**STATUTES REFERRING TO “BAIL” IN CALIFORNIA**

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| **AUTHORITY** | **TITLE/RELEVANT TEXT** |
| **UNITED STATES CONSTITUTION** | |
| **8TH Amendment** | Excessive **bail** shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted; |
| **CALIFORNIA CONSTITUTION** | |
| **Article I, Section 12** | * A person shall be released on bail by sufficient sureties, except for:   + **(a)**  Capital crimes when the facts are evident or the presumption great;   + **(b)**  Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or   + **(c)**  Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released. * Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.   A person may be released on his or her own recognizance in the court's discretion. |
| **Article I, section 28(b), (f)** | **Victim’s Bill of Rights (Marsy’s Law Amendment)**  (in pertinent part)  (b)  In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:  (3)  To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.  (7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.  (8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.  …  **(f)(3)**  Public Safety **Bail**. A person may be released on **bail** by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive **bail** may not be required. In setting, reducing or denying **bail**, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.     A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting **bail**.     Before any person arrested for a serious felony may be released on **bail**, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter.     When a judge or magistrate grants or denies **bail** or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.  …  SECTION 2. FINDINGS AND DECLARATIONS  7. Like most victims of murder, Marsy was neither rich nor famous when she was murdered by a former boyfriend who lured her from her parents' home by threatening to kill himself. Instead he used a shotgun to brutally end her life when she entered his home in an effort to stop him from killing himself. Following her murderer's arrest, Marsy's mother was shocked to meet him at a local supermarket, learning that he had been released on **bail** without any notice to Marsy's family and without any opportunity for her family to state their opposition to his release. |
| **CALIFORNIA PENAL CODE** | |
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| **PART 1. OF CRIMES AND PUNISHMENT** | **TITLE 9: OF CRIMES AGAINST THE PERSON INVOLVING SEXUAL ASSAULT, AND CRIMES AGAINST PUBLIC DECENCY AND GOOD MORALS** |
| [**PC 273.75**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=273.5.)  **(Spousal abusers - Domestic violence)** | (a) On any charge involving acts of domestic violence as defined in subdivisions (a) and (b) of Section 13700 of the Penal Code or Sections 6203 and 6211 of the Family Code, the district attorney or prosecuting city attorney shall perform or cause to be performed, by accessing the electronic databases enumerated in subdivision (b), a thorough investigation of the defendant’s history, including, but not limited to, prior convictions for domestic violence, other forms of violence or weapons offenses and any current protective or restraining order issued by any civil or criminal court. This information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, (2) upon consideration of any plea agreement, and (3) when issuing a protective order pursuant to Section 136.2 of the Penal Code, in accordance with subdivision (h) of that section. In determining bail or release upon a plea agreement, the court shall consider the safety of the victim, the victim’s children, and any other person who may be in danger if the defendant is released. |
| [**PC 279.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=279.5.)  **(Child Abduction)** | When a person is arrested for an alleged violation of Section 278 or 278.5, the court, in setting bail, shall take into consideration whether the child has been returned to the lawful custodian, and if not, shall consider whether there is an increased risk that the child may not be returned, or the defendant may flee the jurisdiction, or, by flight or concealment, evade the authority of the court. |
|  | TITLE 15. MISCELLANEOUS CRIMES |
| [**PC 646.93**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=646.93.)  **(Victim Notification)** | **Notice of Release on Bail; Conditions**  (a) (1) In those counties where the arrestee is initially incarcerated in a jail operated by the county sheriff, the sheriff shall designate a telephone number that shall be available to the public to inquire about **bail** status or to determine if the person arrested has been released and if not yet released, the scheduled release date, if known. This subdivision does not require a county sheriff or jail administrator to establish a new telephone number but shall require that the information contained on the victim resource card, as defined in Section 264.2, specify the phone number that a victim should call to obtain this information. This subdivision shall not require the county sheriff or municipal police departments to produce new victim resource cards containing a designated phone number for the public to inquire about the **bail** or custody status of a person who has been arrested until their existing supply of victim resource cards has been exhausted.  (2) In those counties where the arrestee is initially incarcerated in an incarceration facility other than a jail operated by the county sheriff and in those counties that do not operate a Victim Notification (VNE) system, a telephone number shall be available to the public to inquire about **bail** status or to determine if the person arrested has been released and if not yet released, the scheduled release date, if known. This subdivision does not require a municipal police agency or jail administrator to establish a new telephone number but shall require that the information contained on the victim resource card, as defined in Section 264.2, specify the phone number that a victim should call to obtain this information. This subdivision shall not require the county sheriff or municipal police departments to produce new victim resource cards containing a designated phone number for the public to inquire about the **bail** or custody status of a person who has been arrested until their existing supply of victim resource cards has been exhausted.  (3) If an arrestee is transferred to another incarceration facility and is no longer in the custody of the initial arresting agency, the transfer date and new incarceration location shall be made available through the telephone number designated by the arresting agency.  (4) The resource card provided to victims pursuant to Section 264.2 shall list the designated telephone numbers to which this section refers.  (b) Any request to lower **bail** shall be heard in open court in accordance with Section 1270.1. In addition, the prosecutor shall make all reasonable efforts to notify the victim or victims of the **bail** hearing. The victims may be present at the hearing and shall be permitted to address the court on the issue of **bail**.  **[]…(c)**  Unless good cause is shown not to impose the following conditions, the judge shall impose as additional conditions of release on **bail** that:   * **(1)**  The defendant shall not initiate contact in person, by telephone, or any other means with the alleged victims. * **(2)**  The defendant shall not knowingly go within 100 yards of the alleged victims, their residence, or place of employment. * **(3)**  The defendant shall not possess any firearms or other deadly or dangerous weapons. * **(4)**  The defendant shall obey all laws. * **(5)**  The defendant, upon request at the time of his or her appearance in court, shall provide the court with an address where he or she is residing or will reside, a business address and telephone number if employed, and a residence telephone number if the defendant's residence has a telephone.   A showing by declaration that any of these conditions are violated shall, unless good cause is shown, result in the issuance of a no-bail warrant. |
|  | **TITLE 17. RIGHTS OF VICTIMS AND WITNESSES OF CRIME** |
| [**PC 679**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=679.)  **(Rights of Victims and Witnesses of Crime)** | In recognition of the civil and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the Legislature declares its intent, in the enactment of this title, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity. It is the further intent that the rights enumerated in Section 679.02 relating to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants. It is the intent of the Legislature to add to Section 679.02 references to new rights as or as soon after they are created. The failure to enumerate in that section a right which is enumerated elsewhere in the law shall not be deemed to diminish the importance or enforceability of that right. |
| [**PC 679.01**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=679.01.)  **(Definition of “crime”, “victim”, “witness”)** | As used in this title, the following definitions shall control:  (a) “Crime” means an act committed in this state which, if committed by a competent adult, would constitute a misdemeanor or felony.  (b) “Victim” means a person against whom a crime has been committed.  (c) “Witness” means any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced. |
| [**PC 679.02**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=679.02.&lawCode=PEN)  **(Victim Notification of Pretrial Disposition)** | (a) The following are hereby established as the statutory rights of victims and witnesses of crimes:  …  (12) For the victim, upon request, to be notified of any pretrial disposition of the case, to the extent required by Section 28 of Article I of the California Constitution.  (A) A victim may request to be notified of a pretrial disposition.  (B) The victim may be notified by any reasonable means available.  Nothing in this paragraph is intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.  … |
| **PART 2.** | OF CRIMINAL PROCEDURE |
|  | [TITLE 3. ADDITIONAL PROVISIONS REGARDING CRIMINAL PROCEDURE](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=3.&part=2.&chapter=&article=) |
| [**PC 810**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=810.)  **(Complaints Before Magistrates - Release on Bail)** | (a) The presiding judge of the superior court in a county shall, as often as is necessary, designate on a schedule not less than one judge of the court to be reasonably available on call as a magistrate for the setting of orders for discharge from actual custody upon bail, the issuance of search warrants, and for such other matters as may by the magistrate be deemed appropriate, at all times when a court is not in session in the county.  (b) The officer in charge of a jail, or a person the officer designates, in which an arrested person is held in custody shall assist the arrested person or the arrested person’s attorney in contacting the magistrate on call as soon as possible for the purpose of obtaining release on bail. |
| [**PC 815a**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=815a.)  **(The Warrant of Arrest – Setting Amount of Bail)** | At the time of issuing a warrant of arrest, the magistrate shall fix the amount of **bail** which in his judgment in accordance with the provisions of section 1275 will be reasonable and sufficient for the appearance of the defendant following his arrest, if the offense is bailable, and said magistrate shall indorse upon said warrant a statement signed by him, with the name of his office, dated at the county, city or town where it is made to the following effect "The defendant is to be admitted to **bail** in the sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dollars" (stating the amount) |
| [**PC 821**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=821.)  **(The Warrant of Arrest – Felony Offense – Other County)** | If the offense charged is a felony, and the arrest occurs in the county in which the warrant was issued, the officer making the arrest must take the defendant before the magistrate who issued the warrant or some other magistrate of the same county.  If the defendant is arrested in another county, the officer must, without unnecessary delay, inform the defendant in writing of his right to be taken before a magistrate in that county, note on the warrant that he has so informed defendant, and, upon being required by defendant, take him before a magistrate in that county, who must admit him to bail in the amount specified in the endorsement referred to in Section 815a, and direct the defendant to appear before the court or magistrate by whom the warrant was issued on or before a day certain which shall in no case be more than 25 days after such admittance to bail. If bail be forthwith given, the magistrate shall take the same and endorse thereon a memorandum of the aforesaid order for the appearance of the defendant, or, if the defendant so requires, he may be released on bail set on the warrant by the issuing court, as provided in Section 1269b of this code, without an appearance before a magistrate.  If the warrant on which the defendant is arrested in another county does not have bail set thereon, or if the defendant arrested in another county does not require the arresting officer to take him before a magistrate in that county for the purpose of being admitted to bail, or if such defendant, after being admitted to bail, does not forthwith give bail, the arresting officer shall immediately notify the law enforcement agency requesting the arrest in the county in which the warrant was issued that such defendant is in custody, and thereafter such law enforcement agency shall take custody of the defendant within five days, or five court days if the law enforcement agency requesting the arrest is more than 400 miles from the county in which the defendant is held in custody, in the county in which he was arrested and shall take such defendant before the magistrate who issued the warrant, or before some other magistrate of the same county. |
| [**PC 822**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=822.&lawCode=PEN)  **(The Warrant of Arrest – Misdemeanor Offense – Other County)** | If the offense charged is a misdemeanor, and the defendant is arrested in another county, the officer must, without unnecessary delay, inform the defendant in writing of his right to be taken before a magistrate in that county, note on the warrant that he has so informed defendant, and, upon being required by defendant, take him before a magistrate in that county, who must admit him to bail in the amount specified in the indorsement referred to in Section 815a, or if no bail is specified, the magistrate may set bail; if the defendant is admitted to bail the magistrate shall direct the defendant to appear before the court or magistrate by whom the warrant was issued on or before a day certain which shall in no case be more than 25 days after such admittance to bail. If bail be forthwith given, the magistrate shall take the same and indorse thereon a memorandum of the aforesaid order for the appearance of the defendant.  If the defendant arrested in another county on a misdemeanor charge does not require the arresting officer to take him before a magistrate in that county for the purpose of being admitted to bail, or if such defendant, after being admitted to bail, does not forthwith give bail, the arresting officer shall immediately notify the law enforcement agency requesting the arrest in the county in which the warrant was issued that such defendant is in custody, and thereafter such law enforcement agency shall take custody of such defendant within five days in the county in which he was arrested and shall take such defendant before the magistrate who issued the warrant, or before some other magistrate of the same county.  If a defendant is arrested in another county on a warrant charging the commission of a misdemeanor, upon which warrant the amount of bail is indorsed as provided in Section 815a, and defendant is held in jail in the county of arrest pending appearance before a magistrate, the officer in charge of the jail shall, to the same extent as provided by Section 1269b, have authority to approve and accept bail from defendant in the amount indorsed on the warrant, to issue and sign an order for the release of the defendant, and, on posting of such bail, shall discharge defendant from custody. |
| [**PC 823**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=823.&lawCode=PEN)  **(The Warrant of Arrest – Receipt of Cash or Bond Bail – Discharge)** | On taking the bail, the magistrate must certify that fact on the warrant, and deliver the warrant to the officer having charge of the defendant. The magistrate shall issue to defendant a receipt for the undertaking of bail. The officer must then discharge the defendant from arrest, and must, without delay, deliver the warrant to the clerk of the court at which the defendant is required to appear. If the undertaking of bail is in the form of a bond, the magistrate shall forward the bond to the court at which defendant is required to appear. If the undertaking is in the form of cash, the magistrate shall deposit the cash in the county treasury, notifying the county auditor thereof, and the county auditor shall, by warrant, transmit the amount of the undertaking to the court at which the defendant is required to appear. If authorized by the county auditor, the magistrate may deposit the money in a bank account pursuant to Section 68084 of the Government Code, and by check drawn on such bank account transmit the amount of the undertaking to the court at which the defendant is required to appear. |
