl.org/aboutus/ncslservice/state-legislative-websites-directory.aspx>

Information is provided for representative purposes; this may not be a complete list or analysis.

Westlaw was used to conduct this research.



NATIONAL CONFERENCE OF STATE LEGISLATURES

General Population Pretrial Diversion Programs

September 2017

Thirty-seven states authorize programs that are not population specific and address the needs of defendants more generally than the programs listed above. These laws generally designate who has authorization to create a diversion program or designates administrative authority over a program to a specific individual or office such as prosecuting attorneys, local courts, or other local governmental agency. State statute also generally provides guidance on which defendants are eligible for participation in the diversion program and often specifically excludes defendants charged with a particular crime, defendants with specified criminal histories, or cases where certain circumstances, like death or bodily injury, were a factor.

Alabama

Pretrial Diversion Programs: §12-17-226 et seq.

Authorization and/or Administration: District attorneys

Eligibility: Certain drug and property offenses, misdemeanors and violations at the discretion of the district attorney

Exclusions: Capitol offenses, class A felonies, abduction, kidnapping, certain sex and child pornography offenses, judicial proceedings offenses, perjury, and hate crimes. Offenses involving death, serious injury, a victim younger than 14 years old, bribery of a government or public official. Any offense where the defendant is a law enforcement, school or correctional officer, an active duty military member, a person over 65 years old, determined to be a public safety threat or a public official charged with offenses related to their position.

Municipal Pretrial Diversion Program: §12-14-90 et seq.

Authorization and/or Administration: Governing body of a municipality with supervision of the presiding judge

Eligibility: Municipal offenses

Exclusions: Traffic violations by persons with commercial driver's licenses.

Alaska

Suspended Entry of Judgment: §12.55.078

Authorization and/or Administration: Courts with consent of prosecuting attorney and defendant

Eligibility: Any defendant not specifically excluded

Exclusions: Felonies, homicide, specified assault offenses, stalking, kidnapping, custodial interference, human trafficking, specified sex offenses, robbery, extortion, coercion, arson, specified child pornography offenses, sex trafficking, and offenses involving use of a firearm. Defendants who have previously served a suspension of judgment unless the court makes written findings and those with a prior domestic violence conviction.

Arizona

Deferred Prosecution Programs: §11-361 et seq.

Authorization and/or Administration: Prosecuting Attorneys' Advisory Council

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants previously convicted of specified serious, dangerous or sex offenses. Defendants with three or more drug possession or paraphernalia convictions.

Pretrial Diversion Programs: §9-500.22

Authorization and/or Administration: Chief prosecuting officers of a city or town

Eligibility: Any defendant not specifically excluded

Exclusions: Offenses involving a deadly weapon or dangerous instrument.

Arkansas

Pre-Adjudication Probation: §5-4-901 et. seq.

Authorization and/or Administration: Judicial districts

Eligibility: Felony offenses upon approval of the court and prosecuting attorney

Exclusions: Offenses requiring registration as a sex offender or involving a victim under the age of 17 or 65 years or older or specified violent offenses.

California

Misdemeanor Diversion: Penal Code §1001.1 et seq.

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Misdemeanor offenses not specifically excluded

Exclusions: Defendants eligible for other diversion programs, driving under the influence, or driving under the influence resulting in injury.

Pretrial Diversion: Penal Code §1001.50 et seq.

Authorization and/or Administration: County boards of supervisors and the district attorney

Eligibility: Misdemeanor offenses not specifically excluded

Exclusions: Unclassified offenses prosecuted as misdemeanors under Penal Code §17(b)(5), misdemeanor driving offenses, driving under the influence or driving under the influence resulting in injury. Offenses involving use of force or violence (except assault and battery). Offenses that carry mandatory incarceration, where probation is prohibited or sex offender registration is required. Defendants with a felony conviction, with a misdemeanor conviction or have been diverted in the past five years, who have been diverted or who have ever had probation or parole revoked that resulted in unsuccessful completion of supervision.

Colorado

Pretrial Diversion: §18-1.3-101

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant not specifically excluded

Exclusions: Specified sex offenses. Offenses involving domestic violence or certain sex offenses unless the court makes a determination based on risk assessment and other factors that the defendant is eligible.

