

Appearance Bonds, Secured Appearance Bonds, Bail & Conditions of Release

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Definition: Appearance Bond.

- * See 13 V.S.A. 7576
- * *"**Appearance bond** means a written agreement which allows a person charged with a criminal offense to be released if the person pledges to pay the court a specified amount in the event the person fails to appear at a court proceeding."*
- * **Translation:** no upfront payment. This is a promise to pay later in the event of a failure to appear.

Definitions: Secured Appearance Bond

- * See 13 V.S.A. 7576
- * (6) "**Secured appearance bond**" means a written agreement which allows a person charged with a criminal offense to be released if:
 - * (A) the person pledges to pay the court a specified amount in the event that the person fails to appear at a court proceeding; and
 - * (B) a portion of the bond is paid to the court prior to release.

Definitions: Secured Appearance Bond (cont'd)

- * See 13 V.S.A. 7576
- * **Translation:** for a total secured appearance bond of \$2,000.00:
 - * pay \$200 to get released; and
 - * promise to pay \$1,800 if you fail to appear.
- * 10% down is the customary deposit

Definitions: Bail

- * See 13 V.S.A. 7576
- * "**Bail**" means any security, including cash, pledged to the court to ensure that a person charged with a criminal offense will appear at future court proceedings.
- * **Translation:** "bail" must be paid upfront in cash or solvent surety.

How is “bail” paid?

- * Examples of how the “cash or solvent surety” bail requirement may be satisfied:
 - * The face value of the bail is paid in cash or cashier’s check.
 - * A bail bondsman posts a “solvent surety” for the face value of the bail on behalf of the defendant for a fee.
 - * A mortgage is executed in favor of the court for the face value of the bail.

Question Re: the \$200 cap

- * Does the committee intend to:
 - * (A) Cap unsecured **appearance bonds** at \$200?
 - * (B) Cap the **deposit** on secured appearance bonds at \$200?
 - * (C) Cap **secured appearance bonds** at \$200?
 - * (D) Cap **bail** at \$200?
 - * (E) All of the above?
 - * (F) None of the above?
 - * (G) B & D only?

When does the \$200 cap apply?

- * Does the \$200 cap apply:
 - * (A) In all circumstances involving qualifying misdemeanors?
 - * (B) In all circumstances in qualifying misdemeanors except when the defendant has posted \$200 and subsequently failed to appear?
 - * (C) Only at arraignment?
 - * (D) None of the above.

Observations

- * The money-based bail system merits **replacement** by a more equitable system.
- * Simply deleting the bail system is not a replacement.
- * The challenge is to devise a better system to ensure that individuals appear for court, recognizing that justice delayed is justice denied.

Envisioning a post-bail system

- * **Use GPS monitoring** for individuals who pose:
 - * Risk of flight
 - * Risk of non-appearance
- * Based upon validated risk assessment tools.
- * Administered by a neutral entity.
- * Do not tie GPS eligibility to a pre-approved residence (this is why “home detention” fails).

Envisioning a post-bail system

- * **Develop statewide next-generation community GPS monitoring.**
- * **Learn the lessons from existing GPS programs:**
 - * **Home detention:** *problem* -- excludes a large population due to stable residence requirement.
 - * **7554d Windham pilot program:** *problem* -- significant setup costs spread across too small a population (2 counties; eligibility requirements)

Envisioning a post-bail system

- * **Lessons learned for GPS:**

- * **Keep the rules simple.** Stay in Vermont. Keep your GPS unit charged. Don't damage your GPS unit. Attend your court dates. *That's it.*

- * **Spread fixed costs across a broad population:** Every defendant is eligible except those “held without bail” for a violent crime (7553a; 7553). Have one centralized dispatch center.

Envisioning a post-bail system

- * **Lessons learned for GPS (cont'd):**
 - * **Keep the rules simple. For real. Please.**
 - * Don't try to turn GPS monitoring into a social work program where we are monitoring defendants' participation in counseling, treatment, etc. Let's focus on the simple task of securing their appearance in court without pretrial detention.

Envisioning a post-bail system

- * **Continue the push to secure voluntary appearance in court:**
 - * Telephone and SMS reminders.
 - * Regular contact w/ pretrial service coordinator or other neutral entity.

Recommendations

- * **Replace** the bail system with something better.
- * Do it **incrementally**.
- * Use the **vocabulary** found in statute at 13 V.S.A . 7576 to describe what you mean.
- * Do not limit the court's ability to address **dangerousness** through release conditions in 13 VSA 7554(a)(2).

Recommendations (cont'd)

- * **Replace** the bail system with something better.
- * Do it **incrementally**.
- * Use the **vocabulary** found in statute at 13 V.S.A . 7576 to describe what you mean.
- * Do not limit the court's ability to address **dangerousness** through release conditions in 13 VSA 7554(a)(2).

Recommendations (cont'd)

- * On the topic of **dangerousness**, please keep in mind that individuals “held without bail” under 13 VSA 7553 and 7553a are kept in prison pretrial to protect the public.
- * Please keep in mind that **conditions of release under 7554(a)(2) exist to protect the public** and should not be the subject of bail reform (bail being a tool to secure appearance).

Questions?

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