| [**PC 829**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=829.)  **(The Warrant of Arrest – Misdemeanor or Infraction Complaint – Other County)** | When a complaint is filed with a magistrate of the commission of a misdemeanor or infraction triable in another county of the state than that in which the magistrate sits, but showing that the defendant is in the county where the complaint is filed, the officer must, upon being required by the defendant, take the defendant before a magistrate of the county in which the warrant was issued, who must admit the defendant to bail in the amount specified in the endorsement referred to in Section 815a, and immediately transmit the warrant, complaint, and undertaking to the clerk of the court in which the defendant is required to appear. |
| [**PC 847.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=847.5.)  **(Arrest, By Whom and How Made – Fugitive – Request for Arrest Warrant)** | If a person has been admitted to bail in another state, escapes bail, and is present in this State, the bail bondsman or other person who is bail for such fugitive, may file with a magistrate in the county where the fugitive is present an affidavit stating the name and whereabouts of the fugitive, the offense with which the alleged fugitive was charged or of which he was convicted, the time and place of same, and the particulars in which the fugitive has violated the terms of his bail, and may request the issuance of a warrant for arrest of the fugitive, and the issuance, after hearing, of an order authorizing the affiant to return the fugitive to the jurisdiction from which he escaped bail. The magistrate may require such additional evidence under oath as he deems necessary to decide the issue. If he concludes that there is probable cause for believing that the person alleged to be a fugitive is such, he may issue a warrant for his arrest. The magistrate shall notify the district attorney of such action and shall direct him to investigate the case and determine the facts of the matter. When the fugitive is brought before him pursuant to the warrant, the magistrate shall set a time and place for hearing, and shall advise the fugitive of his right to counsel and to produce evidence at the hearing. He may admit the fugitive to bail pending the hearing. The district attorney shall appear at the hearing. If, after hearing, the magistrate is satisfied from the evidence that the person is a fugitive he may issue an order authorizing affiant to return the fugitive to the jurisdiction from which he escaped bail.  A bondsman or other person who is bail for a fugitive admitted to bail in another state who takes the fugitive into custody, except pursuant to an order issued under this section, is guilty of a misdemeanor. |
| [**PC 853.6**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=853.6.)  **(Citations for Misdemeanors - Release of Person Arrested for Misdemeanor; Protocol; DV; Bail)** | (a) (1) In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter, although nothing prevents an officer from first booking an arrestee pursuant to subdivision (g)…  (2) In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in subdivision (b) of Section 13700, or arrested pursuant to a policy, as described in Section 13701, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. Prior to adopting these provisions, each city, county, or city and county shall develop a protocol to assist officers to determine when arrest and release is appropriate, rather than taking the arrested person before a magistrate. The county shall establish a committee to develop the protocol, consisting of, at a minimum, the police chief or county sheriff within the jurisdiction, the district attorney, county counsel, city attorney, representatives from domestic violence shelters, domestic violence councils, and other relevant community agencies.  (3) This subdivision shall not apply to the crimes specified in Section 1270.1, including crimes defined in each of the following:  (A) Paragraph (1) of subdivision (e) of Section 243.  (B) Section 273.5.  (C) Section 273.6, if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.  (D) Section 646.9.  (4) Nothing in this subdivision shall be construed to affect a defendant’s ability to be released on bail or on his or her own recognizance, except as specified in Section 1270.1.  (b) Unless waived by the person, the time specified in the notice to appear shall be at least 10 days after arrest if the duplicate notice is to be filed by the officer with the magistrate.  (c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by that court to receive a deposit of bail.  …  Upon the filing of the notice with the magistrate by the officer, or the filing of the notice or formal complaint by the prosecutor, the magistrate may fix the amount of bail that in his or her judgment, in accordance with Section 1275, is reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him or her in the form set forth in Section 815a. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail set by the magistrate. At the time the case is called for arraignment before the magistrate, if the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may, in his or her discretion, order that no further proceedings shall be had in the case, unless the defendant has been charged with a violation of Section 374.3 or 374.7 of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he or she has previously been convicted of a violation of that section or a violation that is punishable under that section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings be had in the case.  Upon the making of the order that no further proceedings be had, all sums deposited as bail shall immediately be paid into the county treasury for distribution pursuant to Section 1463.  (f) No warrant shall be issued for the arrest of a person who has given a written promise to appear in court, unless and until he or she has violated that promise or has failed to deposit bail, to appear for arraignment, trial, or judgment or to comply with the terms and provisions of the judgment, as required by law.  … |
| [**PC 875**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=875.) **(Examination of the Case, and Discharge of the Defendant, or Holding Him to Answer – Bailable Offense)** | If the offense is bailable, and the defendant is admitted to bail, the following words must be added to the order, “and that he be admitted to bail in the sum of \_\_\_\_ dollars, and is committed to the Sheriff of the County of \_\_\_\_ until he gives such bail.” |
|  | [TITLE 6. PLEADINGS AND PROCEEDINGS BEFORE TRIAL](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=6.&part=2.&chapter=&article=) |
| [**PC 979**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=979.)  **(Of the Arraignment of the Defendant – Bail Forfeiture – Bench Warrant)** | If the defendant has been discharged on bail or has deposited money or other property instead thereof, and does not appear to be arraigned when his personal presence is necessary, the court, in addition to the forfeiture of the undertaking of bail or of the money or other property deposited, may order the issuance of a bench warrant for his arrest. |
| [**PC 980**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=980.&lawCode=PEN)  **(Of the Arraignment of the Defendant – Bench Warrant)** | (a) At any time after the order for a bench warrant is made, whether the court is sitting or not, the clerk may issue a bench warrant to one or more counties.  (b) The clerk shall require the appropriate agency to enter each bench warrant issued on a private surety-bonded felony case into the national warrant system (National Crime Information Center (NCIC)). If the appropriate agency fails to enter the bench warrant into the national warrant system (NCIC), and the court finds that this failure prevented the surety or bond agent from surrendering the fugitive into custody, prevented the fugitive from being arrested or taken into custody, or resulted in the fugitive’s subsequent release from custody, the court having jurisdiction over the bail shall, upon petition, set aside the forfeiture of the bond and declare all liability on the bail bond to be exonerated. |
| [**PC 982**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=982.&lawCode=PEN)  **(Of the Arraignment of the Defendant – Bench Warrant – Admission to Bail)** | The defendant, when arrested under a warrant for an offense not bailable, must be held in custody by the Sheriff of the county in which the indictment is found or information filed, unless admitted to bail after an examination upon a writ of habeas corpus; but if the offense is bailable, there must be added to the body of the bench warrant a direction to the following effect: “Or, if he requires it, that you take him before any magistrate in that county, or in the county in which you arrest him, that he may give bail to answer to the indictment (or information);” and the Court, upon directing it to issue, must fix the amount of bail, and an indorsement must be made thereon and signed by the Clerk, to the following effect: “The defendant is to be admitted to bail in the sum of \_\_\_\_ dollars.” |
| [**PC 985**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=985.&lawCode=PEN)  **(Of the Arraignment of the Defendant – Increase in Bail)** | When the information or indictment is for a felony, and the defendant, before the filing thereof, has given bail for his appearance to answer the charge, the Court to which the indictment or information is presented, or in which it is pending, may order the defendant to be committed to actual custody, unless he gives bail in an increased amount, to be specified in the order. |
| [**PC 998**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=998.)  **(Setting Aside the Indictment or Information – Bail)** | If the court directs the case to be resubmitted, or an information to be filed, the defendant, if already in custody, shall remain, unless he or she is admitted to bail; or, if already admitted to bail, or money has been deposited instead thereof, the bail or money is answerable for the appearance of the defendant to answer a new indictment or information; and, unless a new indictment is found or information filed before the next grand jury of the county is discharged, the court shall, on the discharge of such grand jury, make the order prescribed by Section 997. |
| [**PC 1000.2**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1000.2.)  **(Special Proceedings in Narcotics and Drug Abuse Cases – Deferred Entry of Judgment)** | …  At the time that deferred entry of judgment is granted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing. |
| [**PC 1001.6**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1001.6.)**,** [**1001.27**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1001.27.)**,** [**1001.53**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1001.53.)**,** [**1001.73**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1001.73.)  **(Diversion – Exoneration of Bail)** | At such time as the defendant’s case is diverted, any bail, bond, or undertaking, or deposit in lieu thereof, on file or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing. |
| [**PC 1008**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1000.8.)  **(Deferred Entry of Judgment Reentry Program)** | If the demurrer is sustained, and no amendment of the accusatory pleading is permitted, or, in case an amendment is permitted, no amendment is made or amended pleading is filed within the time fixed therefor, the action shall be dismissed, and, except as provided in Section 1010, the court must order, if the defendant is in custody, that he be discharged or if he has been admitted to bail, that his bail be exonerated, or, if money or other property has been deposited instead of bail for his appearance, that such money or other property be refunded to him or to the person or persons found by the court to have deposited such money or other property on his behalf. |
| [**PC 1010**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1010.)  **Demurrer and Amendment – Resubmission to Grand Jury)** | When an indictment or information is dismissed after the sustaining of a demurrer, or at any other stage of the proceedings because of any defect or insufficiency of the indictment or information, if the court directs that the case be resubmitted to the same or another grand jury or that a new information be filed, the defendant shall not be discharged from custody, nor the defendant’s bail exonerated nor money or other property deposited instead of bail on the defendant’s behalf refunded, but the same proceedings must be had on such direction as are prescribed in Sections 997 and 998. |
| [**PC 1043**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1043.)  **(The Mode of Trial – Failure to Appear)** | (e) If the defendant in a misdemeanor case fails to appear in person at the time set for trial or during the course of trial, the court shall proceed with the trial, unless good cause for a continuance exists, if the defendant has authorized his counsel to proceed in his absence pursuant to subdivision (a) of Section 977.  If there is no authorization pursuant to subdivision (a) of Section 977 and if the defendant fails to appear in person at the time set for trial or during the course of trial, the court, in its discretion, may do one or more of the following, as it deems appropriate:  (1) Continue the matter.  (2) Order bail forfeited or revoke release on the defendant’s own recognizance. |
| [**PC 1048**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1048.)  **(Formation of the Trial Jury and the Calendar of Issues for Trial – Calendar Order)** | (a) The issues on the calendar shall be disposed of in the following order, unless for good cause the court directs an action to be tried out of its order:  (1) Prosecutions for felony, when the defendant is in custody.  (2) Prosecutions for misdemeanor, when the defendant is in custody.  (3) Prosecutions for felony, when the defendant is on bail.  (4) Prosecutions for misdemeanor, when the defendant is on bail. |
|  | TITLE 7. OF PROCEEDINGS AFTER THE COMMENCEMENT OF THE TRIAL AND BEFORE JUDGMENT |
| [**PC 1115**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1115.)  **(The Trial – Other County)** | If the offense was committed within the exclusive jurisdiction of another county of this State, the Court must direct the defendant to be committed for such time as it deems reasonable, to await a warrant from the proper county for his arrest; or if the offense is a misdemeanor only, it may admit him to bail in an undertaking, with sufficient sureties, that he will, within such time as the Court may appoint, render himself amenable to a warrant for his arrest from the proper county; and, if not sooner arrested thereon, will attend at the office of the Sheriff of the county where the trial was had, at a certain time particularly specified in the undertaking, to surrender himself upon the warrant, if issued, or that his bail will forfeit such sum as the Court may fix, to be mentioned in the undertaking; and the Clerk must forthwith transmit a certified copy of the indictment or information, and of all the papers filed in the action, to the District Attorney of the proper county, the expense of which transmission is chargeable to that county. |
| [**PC 1116**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1116.&lawCode=PEN)  **(The Trial – Arrest Warrant)** | If the defendant is not arrested on a warrant from the proper county, as provided in section 1115, he must be discharged from custody, or his bail in the action is exonerated, or money deposited instead of bail must be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant, as the case may be, and the sureties in the undertaking, as mentioned in that section, must be discharged. If he is arrested, the same proceedings must be had thereon as upon the arrest of a defendant in another county on a warrant of arrest issued by a magistrate. |
| [**PC 1117**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1117.&lawCode=PEN)  **(The Trial – Release of Defendant)** | If the jury is discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged; or if admitted to bail, that his bail be exonerated; or, if he has deposited money or if money has been deposited by another or others instead of bail for his appearance, that the money be refunded to him or to the person or persons found by the court to have deposited said money on behalf of said defendant… |
| [**PC 1127a**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1127a.)  **(The Trial - Consideration for In-Custody Informant)** | (c) When the prosecution calls an in-custody informant as a witness in any criminal trial, contemporaneous with the calling of that witness, the prosecution shall file with the court a written statement setting out any and all consideration promised to, or received by, the in-custody informant.  …  (d) For purposes of subdivision (c), “consideration” means any plea bargain, bail consideration, reduction or modification of sentence, or any other leniency, benefit, immunity, financial assistance, reward, or amelioration of current or future conditions of incarceration in return for, or in connection with, the informant’s testimony in the criminal proceeding in which the prosecutor intends to call him or her as a witness. |