Deferred Sentencing of Defendant: §18-1.3-102

Authorization and/or Administration: Courts with the written consent of the defendant and the district attorney

Eligibility: Felony, misdemeanor, traffic and petty offenses

Exclusions: No statutory exclusions

Connecticut

Accelerated Pretrial Rehabilitation: §54-56e

Authorization and/or Administration: Courts and the State Court Support Services Division

Eligibility: Any non-serious crime or motor vehicle violation not specifically excluded

Exclusions: Class A or B felonies and class C felonies unless the defendant can show good cause. Defendants with specified prior convictions. Driving under the influence, 2nd degree manslaughter or 2nd degree assault involving a motor vehicle, enticing a minor, specified offenses related to: sexual assault, child pornography, family violence, drugs or paraphernalia possession, absentee ballot violations, or commercial vehicle violations. An offense that results in death or 2nd degree assault involving intentional striking on the head that results in serious injury.

Delaware

Probation Before Judgment: Title 11 §4218

Authorization and/or Administration: Courts with consent of prosecuting attorney & defendant

Eligibility: Defendants charged with a violation or misdemeanor not specifically excluded

Exclusions: Defendants currently serving a sentence of incarceration, probation, parole or early release. Defendants with a previous violent felony conviction, any nonviolent felony within the preceding 10 years, any misdemeanor offense within the preceding five years, have been admitted to probation before judgment for any offense within the preceding five years or those charged with an offense having been convicted of the same kind of offense in the preceding five years. Defendants charged with motor vehicle violations if the defendant holds a commercial driver's license.

Florida

Pretrial Intervention Program: §948.08

Authorization and/or Administration: Department of Community Corrections with approval of the state attorney, the victim and the court.

Eligibility: Any misdemeanor or 3rd degree felony provided the defendant does not have more than one prior nonviolent misdemeanor conviction.

Exclusions: No specific statutory exclusions unless the defendant is referred to the pretrial substance abuse education and treatment intervention program, the pretrial veterans' treatment intervention program or the pretrial mental health court program.

Georgia

Pretrial Release and Diversion Program: §42-3-70 et. seq.

Authorization and/or Administration: Department of Community Supervision with unanimous approval of county superior court judges

Eligibility: Defendants charged with felonies for which bond is permissible by law

Exclusions: No statutory exclusions

Pretrial Intervention and Diversion Program: §15-18-80 et. seq.

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant that meets the criteria developed by the prosecuting attorney

Exclusions: Excludes defendants charged with an offense that has a mandatory minimum sentence.

Hawaii

Deferred Acceptance of Plea: §853-1 et seq.

Authorization and/or Administration: Courts

Eligibility: Defendants charged with a felony, misdemeanor or petty misdemeanor not specifically excluded

Exclusions: Any offense for which probation is not an authorized sentence. Defendants previously convicted of a felony, including juvenile offenses and defendants previously charged with a felony or misdemeanor who were granted deferred acceptance of plea. Specified offenses that result in the killing or serious bodily injury of another or involve use of a firearm. Class A felonies, distribution of specified drugs to a minor, escape offenses, prison contraband offenses, bail jumping offenses, bribery offenses, witness/juror intimidation, jury tampering, prostitution offenses, abuse of a family or household member, sexual assault offenses, violation of a domestic assault protection order, child abuse offenses, enticement of a child offenses, falsifying reports, campaign finance offenses, and certain traffic offenses if the defendant holds a commercial driver's license.

Idaho

Suspension of Judgment/Withheld Judgment: §19-2601

Authorization and/or Administration: Courts

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with treason and murder.

Indiana

Withholding Prosecution: §33-39-1-8

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Defendants charged with a misdemeanor, a level 6 felony or a level 5 felony

Exclusions: Defendants charged with specified offenses related to driving under the influence or those who hold a commercial driver's license and are charged with specified offenses related to the federal Motor Carrier Safety Improvement Act.

Iowa

Deferred Judgment: §907.3

Authorization and/or Administration: Trial courts

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants previously convicted of a felony, granted a deferred judgment two or more times, or those granted deferred judgment for a felony within the preceding 5 years. Defendants charged with domestic abuse or assault and related protection order offenses if the defendant was previously granted a deferred judgment or sentence for a similar violation anywhere in the U.S. Defendants charged with specified methamphetamine offenses, certain driving under the influence offenses, operating a boat while intoxicated offenses that carry a mandatory minimum sentence, violations of no contact or protection orders, offenses requiring registration as a sex offender, certain homicide offenses related to driving under the influence, assault committed against a peace officer, lascivious acts with a child under 12 years of age and certain domestic assault offenses. Defendants who are a mandatory reporter of child abuse when the victim is under the age of 18 and charged with a forcible felony or sexual abuse. Defendants that are corporations.

