

QUESTIONS REGARDING BAIL/BOND.

How does a person arrested know what their bail amount is?

Q. Arrested w/o warrant:

A. This happens when the police catch someone in the act or they arrest and detain someone for a maximum of 48 hours. Once charges are confirmed a bail amount is set and confirmed by a judge. The defendant is then told the charges and amount of the bail, and then given the opportunity to use the phone.

Q. Is bail set after judge determines probable cause to charge within 48 hour investigation?

A. Yes, the police tell defendant the charge and bail amount.

Q. Sometimes do they misinform all parties?

A. Certainty of bail amount occurs at court.

Q. When arrested with warrant. Does the arresting officer tell defendant at time of arrest? At Booking?

A. Usually both- there is very little confusion in this instance.

Q. Do bond companies contact defendants before they are arrested if there is a warrant?

A. We send mailers to addresses on record from court files and from the HPD booking log. This means sometimes defendants have a head's up on the grand jury or info charging warrant. Many times law enforcement will telephone defendant to tell them but other times law enforcement just show up at the address listed on the warrant.

Once a person is in custody:

Q. We know defendant is supposed to be given opportunity to call attorney, is defendant also given opportunity to call bond company? To call family member to see about posting bail?

A. Phone calls at initial arrest are usually not an issue. Much depends on condition of defendant and demeanor at time of booking. As a rule, law

enforcement would rather a person bail out to avoid housing and transport. But once at OCCC that story changes.

Where & when may bail be posted?

Q. May bail be posted after hours and on weekends?

A. Police accept bail. This is by long tradition. As Judge Won Bae Chang pointed out to us, only those persons setting bail may accept bail. This means the police can really only accept bail on bails they set and this means misdemeanors and petty misdemeanors. The long tradition is that police like accepting bail and do so on their own without the court objecting and they transport the bail to the court the next day. You see HPD at the clerk's window every day. Once transported from HPD, the DPS will only accept bail bonds filed at the courthouse. So once the courts close, you must wait till they open to post bail.

Q. Is there any difference to WHEN bail may be posted on the neighbor isles?

A. Only Big Island allows 24/7 bail at DPS. Police accept bail after hours for DPS., and that used to happen on Oahu but then HPD decided they would accept bail only for those persons in their custody.

Q. If someone wants to post bail without going through a bond company (such as misdemeanor cases), WHERE do they go?

A. Sheriffs and Police accept all bail for those persons in their custody but Big Island is 24/7. The district courts also accept bail for those persons in DPS custody. Again, Big Island police accept all bail.

Q. WHERE on Oahu? WHERE on the neighbor isles?

A. File cash bail for those person at OCCC at the court issuing the bail. The most challenging scenario is when a detainee has left court and is already at OCCC. In this scenario, district court will only accept bail the day of the first appearance. After transport to OCCC district court will no longer accept bail for rural courts like Ewa or Kapolei. Thusly, family must 1) get OCCC to tell them the right court then 2) go to that court to pay the money then 3) go back to OCCC with the bail receipt.

Q. Does person using a bail bond company go to the bond company AND have to go somewhere else?

A. Bond companies give a choice to clients and ask the person paying for the bail bond if they want to go to facility to pick up the defendant. This means do you want to go to OCCC and wait – sometimes ½ day or do you want the bond agent to deliver the bond and then let the defendant make their own way home. Most of our customers wait it out at OCCC. Same at HPD, but HPD requires a licensed bail agent to be present and this means the bail agent must deliver the release document.

What does bail bond cost?

Q. Does everyone charge 10%?

A. Bail Bond rates vary by bond amount and time of day and number of bonds issued. Generally 5% to 15% as stated in the Hawaii Revised Statutes. HRS-804-62.

Q. We've heard that some companies are charging 5% up front and more later?

A. 5% down with payments is more common due in part to bond sizes. Few of our customers can afford more than ½ down. Competition as sureties push agents to sell bonds means financing of premium payments. Sometime special circumstances discounts are given.