| [**PC 1129**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1129.)  **(The Trial – Commitment to Custody of Defendant on Bail)** | When a defendant who has given **bail** appears for trial, the court may, in its discretion, at any time after his appearance for trial, order him to be committed to the custody of the proper officer of the county, to abide the judgment or further order of the court, and he must be committed and held in custody accordingly. |
| [**PC 1166**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1166.)  **(The Verdict or Finding – In or Out of Custody While Awaiting Judgment)** | If a general verdict is rendered against the defendant, or a special verdict is given, he or she must be remanded, if in custody, or if on bail he or she shall be committed to the proper officer of the county to await the judgment of the court upon the verdict, unless, upon considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety, the court concludes the evidence supports its decision to allow the defendant to remain out on bail. When committed, his or her bail is exonerated, or if money is deposited instead of bail it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant. |
| [**PC 1188**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1188.)  **(Arrest of Judgment)** | If, from the evidence on the trial, there is reason to believe the defendant guilty, and a new indictment or information can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew, to answer the new indictment or information. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evidence appears sufficient to charge him with any offense, he must, if in custody, be discharged; or if admitted to bail, his bail is exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant or to the person or persons found by the court to have deposited said money on behalf of said defendant; and the arrest of judgment shall operate as an acquittal of the charge upon which the indictment or information was founded. |
|  | **TITLE 8. OF JUDGMENT AND EXECUTION** |
| [**PC 1195**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1195.)  **(The Judgment – Defendant on Bail or Deposit; Effect of Appearance or Nonappearance – Issuance of Bench Warrant)** | If the defendant has been released on bail, or has deposited money or property instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or of the money or property deposited, must, on application of the prosecuting attorney, direct the issuance of a bench warrant for the arrest of the defendant.  If the defendant, who is on bail, does appear for judgment and judgment is pronounced upon him or probation is granted to him, then the bail shall be exonerated or, if money or property has been deposited instead of bail, it must be returned to the defendant or to the person or persons found by the court to have deposited said money or property on behalf of said defendant. |
| [**PC 1196**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1196.&lawCode=PEN)  **(The Judgment – Failure to Enter Bench Warrant into NCIC – Exonerate Bail)** | (a) The clerk must, at any time after the order, issue a bench warrant into one or more counties.  (b) The clerk shall require the appropriate agency to enter each bench warrant issued on a private surety-bonded felony case into the national warrant system (National Crime Information Center (NCIC)). If the appropriate agency fails to enter the bench warrant into the national warrant system (NCIC), and the court finds that this failure prevented the surety or bond agent from surrendering the fugitive into custody, prevented the fugitive from being arrested or taken into custody, or resulted in the fugitive’s subsequent release from custody, the court having jurisdiction over the bail shall, upon petition, set aside the forfeiture of the bond and declare all liability on the bail bond to be exonerated. |
| [**PC 1203.018**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1203.018.)  **(The Judgement – Electronic Monitoring Program for Inmates Held in Lieu of Bail)** | (a) Notwithstanding any other law, this section shall only apply to inmates being held in lieu of bail and on no other basis.  (b) Notwithstanding any other law, the board of supervisors of any county may authorize the correctional administrator, as defined in paragraph (1) of subdivision (k), to offer a program under which inmates being held in lieu of bail in a county jail or other county correctional facility may participate in an electronic monitoring program if the conditions specified in subdivision (c) are met. |
| [**PC 1204.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1204.5.)  **(The Judgment – Consider Written Report in Application for Bail)** | (a) In any criminal action, after the filing of any complaint or other accusatory pleading and before a plea, finding, or verdict of guilty, no judge shall read or consider any written report of any law enforcement officer or witness to any offense, any information reflecting the arrest or conviction record of a defendant, or any affidavit or representation of any kind, verbal or written, without the defendant’s consent given in open court, except as provided in the rules of evidence applicable at the trial, or as provided in affidavits in connection with the issuance of a warrant or the hearing of any law and motion matter, or in any application for an order fixing or changing bail, or a petition for a writ. |
|  | [TITLE 9. APPEALS IN FELONY CASES](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=9.&part=2.&chapter=&article=) |
| [**PC 1262**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1262.)  **(Judgment Upon Appeal – Reversal of Judgment – Exoneration of Bail)** | If a judgment against the defendant is reversed, such reversal shall be deemed an order for a new trial, unless the appellate court shall otherwise direct. If the appellate court directs a final disposition of the action in the defendant’s favor, the court must, if he is in custody, direct him to be discharged therefrom; or if on bail that his bail may be exonerated; or if money or other property was deposited instead of bail, that it be refunded to the defendant or to the person or persons found by the court to have deposited said money or other property on behalf of said defendant… |
|  | [TITLE 10. MISCELLANEOUS PROCEEDINGS](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=10.&part=2.&chapter=&article=)  [CHAPTER 1. BAIL](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=10.&part=2.&chapter=&article=) |
| [**PC 1268**](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=10.&part=2.&chapter=1.&article=1.)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Admission to Bail Defined)** | Admission to **bail** is the order of a competent court or magistrate that the defendant be discharged from actual custody upon **bail**. |
| [**PC 1269**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1269.)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Taking of Bail Defined)** | The taking of **bail** consists in the acceptance, by a competent court or magistrate, of the undertaking of sufficient **bail**for the appearance of the defendant, according to the terms of the undertaking, or that the **bail** will pay to the people of this state a specified sum. Upon filing, the clerk shall enter in the register of actions the date and amounts of such bond and the name or names of the surety or sureties thereon. In the event of the loss or destruction of such bond, such entries so made shall be prima facie evidence of the due execution of such bond as required by law.  Whenever any **bail** bond has been deposited in any criminal action or proceeding in a municipal or superior court or in any proceeding in habeas corpus in a superior court, and it is made to appear to the satisfaction of the court by affidavit or by testimony in open court that more than three years have elapsed since the exoneration or release of said **bail**, the court must direct that such bond be destroyed. |
| [**PC 1269a**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1269a.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Orders Admitting Defendant to Bail)** | Except as otherwise provided by law, no defendant charged in a warrant of arrest with any public offense shall be discharged from custody upon **bail** except upon a written order of a competent court or magistrate admitting the defendant to **bail** in the amount specified in the indorsement referred to in Section 815a, and where an undertaking is furnished, upon a written order of such court or magistrate approving the undertaking. All such orders must be signed by such court or magistrate and delivered to the officer having custody of the defendant before the defendant is released. Any officer releasing any defendant upon **bail** otherwise than as herein provided shall be guilty of a misdemeanor. |
| [**PC 1269b**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1269b.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Persons Authorized to Approve and Accept Bail; Adoption of Uniform Schedule of Bail; Criteria; Transmittal of Money and Surety Bonds; Failure to Appear)** | (a) The officer in charge of a jail in which an arrested person is held in custody, an officer of a sheriff’s department or police department of a city who is in charge of a jail or is employed at a fixed police or sheriff’s facility and is acting under an agreement with the agency that keeps the jail in which an arrested person is held in custody, an employee of a sheriff’s department or police department of a city who is assigned by the department to collect bail, the clerk of the superior court of the county in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the arrested person before the appropriate court and give notice thereof.  (b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance. If that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).  (c) It is the duty of the superior court judges in each county to prepare, adopt, and annually revise a uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with Section 40310 of the Vehicle Code.  (d) A court may, by local rule, prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and annually revised by a majority of the judges.  (e) In adopting a uniform countywide schedule of bail for all bailable felony offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts that would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or 12022.9 of this code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.  In considering offenses in which a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.  (f) The countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable for each as the judges determine to be appropriate. If the schedule does not list all offenses specifically, it shall contain a general clause for designated amounts of bail as the judges of the county determine to be appropriate for all the offenses not specifically listed in the schedule. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior court judge and commissioner in the county, and to the Judicial Council.  (g) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.  All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the clerk of the court.  (h) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his or her release from custody, Sections 1305 and 1306 apply. |
| [**PC 1269c**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1269c.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Increase or Reduction of bail in Schedule; Declaration by Peace Officer; Application by Defendant; Determination by Magistrate)** | If a defendant is arrested without a warrant for a bailable felony offense or for the misdemeanor offense of violating a domestic violence restraining order, and a peace officer has reasonable cause to believe that the amount of bail set forth in the schedule of bail for that offense is insufficient to ensure the defendant’s appearance or to ensure the protection of a victim, or family member of a victim, of domestic violence, the peace officer shall prepare a declaration under penalty of perjury setting forth the facts and circumstances in support of his or her belief and file it with a magistrate, as defined in Section 808, or his or her commissioner, in the county in which the offense is alleged to have been committed or having personal jurisdiction over the defendant, requesting an order setting a higher bail. Except where the defendant is charged with an offense listed in subdivision (a) of Section 1270.1, the defendant, either personally or through his or her attorney, friend, or family member, also may make application to the magistrate for release on bail lower than that provided in the schedule of bail or on his or her own recognizance. The magistrate or commissioner to whom the application is made is authorized to set bail in an amount that he or she deems sufficient to ensure the defendant’s appearance or to ensure the protection of a victim, or family member of a victim, of domestic violence, and to set bail on the terms and conditions that he or she, in his or her discretion, deems appropriate, or he or she may authorize the defendant’s release on his or her own recognizance. If, after the application is made, no order changing the amount of bail is issued within eight hours after booking, the defendant shall be entitled to be released on posting the amount of bail set forth in the applicable bail schedule. |
| [**PC 1270**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1270.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Release on Own Recognizance; Non-Capital Offense)** | (a)  Any person who has been arrested for, or charged with, an offense other than a capital offense may be released on his or her own recognizance by a court or magistrate who could release a defendant from custody upon the defendant giving bail, including a defendant arrested upon an out-of-county warrant. A defendant who is in custody and is arraigned on a complaint alleging an offense which is a misdemeanor, and a defendant who appears before a court or magistrate upon an out-of-county warrant arising out of a case involving only misdemeanors, shall be entitled to an own recognizance release unless the court makes a finding on the record, in accordance with Section 1275, that an own recognizance release will compromise public safety or will not reasonably assure the appearance of the defendant as required. Public safety shall be the primary consideration. If the court makes one of those findings, the court shall then set bail and specify the conditions, if any, whereunder the defendant shall be released.  (b)  Article 9 (commencing with Section 1318) shall apply to any person who is released pursuant to this section. |
| [**PC 1270.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1270.1.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Hearing Prior to Bail for Person Arrested for Serious or Violent Felony/DV/Protective Order/Depart from Schedule/Without Hearing Based on Peace Officer Declaration)** | (a)  Except as provided in subdivision (e), before any person who is arrested for any of the following crimes may be released on bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, or may be released on his or her own recognizance, a hearing shall be held in open court before the magistrate or judge:  (1)  A serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, but not including a violation of subdivision (a) of Section 460 (residential burglary).  (2)  A violation of Section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1, Section 262, 273.5, or 422 where the offense is punished as a felony, or Section *646.9*.  (3)  A violation of paragraph (1) of subdivision (e) of Section 243.  (4)  A violation of Section 273.6 if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.  (b)  The prosecuting attorney and defense attorney shall be given a two-court-day written notice and an opportunity to be heard on the matter. If the detained person does not have counsel, the court shall appoint counsel for purposes of this section only. The hearing required by this section shall be held within the time period prescribed in Section 825.  (c)  At the hearing, the court shall consider evidence of past court appearances of the detained person, the maximum potential sentence that could be imposed, and the danger that may be posed to other persons if the detained person is released. In making the determination whether to release the detained person on his or her own recognizance, the court shall consider the potential danger to other persons, including threats that have been made by the detained person and any past acts of violence. The court shall also consider any evidence offered by the detained person regarding his or her ties to the community and his or her ability to post bond.  (d)  If the judge or magistrate sets the bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, the judge or magistrate shall state the reasons for that decision and shall address the issue of threats made against the victim or witness, if they were made, in the record. This statement shall be included in the record.  (e)  Notwithstanding subdivision (a), a judge or magistrate, pursuant to Section 1269c, may, with respect to a bailable felony offense or a misdemeanor offense of violating a domestic violence order, increase bail to an amount exceeding that set forth in the bail schedule without a hearing, provided an oral or written declaration of facts justifying the increase is presented under penalty of perjury by a sworn peace officer. |