Kansas

Diversion Agreement: §22-2907 et seq.

Authorization and/or Administration: District attorneys or under certain circumstances district courts pursuant to §20-342. See §22-2912.

Eligibility: Any defendant not specifically excluded provided the prosecuting attorney determines it would be in the best interests of justice and of benefit to the defendant and the community.

Exclusions: Class A or B felonies, off-grid offenses, severity level 1, 2, or 3 nondrug felonies or severity level 1 or 2 drug felonies. Defendants charged with driving under the influence offenses if the defendant previously participated in a diversion program, has a prior driving under the influence conviction or if the offense resulted in death or personal injury. Defendants charged with domestic violence if the defendant has participated in two or more diversion programs for domestic violence in the preceding 5 years.

Kentucky

Pretrial Diversion: §533.250

Authorization and/or Administration: Local chief judges & district attorneys with state supreme court approval

Eligibility: Defendants charged with class D felonies who have not within the preceding 10 years been convicted of a felony, been on probation or parole, or discharged for any felony sentence. Certain defendants charged with a class C drug felony pursuant to §533.251.

Exclusions: Defendants charged with offenses for which probation, parole or conditional discharge are prohibited. Defendants who have been granted pretrial diversion in the preceding five years. Defendants who have committed a sex crime.

Maryland

Probation Before Judgment: [Crim. Proc.] §6-220

Authorization and/or Administration: Courts

Eligibility: Any defendant not specifically excluded provided the court determines it would be in the best interests of the defendant and public welfare.

Exclusions: Excludes defendants charged with an offense who have been convicted of or placed on probation before judgment for the same offense within the last 10 years. Applies to the following offenses: driving under the influence or impairment of alcohol or drugs, homicide by vehicle or vessel while under the influence or impairment of alcohol, homicide by vehicle or vessel while impaired by drugs, homicide by vehicle or vessel while impaired by a controlled dangerous substance, and life-threatening injury by vehicle or vessel while under the influence of alcohol and related crimes.

Defendants charged with a second or subsequent controlled dangerous substance offense except for certain possession offenses when the defendant has only one prior conviction or diversion. 1st and 2nd degree rape, 1st, 2nd and 3rd degree sex offenses, 1st and 2nd degree attempted rape, continuing course of conduct against a child, sexual abuse of a minor for a crime involving a person under the age of 16. Defendants charged with a moving violation who hold a provisional license and have previously been placed on probation for the same offense.

Minnesota

Pretrial Diversion Program: §401.065

Authorization and/or Administration: County attorneys

Eligibility: Defendants charged with a nonperson felony, gross misdemeanor, or misdemeanor

Exclusions: Defendants who have previously participated in a diversion program

Mississippi

Pretrial Intervention Program: §99-15-105

Authorization and/or Administration: District attorneys with the consent of the circuit court judge

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with a violent crime defined in §97-3-2 or trafficking in a controlled substance

Missouri

Diversionary Programs: §217.777

Authorization and/or Administration: Department of Correction

Eligibility: No statutory eligibility specified. Instructs the corrections department via community corrections programs to promulgate rules and regulations for the operation of preventive or diversionary programs.

Exclusions: No statutory exclusions

Montana

Pretrial Diversion: §46-16-130

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant not specifically excluded

Exclusions: Specified driving under the influence offenses

Nebraska

Pretrial Diversion: §29-3601 et. seq.

Authorization and/or Administration: County and city attorneys with the concurrence of the county or city

Eligibility: Eligibility is to be determined by each program following consultation with criminal justice officials and program representatives.

Exclusions: No statutory exclusions

Nevada

Preprosecution Diversion Program: AB 470 (2017)

Authorization and/or Administration: Courts

Eligibility: Misdemeanors

Exclusions: Defendants charged with a violent crime defined in §200.408, vehicular manslaughter, driving under the influence or a minor traffic offense. Defendants previously convicted of any crime except a minor traffic offense. Defendants previously ordered to complete a preprosecution diversion program.

New Jersey

Pretrial Intervention Program: Supervisory Treatment: §2C:43-12 et. seq.

Authorization and/or Administration: Participation controlled by designated judges, prosecutors and program directors. Guidelines developed by the attorney general and supervisory treatment programs are approved by the Supreme Court.

