

**Subject** Bail  
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**Date** June 12, 2020

## Overview

The United States Constitution, Minnesota Constitution, state statutes, and the Minnesota Rules of Criminal Procedure govern the use of bail for individuals accused of committing a crime.

Both the U.S. Constitution and Minnesota Constitution prohibit the use of excessive bail. Minnesota's Bill of Rights also guarantees the right to bail, saying: "All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great." As Minnesota no longer has capital punishment, the constitution guarantees the right to bail in all cases.

Statutes establish maximum and minimum amounts of bail for offenses, and include notification requirements for victims of alleged crimes. Court rules establish procedural requirements including when hearings must be held and what factors judges must consider when setting bail or other conditions of release.

A court may (1) release a defendant on the defendant's "personal recognizance," which means that the defendant is released without bail or other conditions; (2) grant a conditional release under which the defendant must comply with certain conditions; or (3) require the defendant to post some amount of bail before release. If the court orders that the defendant may be released without bail on certain conditions, the state constitution requires that the court set an alternative bail that the defendant can post for release without conditions.

This bill requires the court to release a defendant charged with a misdemeanor offense, other than domestic assault or certain driving while impaired violations, on the defendant's personal recognizance unless the court determines that there is a substantial likelihood that the defendant will not appear at future court appearances. If the court makes that finding, then the court must impose the

least restrictive means to assure that the defendant returns to court and cannot impose a financial condition that results in the detention of the defendant.

## Summary

Section	Description
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1	<b>Providing release on bail; commitment.</b>
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Establishes limits on the use of financial conditions of release in most misdemeanor cases.

**Subd. 1. Pretrial release.** Provides that Rule 6.02 of the Rules of Criminal Procedure and this section control the pretrial release of a defendant, and states that this section takes precedence over any conflict with court rules.

**Subd. 2. Release of a person charged with a misdemeanor offense.** Requires that a defendant charged with a misdemeanor offense, other than a domestic assault-related offense or certain DWI offenses, must be released on the defendant's personal recognizance unless the court determines that there is a substantial likelihood that the defendant will not appear at future court proceedings or the defendant poses a threat to the victim's safety. Requires a court that makes such a determination to set the least restrictive conditions of release that will reasonably assure the defendant's return. Prohibits the court from imposing a financial condition of release that results in the pretrial detention of the defendant, using similar language to federal law (18 U.S.C. section 3142, paragraph (c), clause (2)). Establishes a presumption that the court imposed a financial condition that results in pretrial detention if a defendant remains in custody for 48 hours following a bail hearing. Establishes an exception for domestic violence related offenses and certain DWI offenses. Provides that, if a defendant released under this subdivision fails to appear at a required court hearing, the court must issue a summons or warrant consistent with the Rules of Criminal Procedure.

**Subd. 3. Presumption of release on personal recognizance.** Retains the current requirements in setting bail which appear in court rules for all offenses not covered under subdivision 2.

**Subd. 4. Money bail; disposition.** Adds a subdivision title to existing law.



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