| [**PC 1270.2**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1270.2.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Automatic Review of Order Fixing Bail)** | When a person is detained in custody on a criminal charge prior to conviction for want of **bail**, that person is entitled to an automatic review of the order fixing the amount of the **bail** by the judge or magistrate having jurisdiction of the offense. That review shall be held not later than five days from the time of the original order fixing the amount of **bail** on the original accusatory pleading. The defendant may waive this review. |
| [**PC 1270.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1270.5.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Capital Offenses; Nonbailable When Proof of Guilt Evident or Presumption Thereof Great)** | A defendant charged with an offense punishable with death cannot be admitted to **bail**, when the proof of his or her guilt is evident or the presumption thereof great. The finding of an indictment does not add to the strength of the proof or the presumptions to be drawn therefrom. |
| [**PC 1271**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1271.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Bail as a Right)** | If the charge is for any other offense, he may be admitted to **bail** before conviction, as a matter of right. |
| [**PC 1272**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1272.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – After Conviction and Pending Probation or Appeal)** | After conviction of an offense not punishable with death, a defendant who has made application for probation or who has appealed may be admitted to bail:  1. As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing a fine only.  2. As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing imprisonment in cases of misdemeanors.  3. As a matter of discretion in all other cases, except that a person convicted of an offense subject to this subdivision, who makes a motion for release on bail subsequent to a sentencing hearing, shall provide notice of the hearing on the bail motion to the prosecuting attorney at least five court days prior to the hearing. |
| [**PC 1272.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1272.1.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Release on Bail Pending Appeal; Conditions)** | Release on bail pending appeal under subdivision (3) of Section 1272 shall be ordered by the court if the defendant demonstrates all the following:  (a) By clear and convincing evidence, the defendant is not likely to flee. Under this subdivision the court shall consider the following criteria:  (1) The ties of the defendant to the community, including his or her employment, the duration of his or her residence, the defendant’s family attachments and his or her property holdings.  (2) The defendant’s record of appearance at past court hearings or of flight to avoid prosecution.  (3) The severity of the sentence the defendant faces.  (b) By clear and convincing evidence, the defendant does not pose a danger to the safety of any other person or to the community.  Under this subdivision the court shall consider, among other factors, whether the crime for which the defendant was convicted is a violent felony, as defined in subdivision (c) of Section 667.5.  (c) The appeal is not for the purpose of delay and, based upon the record in the case, raises a substantial legal question which, if decided in favor of the defendant, is likely to result in reversal.  For purposes of this subdivision, a “substantial legal question” means a close question, one of more substance than would be necessary to a finding that it was not frivolous. In assessing whether a substantial legal question has been raised on appeal by the defendant, the court shall not be required to determine whether it committed error.  In making its decision on whether to grant defendants’ motions for bail under subdivision (3) of Section 1272, the court shall include a brief statement of reasons in support of an order granting or denying a motion for bail on appeal. The statement need only include the basis for the order with sufficient specificity to permit meaningful review. |
| [**PC 1273**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1273.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Nature of Bail)** | If the offense is bailable, the defendant may be admitted to **bail** before conviction:   * **First.**  For his appearance before the magistrate, on the examination of the charge, before being held to answer. * **Second.**  To appear at the court to which the magistrate is required to return the depositions and statement, upon the defendant being held to answer after examination. * **Third.**  After indictment, either before the bench-warrant is issued for his arrest, or upon any order of the court committing him, or enlarging the amount of **bail**, or upon his being surrendered by his **bail** to answer the indictment in the court in which it is found, or to which it may be transferred for trial.   And after conviction, and upon an appeal:   * **First.**  If the appeal is from a judgment imposing a fine only, on the undertaking of **bail** that he will pay the same, or such part of it is as the appellate court may direct, if the judgment is affirmed or modified, or the appeal is dismissed. * **Second.**  If judgment of imprisonment has been given, that he will surrender himself in execution of the judgment, upon its being affirmed or modified, or upon the appeal being dismissed, or that in case the judgment be reversed, and that the cause be remanded for a new trial, that he will appear in the court to which said cause may be remanded, and submit himself to the orders and process thereof. |
| [**PC 1274**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1274.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Bail as a Matter of Discretion; Notice of Application to District Attorney)** | When the admission to bail is a matter of discretion, the Court or officer to whom the application is made must require reasonable notice thereof to be given to the District Attorney of the county. |
| [**PC 1275**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1275.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Matters Considered in Fixing Bail Amount; Reduction of Bail Below Approved Schedule)** | **(a)** **(1)**  In setting, reducing, or denying **bail**, a judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or at a hearing of the case. The public safety shall be the primary consideration. In setting **bail**, a judge or magistrate may consider factors such as the information included in a report prepared in accordance with Section 1318.1.  **(2)**  In considering the seriousness of the offense charged, a judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.  **(b)**  In considering offenses wherein a violation of Chapter 6 (commencing with [Section 11350) of Division 10 of the Health and Safety Code](https://advance.lexis.com/document/?pdmfid=1000516&crid=af4a35cf-7ab0-4a6d-b82b-715bd732f144&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A4WK3-R3D0-R03M-P153-00000-00&pddocid=urn%3AcontentItem%3A4WK3-R3D0-R03M-P153-00000-00&pdcontentcomponentid=4867&pdteaserkey=sr1&ecomp=r89tk&earg=sr1&prid=c9420280-50de-4bd3-bcbf-9cdf563821b4) is alleged, a judge or magistrate shall consider the following: (1) the alleged amounts of controlled substances involved in the commission of the offense, and (2) whether the defendant is currently released on **bail** for an alleged violation of Chapter 6 (commencing with [Section 11350) of Division 10 of the Health and Safety Code.](https://advance.lexis.com/document/?pdmfid=1000516&crid=af4a35cf-7ab0-4a6d-b82b-715bd732f144&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A4WK3-R3D0-R03M-P153-00000-00&pddocid=urn%3AcontentItem%3A4WK3-R3D0-R03M-P153-00000-00&pdcontentcomponentid=4867&pdteaserkey=sr1&ecomp=r89tk&earg=sr1&prid=c9420280-50de-4bd3-bcbf-9cdf563821b4)  **(c)**  Before a court reduces **bail** to below the amount established by the **bail** schedule approved for the county, in accordance with subdivisions (b) and (c) of Section 1269b, for a person charged with a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, the court shall make a finding of unusual circumstances and shall set forth those facts on the record. For purposes of this subdivision, "unusual circumstances" does not include the fact that the defendant has made all prior court appearances or has not committed any new offenses. |
| [**PC 1275.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1275.1.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail –Source of Bail Motions)** | (a) Bail, pursuant to this chapter, shall not be accepted unless a judge or magistrate finds that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.  (b) A hold on the release of a defendant from custody shall only be ordered by a magistrate or judge if any of the following occurs:  (1) A peace officer, as defined in Section 830, files a declaration executed under penalty of perjury setting forth probable cause to believe that the source of any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.  (2) A prosecutor files a declaration executed under penalty of perjury setting forth probable cause to believe that the source of any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained. A prosecutor shall have absolute civil immunity for executing a declaration pursuant to this paragraph.  (3) The magistrate or judge has probable cause to believe that the source of any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.  (c) Once a magistrate or judge has determined that probable cause exists, as provided in subdivision (b), a defendant bears the burden by a preponderance of the evidence to show that no part of any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was obtained by felonious means. Once a defendant has met such burden, the magistrate or judge shall release the hold previously ordered and the defendant shall be released under the authorized amount of bail.  (d) The defendant and his or her attorney shall be provided with a copy of the declaration of probable cause filed under subdivision (b) no later than the date set forth in Section 825.  (e) Nothing in this section shall prohibit a defendant from obtaining a loan of money so long as the loan will be funded and repaid with funds not feloniously obtained.  (f) At the request of any person providing any portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution, the magistrate or judge, at an evidentiary hearing to determine the source of the funds, may close it to the general public to protect the person’s right to privacy in his or her financial affairs.  (g) If the declaration, having been filed with a magistrate or judge, is not acted on within 24 hours, the defendant shall be released from custody upon posting of the amount of bail set.  (h) Nothing in this code shall deny the right of the defendant, either personally or through his or her attorney, bail agent licensed by the Department of Insurance, admitted surety insurer licensed by the Department of Insurance, friend, or member of his or her family from making an application to the magistrate or judge for the release of the defendant on bail.  (i) The bail of any defendant found to have willfully misled the court regarding the source of bail may be increased as a result of the willful misrepresentation. The misrepresentation may be a factor considered in any subsequent bail hearing.  (j) If a defendant has met the burden under subdivision (c), and a defendant will be released from custody upon the issuance of a bail bond issued pursuant to authority of Section 1269 or 1269b by any admitted surety insurer or any bail agent, approved by the Insurance Commissioner, the magistrate or judge shall vacate the holding order imposed under subdivision (b) upon the condition that the consideration for the bail bond is approved by the court.  (k) As used in this section, “feloniously obtained” means any consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution which is possessed, received, or obtained through an unlawful act, transaction, or occurrence constituting a felony. |
| [**PC 1276**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1276.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Bail Bonds or Undertaking of Bail)** | **(a)**  A bail bond or undertaking of bail of an admitted surety insurer shall be accepted or approved by a court or magistrate without further acknowledgment if executed by a licensed bail agent of the insurer under penalty of perjury and issued in the name of the insurer by a person authorized to do so by an unrevoked power of attorney on file in the office of the clerk of the county in which the court or magistrate is located.  **(b)**  One person may both execute and issue the bail bond or undertaking of bail if qualified as provided in this section. |
| [**PC 1276.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1276.5.&lawCode=PEN)  **(Bail – In What Cases the Defendant May be Admitted to Bail – Disclosure Statement by Bail Bond Licensee)** | (a) At the time of an initial application to a bail bond licensee for a bail bond which is to be secured by a lien against real property, the bail bond licensee shall provide the property owner with a written disclosure statement in the following form: “DISCLOSURE OF LIEN AGAINST REAL PROPERTY DO NOT SIGN THIS DOCUMENT UNTIL YOU READ AND UNDERSTAND IT! THIS BAIL BOND WILL BE SECURED BY REAL PROPERTY YOU OWN OR IN WHICH YOU HAVE AN INTEREST. THE FAILURE TO PAY THE BAIL BOND PREMIUMS WHEN DUE OR THE FAILURE OF THE DEFENDANT TO COMPLY WITH THE CONDITIONS OF BAIL COULD RESULT IN THE LOSS OF YOUR PROPERTY!”  (b) The disclosure required in subdivision (a) shall be made in 14-point bold type by either of the following means:  (1) A separate and specific document attached to or accompanying the application.  (2) A clear and conspicuous statement on the face of the application.  (c) The property owner shall be given a completed copy of the disclosure statement and of the note and deed of trust or other instrument creating the lien against real property prior to the execution of any instrument creating a lien against real property. The failure to fully comply with subdivision (a) or (b), or this subdivision, shall render the deed of trust or other instrument creating the lien against real property voidable.  (d) Within 30 days after notice is given by any individual, agency, or entity to the surety or bail bond licensee of the expiration of the time for appeal of the order exonerating the bail bond, or within 30 days after the payment in full of all moneys owed on the bail bond obligation secured by any lien against real property, whichever is later in time, the bail bond licensee shall deliver to the property owner a fully executed and notarized reconveyance of title, a certificate of discharge, or a full release of any lien against real property to secure performance of the conditions of the bail bond. If a timely notice of appeal of the order exonerating the bail bond is filed with the court, that 30-day period shall begin on the date the determination of the appellate court affirming the order exonerating the bail bond becomes final. Upon the reconveyance, the licensee shall deliver to the property owner the original note and deed of trust, security agreement, or other instrument which secures the bail bond obligation. If the licensee fails to comply with this subdivision, the property owner may petition the superior court to issue an order directing the clerk of the superior court to execute a full reconveyance of title, a certificate of discharge, or a full release of any lien against real property created to secure performance of the conditions of the bail bond. The petition shall be verified and shall allege facts showing that the licensee has failed to comply with this subdivision.  (e) The violation of this section shall make the violator liable to the person affected by the violation for all damages which that person may sustain by reason of the violation plus statutory damages in the sum of three hundred dollars ($300). The property owner shall be entitled, if he or she prevails, to recover court costs and reasonable attorney’s fees as determined by the court in any action brought to enforce this section. |
| [**PC 1277**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1277.)  **(Bail Upon Being Held to Answer Before Indictment – Authority to Admit to Bail)** | When the defendant has been held to answer upon an examination for a public offense, the admission to bail may be by the magistrate by whom he is so held, or by any magistrate who has power to issue the writ of habeas corpus. |