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants who have previously participated in specified statutory diversion programs. Presumption of exclusion for a defendant who was a public officer or employee charged with an offense related to their position, or a defendant charged with domestic violence and the offense was committed while in violation of a restraining order or involved violence or threat of violence.

Conditional Dismissal Program: §2C:43-13.1 et seq.

Authorization and/or Administration: Courts

Eligibility: Petty disorderly offenses or disorderly persons offenses

Exclusions: Any disorderly persons or petty disorderly persons offenses related to drugs or paraphernalia. Defendants with a prior conviction for a petty disorderly offense or a disorderly persons offense. Defendants who have previously participated in specified statutory diversion programs. Defendants charged with a crime related to organized crime, continuing criminal business or enterprise, breach of public trust by a public officer or employee, domestic violence, driving under the influence, or animal cruelty. Crimes where the victim is an elderly, disabled, or minor person.

New Mexico

Preprosecution Diversion: §31-16A-1 et seq.

Authorization and/or Administration: District attorneys

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with a violent crime except for domestic disputes not involving a minor or any offense that involves substantial sale or possession of controlled substances. Defendants previously convicted of a felony violent crime or within the preceding 10 years any felony conviction. Defendants who previously had probation revoked or were unsatisfactorily discharged or within the preceding 10 years have participated in a similar diversion program.

North Carolina

Deferred Prosecution & Conditional Discharge: §15A-1341

Authorization and/or Administration: Prosecuting attorneys with court approval

Eligibility: Class H or I felonies and misdemeanors

Exclusions: Defendants with prior conviction for a felony or misdemeanor involving moral turpitude and those previously placed on probation.

Ohio

Pretrial Diversion: §2935.36

Authorization and/or Administration: Prosecuting attorneys with approval by presiding judge

Eligibility: Any defendant not specifically excluded

Exclusions: Excludes repeat or dangerous offenders. Defendants charged with a violent offense, driving under the influence offenses, drug offenses, controlled substances offenses, or offenses committed while operating a commercial vehicle. Defendants charged with the following unless the prosecuting attorney makes specific findings: aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, unlawful sexual contact with a minor, gross sexual imposition, compelling prostitution, promoting prostitution, dissemination of matter harmful to juveniles, pandering obscenity, compelling acceptance of objectionable materials, safecracking, abortion without informed consent, abortion manslaughter, endangering children, bribery, perjury, tampering with evidence, obstructing justice, unlawful transactions in weapons, kidnapping, abduction and interference with custody.

Intervention in Lieu of Conviction: §2951.041

Authorization and/or Administration: Courts

Eligibility: Defendants charged with theft, aggravated theft, unauthorized use of a vehicle, passing bad checks, misuse of credit cards, forgery/forging identification cards, nonsupport of dependents, or other offense when the court has reason to believe that one of the following was a factor leading to the criminal behavior: drug or alcohol use, the defendant had a mental illness at the time of committing the offense, the defendant has an intellectual disability or the defendant was a victim of human trafficking.

Exclusions: Defendants who previously pleaded guilty to or were convicted of a felony offense of violence. Defendants who previously pleaded guilty to or were convicted of a nonviolent felony unless the prosecutor recommends participation. Defendants who have previously been through intervention in lieu of conviction or similar program or those charged with a felony that doesn't qualify for a community control sanction sentence. Defendants charged with a 1st, 2nd, or 3rd degree felony, violent offenses, specified vehicular homicide offenses, specified vehicular assault offenses, driving under the influence

offenses, corrupting another with drugs, manufacture of a controlled substance, cultivation of marihuana, illegal administration or distribution of anabolic steroids, 1st, 2nd, 3rd or 4th degree felony drug trafficking, 1st, 2nd, or 3rd degree felony drug possession, or tampering with drugs resulting in physical harm. Any offense that would result in the defendant being disqualified from holding a CDL or that carries a mandatory period of incarceration. Defendants charged with a crime that involves a victim over the age of 65, permanently disabled, under the age of 13, or who is a peace officer engaged in their official duties.

Oklahoma

Deferred Prosecution: 22 §305.1

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant provided it is determined that diversion is in the best interests of the defendant and not contrary to the public interest. Instructs district attorney to adopt guidelines for admission into the program. Specifies priority be given to first time defendants and those charged with nonviolent crimes.

