

## Constitutional right to bail

Right to bail guaranteed by Vermont Constitution Ch. II, § 40.

Bail may be withheld only in the following circumstances:

(1) The defendant is charged with an offense for which the punishment is death or life imprisonment, and the evidence of guilt is great.

(2) The defendant is charged with a felony involving an act of violence against another person, the evidence of guilt is great, and the court finds by clear and convincing evidence that the person's release poses a substantial threat of physical violence to any person and that no conditions of release will reasonably prevent the physical violence.

## Statutory regulation of pre-trial release

Unless, person may be held without bail (see above), the person shall be released on personal recognizance or upon execution of an appearance bond in an amount that a judicial officer determines will reasonably assure the person's appearance as required.

Factors considered as to risk of nonappearance include the seriousness of the offense charged and the number of offenses charged.

If the judicial officer determines that release on recognizance or bond will not reasonably assure appearance, he or she may impose conditions in lieu of or in addition to the personal recognizance or bond. Conditions may include the following, but must be the least restrictive which will reasonably assure appearance:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him or her.

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release.

(3) Require the person to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(4) Require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the person as required.

(5) Require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(6) Impose any other condition found reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

If the judicial officer determines that conditions of release imposed to assure appearance will not reasonably protect the public, he or she may impose additional conditions. Conditions may include the following, but must be the least restrictive which will reasonably protect the public:

(1), (2) and (3) as above.

(4) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(5) If the person is a state, county, or municipal officer charged with violating section 2537 of this title, the court may suspend the officer's duties in whole or in part, if the court finds that it is necessary to protect the public.

A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

A judicial officer shall consider following factors in determining which conditions to impose:

- Nature and circumstances of the offense charged
- Weight of the evidence against the defendant.
- Defendant's family ties, employment, financial resources, character, mental condition, community connections, and conviction record.
- Defendant's record of appearance at court proceedings.

A judicial officer shall include any conditions of the release on the order and advise the defendant that a violation of the conditions will result in the issuance of an arrest warrant.

Defendant is entitled to review of bail conditions upon application. Judicial office must state in writing or orally on the record the reasons for continuing the conditions imposed.

Judicial officer may amend the conditions at any time.

Bond or bail may be forfeited if failure to appear. Bond continues through sentencing if bail is continued after adjudication.