| [**PC 1278**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1278.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Undertaking; Contents; Sureties; Form)** | (a) Bail is put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the magistrate), and acknowledged before the court or magistrate, in substantially the following form:  An order having been made on the \_\_\_\_ day of \_\_\_\_, 20\_\_, by \_\_\_\_, a judge of the \_\_\_\_ Court of \_\_\_\_ County, that \_\_\_\_ be held to answer upon a charge of (stating briefly the nature of the offense), upon which he or she has been admitted to bail in the sum of \_\_\_\_ dollars ($\_\_\_\_); we, \_\_\_\_ and \_\_\_\_, of \_\_\_\_ (stating their place of residence and occupation), hereby undertake that the above-named \_\_\_\_ will appear and answer any charge in any accusatory pleading based upon the acts supporting the charge above mentioned, in whatever court it may be prosecuted, and will at all times hold himself or herself amenable to the orders and process of the court, and if convicted, will appear for pronouncement of judgment or grant of probation, or if he or she fails to perform either of these conditions, that we will pay to the people of the State of California the sum of \_\_\_\_ dollars ($\_\_\_\_) (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond be ordered by the court, judgment may be summarily made and entered forthwith against the said (naming the sureties), and the defendant if he or she be a party to the bond, for the amount of their respective undertakings herein, as provided by Sections 1305 and 1306.  (b) Every undertaking of bail shall contain the bail agent license number of the owner of the bail agency issuing the undertaking along with the name, address, and phone number of the agency, regardless of whether the owner is an individual, partnership, or corporation. The bail agency name on the undertaking shall be a business name approved by the Insurance Commissioner for use by the bail agency owner, and be so reflected in the public records of the commissioner. The license number of the bail agent appearing on the undertaking shall be in the same type size as the name, address, and phone number of the agency. |
| [**PC 1279**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1279.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Qualifications of Bail Surety)** | The qualifications of bail are as follows:  **1.**  Each of them must be a resident, householder, or freeholder within the state; but the court or magistrate may refuse to accept any person as bail who is not a resident of the county where bail is offered;  **2.**  They must each be worth the amount specified in the undertaking, exclusive of property exempt from execution, except that if any of the sureties is not worth the amount specified in the undertaking, exclusive of property exempt from execution, but owns any equity in real property, a hearing must be held before the magistrate to determine the value of such equity. Witnesses may be called and examined at such hearing and if the magistrate is satisfied that the value of the equity is equal to twice the amount of the bond such surety is justified. In any case, the court or magistrate, on taking bail, may allow more than two sureties to justify severally in amounts less than that expressed in the undertaking, if the whole justification be equivalent to that of sufficient bail. |
| [**PC 1280**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1280.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Justification of Bail Surety)** | The bail must in all cases justify by affidavit taken before the magistrate, that they each possess the qualifications provided in the preceding section. The magistrate may further examine the bail upon oath concerning their sufficiency, in such manner as **[s]**he may deem proper. |
| [**PC 1280a**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1280a.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Justification of Bail Surety; Contents of Affidavits)** | All affidavits for the justification of bail shall set forth the amount of the bail undertaking, a notice that the affidavit shall constitute a lien upon the real property described in the affidavit immediately upon the recordation of the affidavit with the county recorder pursuant to Section 1280b, and the legal description and assessor’s parcel numbers of the real estate owned by the bail, which is scheduled as showing that they each possess the qualifications provided in the preceding sections, the affidavit shall also show all encumbrances upon the real estate known to affiants and shall show the number of bonds, if any, on which each bail has qualified, within one year before the date of the affidavit, together with the amount of each such bond, the date on which, the county in which, and the name of the principal for whom each bond was executed.  The affidavit shall also state the amount of each bail’s liability on bonds executed in previous years and not exonerated at the date of the execution of the affidavit and be signed and acknowledged by the owner of the real property. |
| [**PC 1280b**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1280b.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Justification of Bail Surety; Filing Affidavits; Recording Certified Copies)** | **Justification of bail; Filing Affidavits; Recording Certified Copies**  It shall be the duty of the judge or magistrate to file with the clerk of the court, within 24 hours after presentation to him or her, all affidavits for the justification of bail, by delivering or mailing them to the clerk of the court. Certified copies of the affidavits for justification of bail involving equity in real property may upon the written order of the judge or magistrate be recorded with the county recorder. |
| [**PC 1280.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1280.1.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Justification of Bail Surety; Affidavit Constituting Attachment Lien)** | (a) From the time of recording an affidavit for the justification of bail, the affidavit shall constitute an attachment lien governed by Sections 488.500, 488.510 and 489.310 of the Code of Civil Procedure in the amount of the bail undertaking, until exonerated, released, or otherwise discharged. Any release of the undertaking shall be effected by an order of the court, filed with the clerk of the court, with a certified copy of the order recorded in the office of the county recorder.  (b) If the bail is forfeited and summary judgment is entered, pursuant to Sections 1305 and 1306, the lien shall have the force and effect of a judgment lien, by recordation of an abstract of judgment, which, may be enforced and satisfied pursuant to Section 1306 as well as through the applicable execution process set forth in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure. |
| [**PC 1281**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1281.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Discharge of Defendant Upon Approval of Undertaking)** | Upon the allowance of bail and the execution and approval of the undertaking, the magistrate must, if the defendant is in custody, make and sign an order for his discharge, upon the delivery of which to the proper officer the defendant must be discharged. |
| [**PC 1281a**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1281a.&lawCode=PEN)  **(Bail Upon Being Held to Answer Before Indictment – Authority of Superior Court to Justify and Approve Bail)** | A judge of the superior court within the county, wherein a cause is pending against any person charged with a felony, may justify and approve bail in the said cause, and may execute an order for the release of the defendant which shall authorize the discharge of the defendant by any officer having said defendant in custody. |
| [**PC 1284**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1284.)  **(Bail Upon an Indictment Before Conviction – Offense Not Punishable with Death)** | When the offense charged is not punishable with death, the officer serving the bench warrant must, if required, take the defendant before a magistrate in the county in which it is issued, or in which he is arrested, for the purpose of giving bail. If the defendant appears before such magistrate without the bench warrant having been served upon him, the magistrate shall deliver him into the custody of the sheriff for the purpose of immediate booking and the recording of identification data, whereupon the sheriff shall deliver the defendant back before the magistrate for the purpose of giving bail. |
| [**PC 1285**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1285.&lawCode=PEN)  **(Bail Upon an Indictment Before Conviction – Offense Punishable with Death)** | If the offense charged is punishable with death, the officer arresting the defendant must deliver him into custody, according to the command of the bench warrant. |
| [**PC 1286**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1286.&lawCode=PEN)  **(Bail Upon an Indictment Before Conviction – Writ of Habeas Corpus)** | When the defendant is so delivered into custody he must be held by the Sheriff, unless admitted to bail on examination upon a writ of habeas corpus. |
| [**PC 1287**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1287.&lawCode=PEN)  **(Bail Upon an Indictment Before Conviction –Sureties; Bail Agent and Agency)** | (a) The bail shall be put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the court or magistrate), and acknowledged before the court or magistrate, in substantially the following form:  An indictment having been found on the \_\_\_\_ day of \_\_\_\_, 20\_\_, in the Superior Court of the County of \_\_\_\_, charging \_\_\_\_ with the crime of \_\_\_\_ (designating it generally) and he or she having been admitted to bail in the sum of \_\_\_\_ dollars ($\_\_\_\_), we, \_\_\_\_ and \_\_\_\_, of \_\_\_\_ (stating their place of residence and occupation), hereby undertake that the above-named \_\_\_\_ will appear and answer any charge in any accusatory pleading based upon the acts supporting the indictment above mentioned, in whatever court it may be prosecuted, and will at all times render himself or herself amenable to the orders and process of the court, and, if convicted, will appear for pronouncement of judgment or grant of probation; or, if he or she fails to perform either of these conditions, that we will pay to the people of the State of California the sum of \_\_\_\_ dollars ($\_\_\_\_) (inserting the sum in which the defendant is admitted to bail). If the forfeiture of this bond be ordered by the court, judgment may be summarily made and entered forthwith against the said (naming the sureties, and the defendant if he or she be a party to the bond), for the amount of their respective undertakings herein, as provided by Sections 1305 and 1306.  (b) Every undertaking of bail shall contain the bail agent license number of the owner of the bail agency issuing the undertaking along with the name, address, and phone number of the agency, regardless of whether the owner is an individual, partnership, or corporation. The bail agency name on the undertaking shall be a business name approved by the Insurance Commissioner for use by the bail agency owner, and be so reflected in the public records of the commissioner. The license number of the bail agent appearing on the undertaking shall be in the same type size as the name, address, and phone number of the agency. |
| [**PC 1288**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1288.&lawCode=PEN)  **(Bail Upon an Indictment Before Conviction – Provisions Apply After Indictment)** | The provisions contained in sections 1279, 1280, 1280a and 1281, in relation to bail before indictment, apply to bail after indictment. |
| [**PC 1289**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1289.&lawCode=PEN)  **(Bail Upon an Indictment Before Conviction – Offense Not Punishable with Death)** | After a defendant has been admitted to bail upon an indictment or information, the Court in which the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the Court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served upon the District Attorney. |
| [**PC 1291**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1291.)  **(Bail on Appeal)** | **Article 4 – Bail Pending Appeal**  In the cases in which defendant may be admitted to bail upon an appeal, the order admitting him to bail may be made by any Magistrate having the power to issue a writ of habeas corpus, or by the Magistrate before whom the trial was had. |
| [**PC 1292**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1292.&lawCode=PEN)  **(Bail on Appeal)** | The bail must possess the qualifications, and must be put in, in all respects, as provided in Article II of this Chapter, except that the undertaking must be conditioned as prescribed in Section 1273, for undertakings of bail on appeal. |
| [**PC 1295, 1296, 1297, 1298**](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=10.&part=2.&chapter=1.&article=5.)  **(Deposit Instead of Bail)** | **Article 5 - Deposit Instead of Bail** [1295.](javascript:submitCodesValues('1295.','5.12.1.5','1997','17','104',%20'id_6c33b2cd-2920-11d9-9844-b32bb8dfae52')) (a) The defendant, or any other person, at any time after an order admitting defendant to bail or after the arrest and booking of a defendant for having committed a misdemeanor, instead of giving bail may deposit, with the clerk of the court in which the defendant is held to answer or notified to appear for arraignment, the sum mentioned in the order or, if no order, in the schedule of bail previously fixed by the judges of the court, and, upon delivering to the officer in whose custody defendant is a certificate of the deposit, the defendant must be discharged from custody.  (b) Where more than one deposit is made with respect to any charge in any accusatory pleading based upon the acts supporting the original charge as a result of which an earlier deposit was made, the defendant shall receive credit in the amount of any earlier deposit.  (c) The clerk of the court shall not accept a general assistance check for this deposit or any part thereof.  *(Amended by Stats. 1997, Ch. 17, Sec. 104. Effective January 1, 1998.)* [1296.](javascript:submitCodesValues('1296.','5.12.1.5','1872','','',%20'id_6c33b2cf-2920-11d9-9844-b32bb8dfae52')) If the defendant has given bail, he may, at any time before the forfeiture of the undertaking, in like manner deposit the sum mentioned in the recognizance, and upon the deposit being made the bail is exonerated.  *(Enacted 1872.)* [1297.](javascript:submitCodesValues('1297.','5.12.1.5','1995','313','11',%20'id_6c33b2d1-2920-11d9-9844-b32bb8dfae52')) When money has been deposited, a receipt shall be issued in the name of the depositor. If the money remains on deposit at the time of a judgment for the payment of a fine, the clerk shall, under the direction of the court, if the defendant be the depositor, apply the money in satisfaction thereof, and after satisfying restitution to the victim or the Restitution Fund, fines, and costs, shall refund the surplus, if any, to the defendant. If the person to whom the receipt for the deposit was issued was not the defendant, the deposit after judgment shall be returned to that person within 10 days after the person claims it by submitting the receipt, and, if a claim is not made within 10 days of the exoneration of bail, the clerk shall immediately notify the depositor of the exoneration of bail.  *(Amended by Stats. 1995, Ch. 313, Sec. 11. Effective August 3, 1995.)* [1298.](javascript:submitCodesValues('1298.','5.12.1.5','2008','699','14',%20'id_89d2bd94-cb73-11dd-898a-f4578c730531')) In lieu of a deposit of money, the defendant or any other person may deposit bonds of the United States or of the State of California of the face value of the cash deposit required, and these bonds shall be treated in the same manner as a deposit of money or the defendant or any other person may give as security any equity in real property which he or she owns, provided that no charge is made to the defendant or any other person for the giving as security of any equity in real property. A hearing, at which witnesses may be called or examined, shall be held before the magistrate to determine the value of the equity and if the magistrate finds that the value of the equity is equal to twice the amount of the cash deposit required he or she shall allow the bail. The clerk shall, under order of the court, when occasion arises therefor, sell the bonds or the equity and apply the proceeds of the sale in the manner that a deposit of cash may be required to be applied. |
| [**PC 1299**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | **Article 5.5 - Bail Fugitive Recovery Persons Act**  This article shall be known as the Bail Fugitive Recovery Persons Act. |
| [**PC 1299.01**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.01.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | For purposes of this article, the following terms shall have the following meanings:  (a) “Bail fugitive” means a defendant in a pending criminal case who has been released from custody under a financially secured appearance, cash, or other bond and has had that bond declared forfeited, or a defendant in a pending criminal case who has violated a bond condition whereby apprehension and reincarceration are permitted.  (b) “Bail” means a person licensed by the Department of Insurance pursuant to Section 1800 of the Insurance Code.  (c) “Depositor of bail” means a person who or entity that has deposited money or bonds to secure the release of a person charged with a crime or offense.  (d) “Bail fugitive recovery person” means a person who is provided written authorization pursuant to Sections 1300 and 1301 by the bail or depositor of bail, and is contracted to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department, and any person who is employed to assist a bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department. |