Exclusions: No statutory exclusions

Deferred Sentence: 22 §991c

Authorization and/or Administration: Courts

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants who have previously been convicted of a felony offense or who have received a deferred judgment for a felony offense within the preceding 10 years unless waived by the court and district attorney. Defendants charged with an offense that would require registration as a sex offender.

Oregon

Diversion Agreement: §135.881 et. seq.

Authorization and/or Administration: District attorneys

Eligibility: Any defendant not specifically excluded provided the district attorney determines that diversion is in the best interests of justice and of benefit to the defendant and the community.

Exclusions: Defendants charged with driving under the influence, specified sex offenses or when the crime involves physical injury to another person. Defendants who have previously participated in diversion.

Provides an exception to the requirement that the offense not involve physical injury by allowing service members to participate if the offense does not involve serious physical injury. Excludes service members charged with a class A or B felony, 1st and 2nd degree rape, 1st and 2nd degree sodomy, 1st and 2nd degree unlawful sexual penetration, 1st degree sexual abuse, or if the offense involved domestic violence committed when a protective order was in place.

South Carolina

Pretrial Intervention: §17-22-10 et seq.

Authorization and/or Administration: Circuit solicitors with oversight from the South Carolina Commission on Prosecution Coordination

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants previously accepted into an intervention program. Defendants charged with blackmail, driving under the influence, traffic-related offenses punishable only by fine or loss of points, certain fish and game offenses, crimes of violence defined in §16-1-60 or an offense involving domestic violence if the offender has been previously convicted of a domestic violence offense.

Tennessee

Pretrial Diversion: §40-15-101 et. seq.

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with a felony or driving under the influence, a misdemeanor sexual offense, conspiracy to commit any class E felony sexual offense, criminal attempt to commit any class E felony sexual offense, solicitation to commit any class D or E felony sexual offense, child abuse or child neglect, domestic assault, or any misdemeanor committed by specific public officials or employees during the course of their duties. Defendants previously granted judicial or pretrial diversion or previously convicted of a class A or B misdemeanor or any felony.

Judicial Diversion: §40-15-313 et seq.

Authorization and/or Administration: Courts

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with a sex offense, knowing abuse, neglect, or exploitation, knowing physical abuse or gross neglect of an impaired adult, financial exploitation of elderly or vulnerable adults, driving under the influence, vehicular assault, or class A or B felonies. Defendants with prior convictions for a felony or a class A misdemeanor and served a period of incarceration for that conviction. Defendants who are specified public officials accused of an offense committed in their official capacity. Defendants who have previously been granted judicial diversion or pretrial diversion.

Texas

Deferred Adjudication Community Supervision: [Crim. Proc.] Code §42A.101

Authorization and/or Administration: Courts

Eligibility: Any defendant not specifically excluded

Exclusions: Specified sex offenses and murder unless the court makes specific findings. Defendants charged with specified driving under the influence offenses, specified drug free zone crimes if the defendant has previously been convicted of a similar offense, specified sex offenses if the defendant was previously convicted and sentenced to community supervision for a similar offense, or specified sex offenses that are habitual or continuous.

Utah

Diversion Agreement: §77-2-5 et. seq.

Authorization and/or Administration: Prosecuting attorneys with approval of the court

Eligibility: Any defendant not specifically excluded

Exclusions: Defendants charged with a capital felony, a first degree felony, sex offenses where the victim is under the age of 14, any traffic offense involving alcohol or drugs, any felony involving use of a motor vehicle during commission of the crime, driving a vehicle or a commercial vehicle on a revoked or suspended license, any crime involving operation of a commercial vehicle in a negligent manner causing death, or domestic violence.

Vermont

Adult Court Diversion Program: 3 §164

Authorization and/or Administration: Attorney general

Eligibility: Defendants charged with a first or second misdemeanor or a first nonviolent felony.

Exclusions: Defendants charged with a listed crime as defined in 13 §5301.

West Virginia

Pretrial Diversion Agreements: §61-11-22

Authorization and/or Administration: Prosecuting attorneys

Eligibility: Any defendant not specifically excluded provided the prosecuting attorney determines it would be in the best interests of justice.

Exclusions: Defendants charged with driving under the influence or specified offenses where the victim is a family or household member. Defendants charged with domestic violence unless there is a pretrial diversion program established as part of community corrections programming.