Q. When bail is posted, how does Defendant know his next court date?

Example in Felony case: Def arrested w/o warrant on Monday, judge determines probable cause after 48 hours (Wednesday) & Def is charged, makes initial court appearance on Thursday, preliminary hearing is set for the following Monday.

If Def bails out during this process (e.g. before Prelim), how does Defendant know when to appear in court next?

A. In this instance the judge would have told defendant in open court when the next court date was. Or the bail agent should tell the defendant after the computer records (ecourt kokua or hooiki) are been updated.

Q. What advice is defendant given about finding out about court dates, such as Arraignment and Plea?

A. Bail agents do their best to inform clients of their initial court date and after that it is up to the defendant to know their own court date. This means their attorney must tell the defendant the court date. Sometimes the court will tell the defendant the court date in open court. We call our clients for A/P dates at circuit court. After much effort Judge Perkins directed criminal assignment clerks to deliver the A/P calendar to document clerk where public can make a copy.

Q. What happens when bail is surrendered?

What is the process that a bail company goes through to surrender a bond?

A. When the person is already in custody the bondsperson files a bail surrender document with HPD or the courts. HPD will decide if they will book the defendant on the surrender or not. At OCCC bondsperson files the surrender document at the court house, and then delivers a copy to OCCC.

How does defendant's attorney learn that bail has been surrendered, if you know?

A. The defendant's attorney is listed on the bond surrender document and should receive a copy at time of filing. We put a filed copy into the attorney folder at the court.

Q. What happens when a case is dismissed and then recharged?

Is defendant charged a new bond fee at the 10% rate?

A. More money or a free 2nd bond depends on circumstance and time involved. If a defendant is out on bail two years we will charge another fee because of the lengthy time out on bail. If the case is dismissed and recharged later, often times we offer a special deal to limit the sting of proceeding a second time on a single case. Many times we will charge 1/2 the previous rate as an accommodation. If dismissed and recharged within 90 days, the bond is normally free, because of the short time-span; if it under 90 days, in our view, it almost identical to a simple transfer from district to circuit court; thusly we do not charge an additional fee.

Do some companies only charge a fee to "transfer" bail from the old case to the new case?

A. Transfer fee must mean the charge needed to file and deliver another bond. This happens frequently when a bond filed at district court is not transferred at indictment. This happens when new charges are added thus modifying the initial risk on the bond. When the new charges are not "incidental" to the underlying, for instance attempted murder goes to murder or a gun charge is added, the risk factors are modified. In most cases A-1 Bail Bonds re-files for free. However, if the bail is increased, we charge a fee only on the increased bail amount, which can also be understood as the "difference" in bail.

One scenario an attorney had questions about:

Def was at court for a hearing requesting Supervised Release in Cr. No. 1.

Def & counsel did not know about a second case that State had charged as Cr. No. 2. (Both incidents happened before the charge in Cr. No. 1.)

Judge was going to grant SR in Cr. No. 1 until judge learned that Cr. No. 2 was now pending, so Def was denied SR in Cr. No. 1.

Sheriff was present at court to arrest Def for Cr. No. 2.

Since Def remained in custody after hearing, attorney was not clear about what happened? (We know Def was "booked" because Def was later arraigned in Cr. No. 2 & we understand that Def must be booked to make it onto the Arraignment calendar.)

Attorney wondered if Defendant was "arrested" AND "booked" in Cr. No. 2?

A. This is the most difficult question as there are many variables. Bail bonds do not generally stand alone. In other words when more charges are added and bonds are aggregated or combined this changes the risk and this concept is the same for S/R. The judge must have all relevant matters in front of the court to determine if release is appropriate.

As to Sheriff arrest and the need for booking for A/P this is likely true but we have clients set for arraignment that must be booked after arraignment, so it can go both ways. Most commonly, if a defendant books AFTER A/P, it's because the A/P court date in circuit court was set by the district court before it was bound over. So it is common for bookings to occur before or after A/P.