| [**PC 1299.02**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.02.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | (a) No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a bail fugitive unless that person meets one of the following conditions:  (1) Is a bail as defined in subdivision (b) of Section 1299.01 or a depositor of bail as defined in subdivision (c) of Section 1299.01.  (2) Is a bail fugitive recovery person as defined in subdivision (d) of Section 1299.01.  (3) Holds a bail license issued by a state other than California or is authorized by another state to transact and post bail and is in compliance with the provisions of Section 847.5 with respect to the arrest of a bail fugitive.  (4) Is licensed as a private investigator as provided in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.  (5) Holds a private investigator license issued by another state, is authorized by the bail or depositor of bail to apprehend a bail fugitive, and is in compliance with the provisions of Section 847.5 with respect to the arrest of a bail fugitive.  (b) This article shall not prohibit an arrest pursuant to Sections 837, 838, and 839. |
| [**PC 1299.04**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.04.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | (a) A bail fugitive recovery person, a bail agent, bail permittee, or bail solicitor who contracts his or her services to another bail agent or surety as a bail fugitive recovery person for the purposes specified in subdivision (d) of Section 1299.01, and any bail agent, bail permittee, or bail solicitor who obtains licensing after January 1, 2000, and who engages in the arrest of a defendant pursuant to Section 1301 shall comply with the following requirements:  (1) The person shall be at least 18 years of age.  (2) The person shall have completed a 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to Section 832. Completion of the course shall be for educational purposes only and not intended to confer the power of arrest of a peace officer or public officer, or agent of any federal, state, or local government, unless the person is so employed by a governmental agency.  (3) The person shall have completed a minimum of 20 hours of classroom prelicensing education certified pursuant to Section 1810.7 of the Insurance Code. For those persons licensed by the department as a bail licensee prior to January 1, 1994, there is no prelicensing education requirement. For those persons licensed by the department as a bail licensee between January 1, 1994, and December 31, 2012, a minimum of 12 hours of classroom prelicensing education is required.  (4) The person shall not have been convicted of a felony, unless the person is licensed by the Department of Insurance pursuant to Section 1800 of the Insurance Code.  (b) Upon completion of any course or training program required by this section, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall carry certificates of completion with him or her at all times in the course of performing his or her duties under this article. |
| [**PC 1299.05**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.05.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | In performing a bail fugitive apprehension, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall comply with all laws applicable to that apprehension. |
| [**PC 1299.06**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.06.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | Before apprehending a bail fugitive, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall have in his or her possession proper documentation of authority to apprehend issued by the bail or depositor of bail as prescribed in Sections 1300 and 1301. The authority to apprehend document shall include all of the following information: the name of the individual authorized by Section 1299.02 to apprehend a bail fugitive and any fictitious name, if applicable; the address of the principal office of the individual authorized by Section 1299.02 to apprehend a bail fugitive; and the name and principal business address of the bail agency, surety company, or other party contracting with the individual authorized by Section 1299.02 to apprehend a bail fugitive. |
| [**PC 1299.07**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.07.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | (a) An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not represent himself or herself in any manner as being a sworn law enforcement officer.  (b) An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not wear any uniform that represents himself or herself as belonging to any part or department of a federal, state, or local government. Any uniform shall not display the words United States, Bureau, Task Force, Federal, or other substantially similar words that a reasonable person may mistake for a government agency.  (c) An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not wear or otherwise use a badge that represents himself or herself as belonging to any part or department of the federal, state, or local government.  (d) An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not use a fictitious name that represents himself or herself as belonging to any federal, state, or local government.  (e) An individual authorized by Section 1299.02 to apprehend a bail fugitive may wear a jacket, shirt, or vest with the words “BAIL BOND RECOVERY AGENT,” “BAIL ENFORCEMENT,” or “BAIL ENFORCEMENT AGENT” displayed in letters at least two inches high across the front or back of the jacket, shirt, or vest and in a contrasting color to that of the jacket, shirt, or vest. |
| [**PC 1299.08**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.08.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | (a) Except under exigent circumstances, an individual authorized by Section 1299.02 to apprehend a bail fugitive shall, prior to and no more than six hours before attempting to apprehend the bail fugitive, notify the local police department or sheriff’s department of the intent to apprehend a bail fugitive in that jurisdiction by doing all of the following:  (1) Indicating the name of an individual authorized by Section 1299.02 to apprehend a bail fugitive entering the jurisdiction.  (2) Stating the approximate time an individual authorized by Section 1299.02 to apprehend a bail fugitive will be entering the jurisdiction and the approximate length of the stay.  (3) Stating the name and approximate location of the bail fugitive.  (b) If an exigent circumstance does arise and prior notification is not given as provided in subdivision (a), an individual authorized by Section 1299.02 to apprehend a bail fugitive shall notify the local police department or sheriff’s department immediately after the apprehension, and upon request of the local jurisdiction, shall submit a detailed explanation of those exigent circumstances within three working days after the apprehension is made.  (c) This section shall not preclude an individual authorized by Section 1299.02 to apprehend a bail fugitive from making or attempting to make a lawful arrest of a bail fugitive on bond pursuant to Section 1300 or 1301. The fact that a bench warrant is not located or entered into a warrant depository or system shall not affect a lawful arrest of the bail fugitive.  (d) For the purposes of this section, notice may be provided to a local law enforcement agency by telephone prior to the arrest or, after the arrest has taken place, if exigent circumstances exist. In that case the name or operator number of the employee receiving the notice information shall be obtained and retained by the bail, depositor of bail, or bail fugitive recovery person. |
| [**PC 1299.09**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.09.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | An individual, authorized by Section 1299.02 to apprehend a bail fugitive shall not forcibly enter a premises except as provided for in Section 844. |
| [**PC 1299.10**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.10.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not carry a firearm or other weapon unless in compliance with the laws of the state. |
| [**PC 1299.11**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.11.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | Any person who violates this act, or who conspires with another person to violate this act, or who hires an individual to apprehend a bail fugitive, knowing that the individual is not authorized by Section 1299.02 to apprehend a bail fugitive, is guilty of a misdemeanor punishable by a fine of five thousand dollars ($5,000) or by imprisonment in a county jail not to exceed one year, or by both that imprisonment and fine. |
| [**PC 1299.12**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1299.12.&lawCode=PEN)  **(Bail Fugitive Recovery Persons Act)** | Nothing in this article is intended to exempt from licensure persons otherwise required to be licensed as private investigators pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. |
| [**PC 1300**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1300.)  **(Exoneration)** | (a) At any time before the forfeiture of their undertaking, or deposit by a third person, the bail or the depositor may surrender the defendant in their exoneration, or he may surrender himself, to the officer to whose custody he was committed at the time of giving bail, in the following manner:  (1) A certified copy of the undertaking of the bail, a certified copy of the certificate of deposit where a deposit is made, or an affidavit given by the bail licensee or surety company listing all that specific information that would be included on a certified copy of an undertaking of bail, must be delivered to the officer who must detain the defendant in his custody thereon as upon a commitment, and by a certificate in writing acknowledge the surrender.  (2) The bail or depositor, upon surrendering the defendant, shall make reasonable effort to give notice to the defendant’s last attorney of record, if any, of such surrender.  (3) The officer to whom the defendant is surrendered shall, within 48 hours of the surrender, bring the defendant before the court in which the defendant is next to appear on the case for which he has been surrendered. The court shall advise the defendant of his right to move the court for an order permitting the withdrawal of any previous waiver of time and shall advise him of the authority of the court, as provided in subdivision (b), to order return of the premium paid by the defendant or other person, or any part of it.  (4) Upon the undertaking, or certificate of deposit, and the certificate of the officer, the court in which the action or appeal is pending may, upon notice of five days to the district attorney of the county, with a copy of the undertaking, or certificate of deposit, and the certificate of the officer, order that the bail or deposit be exonerated. However, if the defendant is released on his own recognizance or on another bond before the issuance of such an order, the court shall order that the bail or deposit be exonerated without prejudice to the court’s authority under subdivision (b). On filing the order and papers used on the application, they are exonerated accordingly.  (b) Notwithstanding subdivision (a), if the court determines that good cause does not exist for the surrender of a defendant who has not failed to appear or has not violated any order of the court, it may, in its discretion, order the bail or the depositor to return to the defendant or other person who has paid the premium or any part of it, all of the money so paid or any part of it. |
| [**PC 1301**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1301.&lawCode=PEN)  **(Exoneration)** | For the purpose of surrendering the defendant, the bail or any person who has deposited money or bonds to secure the release of the defendant, at any time before such bail or other person is finally discharged, and at any place within the state, may himself arrest defendant, or by written authority indorsed on a certified copy of the undertaking or a certified copy of the certificate of deposit, may empower any person of suitable age to do so.  Any bail or other person who so arrests a defendant in this state shall, without unnecessary delay, and, in any event, within 48 hours of the arrest, deliver the defendant to the court or magistrate before whom the defendant is required to appear or to the custody of the sheriff or police for confinement in the appropriate jail in the county or city in which defendant is required to appear. Any bail or other person who arrests a defendant outside this state shall, without unnecessary delay after the time defendant is brought into this state, and, in any event, within 48 hours after defendant is brought into this state, deliver the defendant to the custody of the court or magistrate before whom the defendant is required to appear or to the custody of the sheriff or police for confinement in the appropriate jail in the county or city in which defendant is required to appear.  Any bail or other person who willfully fails to deliver a defendant to the court, magistrate, sheriff, or police as required by this section is guilty of a misdemeanor.  The provisions of this section relating to the time of delivery of a defendant are for his benefit and, with the consent of the bail, may be waived by him. To be valid, such waiver shall be in writing, signed by the defendant, and delivered to such bail or other person within 48 hours after the defendant’s arrest or entry into this state, as the case may be. The defendant, at any time and in the same manner, may revoke said waiver. Whereupon, he shall be delivered as provided herein without unnecessary delay and, in any event within 48 hours from the time of such revocation.  If any 48-hour period specified in this section terminates on a Saturday, Sunday, or holiday, delivery of a defendant by a bail or other person to the court or magistrate or to the custody of the sheriff or police may, without violating this section, take place before noon on the next day following which is not a Saturday, Sunday, or holiday. |
| [**PC 1302**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1302.&lawCode=PEN)  **(Exoneration)** | If money has been deposited instead of bail, and the defendant, at any time before the forfeiture thereof, surrenders himself or herself to the officer to whom the commitment was directed, in the manner provided in Sections 1300 and 1301, the court shall order a return of the deposit to the defendant or to the person or persons found by the court to have deposited said money on behalf of the defendant, upon the production of the certificate of the officer showing the surrender, and upon a notice of five days to the district attorney, with a copy of the certificate. |
| [**PC 1303**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1303.&lawCode=PEN)  **(Exoneration)** | If an action or proceeding against a defendant who has been admitted to bail is dismissed, the bail shall not be exonerated until a period of 15 days has elapsed since the entry of the order of dismissal. If, within such period, the defendant is arrested and charged with a public offense arising out of the same act or omission upon which the action or proceeding was based, the bail shall be applied to the public offense. If an undertaking of bail is on file, the clerk of the court shall promptly mail notice to the surety on the bond and the bail agent who posted the bond whenever the bail is applied to a public offense pursuant to this section. |
| [**PC 1304**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1304.&lawCode=PEN)  **(Exoneration)** | **Article 6 – Exoneration**  Any bail, or moneys or bonds deposited in lieu of bail, or any equity in real property as security in lieu of bail, or any agreement whereby the defendant is released on his or her own recognizance shall be exonerated two years from the effective date of the initial bond, provided that the court is informed in writing at least 60 days prior to 2 years after the initial bond of the fact that the bond is to be exonerated, or unless the court determines otherwise and informs the party executing the bail of the reasons that the bail is not exonerated. |
| [**PC 1305-1308**](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=10.&part=2.&chapter=1.&article=7.) | **Article 7 - Forfeiture of the Undertaking of Bail or of the Deposit of Money** |