Deferred Adjudication: §61-11-22a

Authorization and/or Administration: Circuit or magistrate courts

Eligibility: Defendants charged with a misdemeanor or felony

Exclusions: No statutory exclusions

Wisconsin

Deferred Prosecution Program: §971.39

Authorization and/or Administration: District attorneys in counties with a population of less than 100,000

Eligibility: Defendants charged with a crime not specifically excluded

Exclusions: Defendants charged with specified driving under the influence offenses including those resulting in death or injury.

Volunteers in Probation Program: §971.40; §973.11

Authorization and/or Administration: Chief Judge of judicial administrative districts

Eligibility: Defendants charged with one or more misdemeanors

Exclusions: Defendants charged with a misdemeanor for which a period of incarceration is mandatory.

Wyoming

Deferred Prosecution: §7-13-301

Authorization and/or Administration: Courts with the consent of the defendant and the state

Eligibility: Defendants charged with any felony or misdemeanor not specifically excluded

Exclusions: Defendants previously convicted of any felony. Defendants convicted of a second or subsequent violation of domestic assault, domestic battery, or driving under the influence or any similar provisions of law. Defendants charged with murder, sexual assault in the first or second degree, aggravated assault and battery, and arson in the first or second degree.

Source: National Conference of State Legislatures, 2017



BAIL FORFEITURE PROCEDURES (2013)

When a defendant released on cash bail fails to appear in court, or otherwise violates a condition of their bail, the court can declare the bail bond forfeited. State laws often require that notice of the forfeiture be sent to the defendant and to their surety. Once the surety is notified, they can produce the defendant, provide the court with an excuse deemed acceptable for the defendant's non-appearance, pay the forfeited bond, or face the consequences of not paying it. Laws in at least 35 states provide specific time frames, or grace periods, between (a) when the surety is notified the defendant has defaulted and (b) when they must respond or judgment on the forfeited bond becomes final.

Defenses to Forfeiture

State laws give sureties the opportunity to either defend the non-appearance of the defendant or to subsequently produce them to the court. Every state provides for some measure of judicial discretion in determining whether an excuse for non-appearance is reasonable. Some states, through statute, provide heightened guidance for courts. For example, California, Indiana and Montana set the forfeiture aside if the defendant has died and Massachusetts allows the same if their failure to appear is caused by an "act of God." Other commonly enumerated reasons either requiring or allowing the court to set aside forfeiture include failure to appear by reason of physical or mental incapacity, confinement in a detention facility and deportation.

Remission of Paid Forfeiture

Even after a surety has paid a judgment on a forfeited bond, courts can remit some or all of the funds to the surety under certain conditions. For example, in Alabama if a defendant is "substantially procured" by the surety and the "administration of justice" has not been impacted, the court may pay some or all of the fee back to the surety. The defendant must have been returned within six months of the payment judgment of forfeiture. In South Dakota, the paid bond can be remitted if "justice does not require the enforcement of the forfeiture." Many states broadly authorize or leave remission to the discretion of the court.

Suspension of Ability to Act as Surety

At least 21 state laws enable officials to prevent sureties from executing future bonds if they have failed to pay the final judgment of forfeiture on previous bonds. In Arkansas, for example, once a bail bonding company's pending debts exceed \$100,000, or the amount of their posted security deposit, their license is suspended. Connecticut's code enables the state Commissioner of Emergency Services and Public Protection to suspend any license of a professional bondsman if they fail to pay a forfeited bond. Many other states enumerate failure to pay forfeiture as a reason that the license for a bail agent or insurer may be suspended.

The chart below provides more information on state statutory regulations of bail forfeiture procedures.

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
Alabama	28 days			
§ 15-13-132			X	
§ 15-13-139				
§ 15-13-141				X

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
Alaska R RCRP Rule 41	30 days	If failure to appear was not willful.	X	
Arizona Statute not located				
Arkansas § 16-84-201	120 days			X See also § 17-19-112& A.C.A. § 16-84-207
§ 16-84-203		Absences due to physical or mental disability; detained elsewhere.		
California Penal Code § 1305	30 Days	Death, illness, insanity; detained elsewhere.		
Colorado § 16-4-112	14 Days	Detained elsewhere	X	X
Connecticut § 54-65a § 54-74 § 29-147a	6 Months			
			X	
				X
Delaware Sup.Ct.Rules, Rule 32			X	
Florida § 903.26 § 903.28 § 648.45	60 Days	Deemed insane and confined in an institution or hospital; detained elsewhere.		
			X	
				X
Georgia § 17-6-70 § 17-6-72	72 hours			
		Mental or physical disability; detained elsewhere; deported.	X	

