



PROFESSIONAL BAIL AGENTS OF THE UNITED STATES™



FACTS REGARDING SURETY BAIL

Surety bail has had a long and historic partnership in the criminal justice system. The purpose of bail is to ensure the appearance of the defendant in court. Surety bail has done this for generations with an astounding record of reliability and accountability at no cost to the taxpayer. Bail agents track and monitor defendants to ensure they appear in court and receive their sentences. Bail agents and the insurance company backing each bond are financially responsible for defendants released on surety bail. It is the only form of release that ensures appearance.

FACTS REGARDING SURETY BAIL

A bail bond is a binding contract between the defendant, the bail agent and insurance company; it is presented to the court financially guaranteeing the appearance of the defendant.

The amount of bail is set by the court or bail schedule and is based on the offense and factors such as the defendant's criminal history, failures to appear and ties to the community.

The non-refundable premium paid to the bail agent is determined by law and is a percentage of the overall bond amount. Collateral is often taken to secure the bond.

Bail agents use third-party indemnitors or co-signers on a bond, usually family or friends, who guarantee they will pay the full amount of the bond if the defendant fails to appear.

Collateral are items of value, such as cars, property, jewelry, and cash that is used to guarantee the defendant's bond. Collateral is returned upon disposition of a case and payment of full premium on the bond.

Surety bail is user-funded with no financial burden on the taxpayer. The bail agent is physically and financially responsible for a defendant from the time released on bail until disposition of the case; the full amount of the bond must be paid for a failure to appear.

PRETRIAL SERVICES PROGRAMS

Pretrial services programs are **taxpayer-funded** programs that provide a risk assessment to the court advocating release of the defendant on unsecured means (*free release*).

Defendants released on unsecured means (*free release*) have higher recidivism and failure to appear rates, thus using more **taxpayer** dollars to find and re-arrest the defendant.

The recidivism rate is almost twice as high for defendants released on unsecured release (*free release*) vs. release on surety bail through a licensed bail agent.

A **taxpayer-funded** pretrial services program can have budgets in the thousands or millions, comprising mostly of salaries, fringe benefits and infrastructure costs that increase annually.

Only a small percentage of pretrial services programs use indigence as a factor to screen for release, thus using **taxpayer** funds to release defendants who could be able to pay for their own release.

Taxpayers are financially responsible for defendants who fail to appear under pretrial services programs, paying for additional law enforcement costs to find the defendant, jail housing costs, increased public defender costs and program administration costs.

FACTS REGARDING SURETY BAIL

Defendants may remain in jail not because they cannot afford bail but for reasons such as the offense, criminal history, immigration violations, awaiting transfer to state prison, held on probation violations or serving a sentence in the county jail.

Bail is an insurance product. The non-refundable premium is the bail agent's cost of assuming the risk, liability and financial guarantee of appearance for the defendant.

Public safety is enhanced with surety bail, as bail agents assess the ongoing risk of the defendant with regular check-ins/monitoring, court reminders and communication with indemnitors.

Bail agents are licensed by a state's department of insurance or other regulatory body; bail agents also have arrest powers to surrender defendants back to custody of the court.

Surety bail is more effective than unsecured release in returning all defendants to court; if more than two percent of bonds posted resulted in forfeitures, bail agents and insurance underwriters on the bond could not survive.

Bail agents must keep records years after a bail transaction; bail insurance companies must file quarterly financial statements to demonstrate solvency. Market conduct exams also review a bail agent's risk assessment on each bond.

Bail agents work with defendants from all socio-economic backgrounds. Bond fees and rates are not determined by race, gender or socio-economic status but by strict bail schedules or as authorized by the court.

An industry that only collects usually ten percent upfront, yet must pay 100 percent of the bail for ineffective performance, would go out of business quickly if it were not effective.

PRETRIAL SERVICES PROGRAMS

Risk assessment tools used by pretrial services programs for free release vary widely, are not universally applicable and are of marginal effectiveness; release decisions are based on a brief interview/application from the defendant who is presumed to be telling the truth.

Pretrial services programs accept and offer free release for defendants charged with both misdemeanor and felony offenses, many with prior criminal histories and failures to appear.

Pretrial services programs put defendants in programs (drug testing, GPS monitoring, supervision) before proven guilty, disregarding the principle of innocence until proven guilty.

Pretrial services programs don't have authority to arrest defendants who fail to appear; fugitives are brought back by law enforcement only if found/arrested for a new crime.

Originally established to assist release of non-violent indigent defendants, such programs now release and supervise defendants with prior criminal histories, failures to appear and felony offenses on **taxpayer** dollars.

Pretrial services programs should be accountable for their performance; yet their statistics are often skewed or hidden and programs have significant disparate differences in how data is collected and used.

A high number of defendants released through unsecured methods (*free release*) never come back to court, creating significant costs to the criminal justice system and **taxpayers**. Public safety is also affected for each unsecured release.

Taxpayers should not fund a system that private enterprise is already doing with a much higher level of success and efficiency and one that is a fundamental right in our constitution.

The Professional Bail Agents of the U.S. (PBUS)™ is a member association representing bail agents nationwide.
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