| [**PC 1305**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1305.) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | (a) (1) A court shall in open court declare forfeited the undertaking of bail or the money or property deposited as bail if, without sufficient excuse, a defendant fails to appear for any of the following:  (A) Arraignment.  (B) Trial.  (C) Judgment.  (D) Any other occasion prior to the pronouncement of judgment if the defendant’s presence in court is lawfully required.  (E) To surrender himself or herself in execution of the judgment after appeal.  (2) (A) Notwithstanding paragraph (1), except as provided in subparagraph (B), the court shall not have jurisdiction to declare a forfeiture and the bail shall be released of all obligations under the bond if the case is dismissed or if no complaint is filed within 15 days from the date of arraignment.  (B) The court’s jurisdiction to declare a forfeiture and authority to release bail may be extended for not more than 90 days from the arraignment date originally set by the jailer pursuant to subdivision (a) of Section 1269b if either of the following occur:  (i) The prosecutor requests in writing or in open court that the arraignment be continued to allow the prosecutor time to file the complaint.  (ii) The defendant requests the extension in writing or in open court.  (b) (1) If the amount of the bond or money or property deposited exceeds four hundred dollars ($400), the clerk of the court shall, within 30 days of the forfeiture, mail notice of the forfeiture to the surety or the depositor of money posted instead of bail. At the same time, the court shall mail a copy of the forfeiture notice to the bail agent whose name appears on the bond. The clerk shall also execute a certificate of mailing of the forfeiture notice and shall place the certificate in the court’s file. If the notice of forfeiture is required to be mailed pursuant to this section, the 180-day period provided for in this section shall be extended by a period of five days to allow for the mailing.  (2) If the surety is an authorized corporate surety, and if the bond plainly displays the mailing address of the corporate surety and the bail agent, then notice of the forfeiture shall be mailed to the surety at that address and to the bail agent, and mailing alone to the surety or the bail agent shall not constitute compliance with this section.  (3) The surety or depositor shall be released of all obligations under the bond if any of the following conditions apply:  (A) The clerk fails to mail the notice of forfeiture in accordance with this section within 30 days after the entry of the forfeiture.  (B) The clerk fails to mail the notice of forfeiture to the surety at the address printed on the bond.  (C) The clerk fails to mail a copy of the notice of forfeiture to the bail agent at the address shown on the bond.  (c) (1) If the defendant appears either voluntarily or in custody after surrender or arrest in court within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice if the notice is required under subdivision (b), the court shall, on its own motion at the time the defendant first appears in court on the case in which the forfeiture was entered, direct the order of forfeiture to be vacated and the bond exonerated. If the court fails to so act on its own motion, then the surety’s or depositor’s obligations under the bond shall be immediately vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.  (2) If, within the county where the case is located, the defendant is surrendered to custody by the bail or is arrested in the underlying case within the 180-day period, and is subsequently released from custody prior to an appearance in court, the court shall, on its own motion, direct the order of forfeiture to be vacated and the bond exonerated. If the court fails to so act on its own motion, then the surety’s or depositor’s obligations under the bond shall be immediately vacated and the bond exonerated. An order vacating the forfeiture and exonerating the bond may be made on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.  (3) If, outside the county where the case is located, the defendant is surrendered to custody by the bail or is arrested in the underlying case within the 180-day period, the court shall vacate the forfeiture and exonerate the bail.  (4) In lieu of exonerating the bond, the court may order the bail reinstated and the defendant released on the same bond if both of the following conditions are met:  (A) The bail is given prior notice of the reinstatement.  (B) The bail has not surrendered the defendant.  (d) In the case of a permanent disability, the court shall direct the order of forfeiture to be vacated and the bail or money or property deposited as bail exonerated if, within 180 days of the date of forfeiture or within 180 days of the date of mailing of the notice, if notice is required under subdivision (b), it is made apparent to the satisfaction of the court that both of the following conditions are met:  (1) The defendant is deceased or otherwise permanently unable to appear in the court due to illness, insanity, or detention by military or civil authorities.  (2) The absence of the defendant is without the connivance of the bail.  (e) (1) In the case of a temporary disability, the court shall order the tolling of the 180-day period provided in this section during the period of temporary disability, provided that it appears to the satisfaction of the court that the following conditions are met:  (A) The defendant is temporarily disabled by reason of illness, insanity, or detention by military or civil authorities.  (B) Based upon the temporary disability, the defendant is unable to appear in court during the remainder of the 180-day period.  (C) The absence of the defendant is without the connivance of the bail.  (2) The period of the tolling shall be extended for a reasonable period of time, at the discretion of the court, after the cessation of the disability to allow for the return of the defendant to the jurisdiction of the court.  (f) In all cases where a defendant is in custody beyond the jurisdiction of the court that ordered the bail forfeited, and the prosecuting agency elects not to seek extradition after being informed of the location of the defendant, the court shall vacate the forfeiture and exonerate the bond on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.  (g) In all cases of forfeiture where a defendant is not in custody and is beyond the jurisdiction of the state, is temporarily detained, by the bail agent, in the presence of a local law enforcement officer of the jurisdiction in which the defendant is located, and is positively identified by that law enforcement officer as the wanted defendant in an affidavit signed under penalty of perjury, and the prosecuting agency elects not to seek extradition after being informed of the location of the defendant, the court shall vacate the forfeiture and exonerate the bond on terms that are just and do not exceed the terms imposed in similar situations with respect to other forms of pretrial release.  (h) In cases arising under subdivision (g), if the bail agent and the prosecuting agency agree that additional time is needed to return the defendant to the jurisdiction of the court, and the prosecuting agency agrees to the tolling of the 180-day period, the court may, on the basis of the agreement, toll the 180-day period within which to vacate the forfeiture. The court may order tolling for up to the length of time agreed upon by the parties.  (i) As used in this section, “arrest” includes a hold placed on the defendant in the underlying case while he or she is in custody on other charges.  (j) A motion filed in a timely manner within the 180-day period may be heard within 30 days of the expiration of the 180-day period. The court may extend the 30-day period upon a showing of good cause. The motion may be made by the surety insurer, the bail agent, the surety, or the depositor of money or property, any of whom may appear in person or through an attorney.  (k) In addition to any other notice required by law, the moving party shall give the prosecuting agency a written notice at least 10 court days before a hearing held pursuant to subdivision (f), (g), or (j), as a condition precedent to granting the motion. |
| [**PC 1305.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1305.1.&lawCode=PEN) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | If the defendant fails to appear for arraignment, trial, judgment, or upon any other occasion when his or her appearance is lawfully required, but the court has reason to believe that sufficient excuse may exist for the failure to appear, the court may continue the case for a period it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.  If, after the court has made the order, the defendant, without sufficient excuse, fails to appear on or before the continuance date set by the court, the bail shall be forfeited and a warrant for the defendant’s arrest may be ordered issued. |
| [**PC 1305.2**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1305.2.&lawCode=PEN) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | If an assessment is made a condition of the order to set aside the forfeiture of an undertaking, deposit, or bail under Section 1305, the clerk of the court shall within 30 days mail notice thereof to the surety or depositor at the address of its principal office, mail a copy to the bail agent whose name appears on the bond, and shall execute a certificate of mailing and place it in the court’s file in the case. The time limit for payment shall in no event be less than 30 days after the date of mailing of the notice.  If the assessment has not been paid by the date specified, the court shall determine if a certificate of mailing has been executed, and if none has, the court shall cause a notice to be mailed to the surety, depositor, or bail agent whose name appears on the bond, and the surety, depositor, or bail agent whose name appears on the bond shall be allowed an additional 30 days to pay the assessment. |
| [**PC 1305.3**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1305.3.&lawCode=PEN) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | The district attorney, county counsel, or applicable prosecuting agency, as the case may be, shall recover, out of the forfeited bail money, the costs and attorney’s fees incurred in successfully opposing a motion to vacate the forfeiture and in collecting on the summary judgment prior to the division of the forfeited bail money between the cities and counties in accordance with Section 1463.001. |
| [**PC 1305.4**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1305.4.&lawCode=PEN) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | Notwithstanding Section 1305, the surety insurer, the bail agent, the surety, or the depositor may file a motion, based upon good cause, for an order extending the 180-day period provided in that section. The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The court, upon a hearing and a showing of good cause, may order the period extended to a time not exceeding 180 days from its order. A motion may be filed and calendared as provided in subdivision (j) of Section 1305. In addition to any other notice required by law, the moving party shall give the prosecuting agency a written notice at least 10 court days before a hearing held pursuant to this section as a condition precedent to granting the motion. |
| [**PC 1305.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1305.5.&lawCode=PEN) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | Notwithstanding Sections 85, 580, 904.1, and 904.2 of the Code of Civil Procedure, the following rules apply to an appeal from an order of the superior court on a motion to vacate a bail forfeiture declared under Section 1305:  (a) If the amount in controversy exceeds twenty-five thousand dollars ($25,000), the appeal is to the court of appeal and shall be treated as an unlimited civil case.  (b) Except as provided in subdivision (c), if the amount in controversy does not exceed twenty-five thousand dollars ($25,000), the appeal is to the appellate division of the superior court and shall be treated as a limited civil case.  (c) If the bail forfeiture was in a felony case, or in a case in which both a felony and a misdemeanor were charged, and the forfeiture occurred at or after the sentencing hearing or after the indictment or the legal commitment by a magistrate, the appeal is to the court of appeal and shall be treated as an unlimited civil case. |
| [**PC 1305.6**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1305.6.) **(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | (a) If a person appears in court after the end of the 180-day period specified in Section 1305, the court may, in its discretion, vacate the forfeiture and exonerate the bond if both of the following conditions are met:  (1) The person was arrested on the same case within the county where the case is located, within the 180-day period.  (2) The person has been in continuous custody from the time of his or her arrest until the court appearance on that case.  (b) Upon a showing of good cause, a motion brought pursuant to paragraph (3) of subdivision (c) of Section 1305 may be filed within 20 days from the mailing of the notice of entry of judgment under Section 1306.  (c) In addition to any other notice required by law, the moving party shall give the applicable prosecuting agency written notice of the motion to vacate the forfeiture and exonerate the bond under this section at least 10 court days before the hearing. |
| [PC 1306](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1306.&lawCode=PEN)**(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. The judgment shall be the amount of the bond plus costs, and notwithstanding any other law, no penalty assessments shall be levied or added to the judgment.  (b) If a court grants relief from bail forfeiture, it shall impose a monetary payment as a condition of relief to compensate the people for the costs of returning a defendant to custody pursuant to Section 1305, except for cases where the court determines that in the best interest of justice no costs should be imposed. The amount imposed shall reflect the actual costs of returning the defendant to custody. Failure to act within the required time to make the payment imposed pursuant to this subdivision shall not be the basis for a summary judgment against any or all of the underlying amount of the bail. A summary judgment entered for failure to make the payment imposed under this subdivision is subject to the provisions of Section 1308, and shall apply only to the amount of the costs owing at the time the summary judgment is entered, plus administrative costs and interest.  (c) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.  (d) A dismissal of the complaint, indictment, or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.  (e) The district attorney or county counsel shall:  (1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.  (2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in these cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure. Notwithstanding Sections 85, 580, 904.1, and 904.2 of the Code of Civil Procedure, jurisdiction of the appeal, and treatment of the appeal as a limited civil case or an unlimited civil case, is governed by Section 1305.5.  (f) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment. |
| [PC 1306.1](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1306.1.&lawCode=PEN)**(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | The provisions of Sections 1305 and 1306 shall not affect the payment of bail deposits into the city or county treasury, as the case may be, pursuant to Section 40512 of the Vehicle Code in those cases arising under Section 40500 of the Vehicle Code. |
| [PC 1307](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1307.&lawCode=PEN)**(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, and the forfeiture is not discharged or remitted, the clerk with whom it is deposited must, at the end of 180 days, unless the court has before that time discharged the forfeiture, pay over the money deposited to the county treasurer. |
| [PC 1308](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1308.&lawCode=PEN)**(Forfeiture of the Undertaking of Bail or of the Deposit of Money)** | (a) No court or magistrate shall accept any person or corporation as surety on bail if any summary judgment against that person or corporation entered pursuant to Section 1306 remains unpaid after the expiration of 30 days after service of the notice of the entry of the summary judgment, provided that, if during the 30 days an action or proceeding available at law is initiated to determine the validity of the order of forfeiture or summary judgment rendered on it, this section shall be rendered inoperative until that action or proceeding has finally been determined, provided that, if an appeal is taken, an appeal bond is posted in compliance with Section 917.1 of the Code of Civil Procedure. (b) The clerk of the court in which the judgment is rendered shall serve notice of the entry of judgment upon the judgment debtor within five days after the date of the entry of the summary judgment. |
| [**PC 1310**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1310.)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | **Article 8 – Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail**  The court to which the committing magistrate returns the depositions, or in which an indictment, information, or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his or her commitment to the officer to whose custody he or she was committed at the time of giving bail, and his or her detention until legally discharged, in the following cases:  (a) When, by reason of his or her failure to appear, he or she has incurred a forfeiture of his or her bail, or of money deposited instead thereof.  (b) When it satisfactorily appears to the court that his or her bail, or either of them, are dead or insufficient, or have removed from the state.  (c) Upon an indictment being found or information filed in the cases provided in Section 985. |