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
Hawaii § 804-51	30 Days			
Idaho §19-2915 § 19–2918	180 Days			
			X	
Illinois	NO COMMERCIAL BONDSMEN			
Indiana §27-10-2-12	365 days	Death or illness; detained elsewhere.		X
Iowa § 811.6	10 Days		X	
Kansas §22-2807	60 Days	Detained elsewhere	X	
Kentucky	NO COMMERCIAL BONDSMEN			
Louisiana § 15:85	210 days for under \$50,000; 400 days for bonds over \$50,000			X
Maine Rules of Criminal Procedure, Rule 46	30 Days		X	
Maryland MD Rules, Rule 4-217	90 Days	Detained elsewhere	X	X
Massachusetts M.G.L.A. 276 § 70 M.G.L.A. 276 § 69 M.G.L.A. 276 § 61B		An act of God; an act of the government of the United States, of any state or by sentence of law.		
			X	
				X
Michigan § 765.15	45 Days		X	

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
Minnesota Gen.R.Prac., Rule 702 § 629.59	90 Days			X
			X	
Mississippi § 99–5–25	90 Days	Detained elsewhere; is hospitalized or in a recognized drug rehabilitation program; has been placed in a witness protection program, or any other reason justifiable to the court.	X	X
Missouri §374.763 § 374.770 § 544.640 § 374.755	6 months			
		Detained elsewhere		
			X	
				X
Montana §46-9-503	90 Days	Death; detained elsewhere; has been placed in court-ordered treatment in a foreign jurisdiction.		
Nebraska § 29-1109			X	
Nevada §178.508 §178.509 §178.516	180 days			
		Death, illness, insanity; detained elsewhere; deported. See also N.R.S. 178.512.		
			X	
New Hampshire § 597:30		An act of God or of the government of the state or		

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
§ 598-A:2		of the United States, or by sentence of law.		
				X
New Jersey §3:26-6 §17:31-11	75 Days		X	
				X
New Mexico § 31-3-2	10 days		X	X
New York CPL § 540.10 CPL § 540.30	45days			
			X	
North Carolina § 15A-544.6 § 15A-544.5 § 15A-544.8	150 Days			
		Death; detained elsewhere.		
			X	
North Dakota §26.1-26.6-09 §26.1-26.6-05			X	
				X
Ohio § 2937.36	Not less than 45 nor more than 60 days			
§ 2937.39			X	
§ 3905.14				X
Oklahoma 59 Okl.St.Ann. § 1332 59 Okl.St.Ann. § 1310	90 days		X	
				X
Oregon	NO COMMERCIAL BONDSMEN			
Pennsylvania Pa.R.Crim.P. Rule 536 42 Pa.C.S.A. § 5746	20 days		X	
				X

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
Rhode Island Super. R. Crim. P., Rule 46			X	
South Carolina § 17-15-180			X	
South Dakota § 23A-43-24. (Rule 46(e)(4))			X	
Tennessee § 40-11-139 § 40-11-201 § 40-11-204 § 40-11-306	180 days			
		Mental or physical disability; detained elsewhere.		
			X See also T. C. A. § 40- 11-205	
				X
Texas C.C.P. Art. 22.13 C.C.P. Art. 22.16		Death; sickness or some uncontrollable circumstance; detained elsewhere		
			X	
Utah § 31A-35-504 § 77-20b-102 § 77-20b-104				X
	6 months			
		Death		
Vermont 13 V.S.A. § 7560a	10 days			
Virginia § 19.2-143	60 days	Detained elsewhere	X	
Washington §10.19.100 §10.19.140	60 days			
			X	
	10 Days			

STATE & STATUTE	GRACE PERIODS	STATUTORY GUIDANCE TO DEFENSES AGAINST FINAL JUDGMENT	REMISSION PROCESS ADDRESSED IN STATUTE	SUSPENSION OF BONDING AUTHORITY FOR UNPAID FORFEITURE
West Virginia § 62-1C-9 § 62-1C-11			X	
Wisconsin	NO COMMERICAL BONDSMAN			
Wyoming No statute located				
50 STATE CHART BAIL FORFEITURE PROCEDURES				

Source: National Conference of State Legislatures, 2013.

Court rule is not included in this chart unless a statute authorizes or is superseded by the rules and case law is not included.