| [**PC 1311**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1311.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | The order for the recommitment of the defendant must recite generally the facts upon which it is founded, and direct that the defendant be arrested by any sheriff, marshal, or policeman in this state, and committed to the officer in whose custody he or she was at the time he or she was admitted to bail, to be detained until legally discharged. |
| [**PC 1312**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1312.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | The defendant may be arrested pursuant to the order, upon a certified copy thereof, in any county, in the same manner as upon a warrant of arrest, except that when arrested in another county the order need not be indorsed by a magistrate of that county. |
| [**PC 1313**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1313.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | If the order recites, as the ground upon which it is made, the failure of the defendant to appear for judgment upon conviction, the defendant must be committed according to the requirement of the order. |
| [**PC 1314**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1314.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | If the order be made for any other cause, and the offense is bailable, the Court may fix the amount of bail, and may cause a direction to be inserted in the order that the defendant be admitted to bail in the sum fixed, which must be specified in the order. |
| [**PC 1315**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1315.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | When the defendant is admitted to bail, the bail may be taken by any magistrate in the county, having authority in a similar case to admit to bail, upon the holding of the defendant to answer before an indictment, or by any other magistrate designated by the Court. |
| [**PC 1316**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1316.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | When bail is taken upon the recommitment of the defendant, the undertaking must be in substantially the following form:  An order having been made on the \_\_\_\_ day of \_\_\_\_, A.D. eighteen \_\_\_\_, by the Court (naming it), that A. B. be admitted to bail in the sum of \_\_\_\_ dollars, in an action pending in that Court against him in behalf of the people of the State of California, upon an (information, presentment, indictment, or appeal, as the case may be), we, C. D. and E. F., of (stating their places of residence and occupation), hereby undertake that the above named A. B. will appear in that or any other Court in which his appearance may be lawfully required upon that (information, presentment, indictment, or appeal, as the case may be), and will at all times render himself amenable to its orders and process, and appear for judgment and surrender himself in execution thereof; or if he fails to perform either of these conditions, that we will pay to the people of the State of California the sum of \_\_\_\_ dollars (insert the sum in which the defendant is admitted to bail). |
| [**PC 1317**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1317.&lawCode=PEN)  **(Recommitment of the Defendant After Having Given Bail or Deposited Money Instead of Bail)** | The bail must possess the qualifications, and must be put in, in all respects, in the manner prescribed in Article II of this Chapter. |
| [**PC 1318**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1318.) **(Procedure Relating to Release on Own Recognizance)** | **Prohibition Against Release from Custody Until Defendant has Signed Release Agreement; Contents**  **(a)**  The defendant shall not be released from custody under an own recognizance until the defendant files with the clerk of the court or other person authorized to accept bail a signed release agreement which includes:  **(1)**  The defendant's promise to appear at all times and places, as ordered by the court or magistrate and as ordered by any court in which, or any magistrate before whom the charge is subsequently pending.  **(2)**  The defendant's promise to obey all reasonable conditions imposed by the court or magistrate.  **(3)**  The defendant's promise not to depart this state without leave of the court.  **(4)**  Agreement by the defendant to waive extradition if the defendant fails to appear as required and is apprehended outside of the State of California.  **(5)**  The acknowledgment of the defendant that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release. |
| [**PC 1318.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1318.1.&lawCode=PEN) **(Procedure Relating to Release on Own Recognizance)** | **Employment of Investigative Staff; Report**  **(a)**  A court, with the concurrence of the board of supervisors, may employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.  **(b)**  Whenever a court has employed an investigative staff pursuant to subdivision (a), an investigative report shall be prepared in all cases involving a violent felony, as described in subdivision (c) of Section 667.5, or a felony in violation of subdivision (a) of [Section 23153 of the Vehicle Code](https://advance.lexis.com/search/?pdmfid=1000516&crid=bd946fa9-abed-48ea-bc1f-4d662c406775&pdsearchterms=cal+penal+code+section+1318.1&pdstartin=hlct%3A1%3A1&pdtypeofsearch=searchboxclick&pdsearchtype=SearchBox&pdqttype=and&pdpsf=hlct%3A1%3A2%7Cjur%3A1%3A26&ecomp=tg-Lk&earg=pdpsf&prid=857b6854-787d-498d-a7ab-0e43fbba9157), recommending whether the defendant should be released on his or her own recognizance. The report shall include all of the following:   * + **(1)**  Written verification of any outstanding warrants against the defendant.   + **(2)**  Written verification of any prior incidents where the defendant has failed to make a court appearance.   + **(3)**  Written verification of the criminal record of the defendant.   + **(4)**  Written verification of the residence of the defendant during the past year.   After the report is certified pursuant to this subdivision, it shall be submitted to the court for review, prior to a hearing held pursuant to Section 1319.  **(c)**  The salaries of the staff are a proper charge against the county. |
| [**PC 1319**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1319.&lawCode=PEN) **(Procedure Relating to Release on Own Recognizance)** | **Violent Felonies; Requirement of Hearing Prior to OR Release**  **(a)**  **No person arrested for a violent felony, as described in subdivision (c) of Section 667.5, may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge**, and until the prosecuting attorney is given notice and a reasonable opportunity to be heard on the matter. In all cases, these provisions shall be implemented in a manner consistent with the defendant's right to be taken before a magistrate or judge without unreasonable delay pursuant to Section 825.  **(b)**  A defendant charged with a violent felony, as described in subdivision (c) of Section 667.5, shall not be released on his or her own recognizance where it appears, by clear and convincing evidence, that he or she previously has been charged with a felony offense and has willfully and without excuse from the court failed to appear in court as required while that charge was pending. In all other cases, in making the determination as to whether or not to grant release under this section, the court shall consider all of the following:   * + **(1)**  The existence of any outstanding felony warrants on the defendant.   + **(2)**  Any other information presented in the report prepared pursuant to Section 1318.1. The fact that the court has not received the report required by Section 1318.1, at the time of the hearing to decide whether to release the defendant on his or her own recognizance, shall not preclude that release.   + **(3)**  Any other information presented by the prosecuting attorney.   **(c)**  The judge or magistrate who, pursuant to this section, grants or denies release on a person's own recognizance, within the time period prescribed in Section 825, shall state the reasons for that decision in the record. This statement shall be included in the court's minutes. The report prepared by the investigative staff pursuant to subdivision (b) of Section 1318.1 shall be placed in the court file for that particular matter. |
| [**PC 1319.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1319.5.&lawCode=PEN) **(Procedure Relating to Release on Own Recognizance)** | **Person Arrested for Commission of New Offense**  **(a)**  No person described in subdivision (b) who is arrested for a new offense may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge.  **(b)**  Subdivision (a) shall apply to the following:   * + **(1)**  Any person who is currently on felony probation or felony parole.   + **(2)**  Any person who has failed to appear in court as ordered, resulting in a warrant being issued, three or more times over the three years preceding the current arrest, except for infractions arising from violations of the Vehicle Code, and who is arrested for any of the following offenses:     - **(A)**  Any felony offense.     - **(B)**  Any violation of the California Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).     - **(C)**  Any violation of Chapter 9 (commencing with Section 240) of Title 8 of Part 1 (assault and battery).     - **(D)**  A violation of Section 484 (theft).     - **(E)**  A violation of Section 459 (burglary).     - **(F)**  Any offense in which the defendant is alleged to have been armed with or to have personally used a firearm. |
| [**PC 1320**](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=10.&part=2.&chapter=1.&article=10.)  **(Violations)** | **Willful Failure to Appear**  **(a)**  Every person who is charged with or convicted of the commission of a misdemeanor who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.  **(b)**  Every person who is charged with or convicted of the commission of a felony who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon conviction shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment pursuant to subdivision (h) of Section 1170, or in the county jail for not more than one year, or by both that fine and imprisonment. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court. |
| [**PC 1320.5**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1320.5.)  **(Violations)** | Every person who is charged with or convicted of the commission of a felony, who is released from custody on bail, and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony. Upon a conviction under this section, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment pursuant to subdivision (h) of Section 1170, or in the county jail for not more than one year, or by both the fine and imprisonment. Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court. |
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|  | [**CHAPTER 6. Inquiry into the Competence of the Defendant Before Trial or After Conviction [1367 - 1376]**](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?chapter=6.&part=2.&lawCode=PEN&title=10.) |
| [**PC 1370**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1370.) **(Inquiry into the Competence of the Defendant Before Trial or After Conviction)** | (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged or hearing on the alleged violation shall proceed, and judgment may be pronounced.  (B) If the defendant is found mentally incompetent, the trial, the hearing on the alleged violation, or the judgment shall be suspended until the person becomes mentally competent.  …  (iii) If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person’s release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered, as directed by the State Department of State Hospitals, unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others. |
| [**PC 1370.1**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1370.1.) **(Inquiry into the Competence of the Defendant Before Trial or After Conviction)** | (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged or hearing on the alleged violation shall proceed, and judgment may be pronounced.  (B) If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until the defendant becomes mentally competent.  …  (iii) If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person’s release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a state hospital for the care and treatment of the developmentally disabled unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others. |
| [**PC 1371**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1371.)**(Inquiry into the Competence of the Defendant Before Trial or After Conviction)** | The commitment of the defendant, as described in Section 1370, 1370.1, 1370.01, or 1370.02, exonerates his or her bail, or entitles a person, authorized to receive the property of the defendant, to a return of any money he or she may have deposited instead of bail, or gives, to the person or persons found by the court to have deposited any money instead of bail on behalf of the defendant, a right to the return of that money. |
| [**PC 1372**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=1372.)**(Inquiry into the Competence of the Defendant Before Trial or After Conviction)** | …  (d) If the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. If the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant’s promise or on the promise of a responsible adult to secure the person’s appearance in court for further proceedings. If the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.  (e) A defendant subject to either subdivision (a) or (b) who is not admitted to bail or released under subdivision (d) may, at the discretion of the court, upon recommendation of the director of the facility where the defendant is receiving treatment, be returned to the hospital or facility of his or her original commitment or other appropriate secure facility approved by the community program director, the county mental health director, or the regional center director. The recommendation submitted to the court shall be based on the opinion that the person will need continued treatment in a hospital or treatment facility in order to maintain competence to stand trial or that placing the person in a jail environment would create a substantial risk that the person would again become incompetent to stand trial before criminal proceedings could be resumed. … |
|  | [TITLE 12. OF SPECIAL PROCEEDINGS OF A CRIMINAL NATURE](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=12.&part=2.&chapter=&article=)  [1473-1564](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PEN&division=&title=12.&part=2.&chapter=&article=)  [CHAPTER 1. Of the Writ of Habeas Corpus](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=12.&part=2.&chapter=1.&article=)  [1473-1509.1](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=12.&part=2.&chapter=1.&article=) |
| [**PC 1476**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1476.&lawCode=PEN)  **(Of the Writ of Habeas Corpus)** | **Endorsement of Petition; Admission to Bail pending Determination**  Any court or judge authorized to grant the writ, to whom a petition therefor is presented, must endorse upon the petition the hour and date of its presentation and the hour and date of the granting or denial of the writ, and must, if it appear that the writ ought to issue, grant the same without delay; and if the person by or upon whose behalf the application for the writ is made be detained upon a criminal charge, may admit him to **bail**, if the offense is bailable, pending the determination of the proceeding. |
| **PART 4. PREVENTION OF CRIME AND APPREHENSION OR CRIMINALS** | **TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS** |
| [**PC 11105.6**](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11105.6.&lawCode=PEN) | **Alias, booking photographs, and Violent Felony Information**  Upon the request of a licensed bail agent or bail bond licensee, as described in Sections 1276 and 1276.5, a local law enforcement agency may furnish an individual’s known aliases and booking photograph, information identifying whether the individual has been convicted of any violent felony, as defined in subdivision (c) of Section 667.5, and an unaltered copy of the booking and property record, excluding any medical information, to the agent or licensee if all of the following circumstances exist:  (a) The information is from the record of a person for whom a bench warrant has been issued, or for whom a bail forfeiture has been ordered.  (b) The person described in subdivision (a) is a client of the agent or licensee.  (c) The agent or licensee pays to the law enforcement agency a fee equal to the cost of providing the information.  (d) Any information obtained pursuant to this section is confidential and the recipient bail agent or bail bond licensee shall not disclose its contents, other than for the purpose for which it was acquired. A violation of this subdivision is a misdemeanor. |