

MODEL POLICY: CREATING A STRONG PRESUMPTION AGAINST PRETRIAL RELEASE ON PERSONAL RECOGNIZANCE BONDS FOR VIOLENT AND REPEAT OFFENDERS

SUMMARY: This legislation creates a strong presumption that may be overcome that defendants who are violent and repeat offenders, as defined by the categories, are not eligible for a personal recognizance bond, which is defined as a promise to appear in court without the requirement of security, meaning a cash, property, or surety bond. Jurisdictions may add or subtract from the list as specific categories or circumstances may warrant the presumption.

The goal of this legislation is to reduce pretrial crime and reduce failures to appear in court and long-term fugitive rates. Research shows that past criminal history, particularly violent, and repeat failures to appear in court are by far the greatest predictors of pretrial failures. As much as 80-90% of the ability to predict pretrial failures rest in those two indicators among all indicators tested over a generation.¹ Research also shows that defendants released on a commercial bail bond are 28% more likely to show up for court and 45% less likely to be fugitives over the long term.² Research also shows that secured bonds via cash and property are also more effective at reducing failures to appear in court and decreasing the chances that the defendant will be a long term fugitive.³

BILL LANGUAGE:

Notwithstanding any provision of the law or court rule, the following shall apply when a judge or judicial officer sets bail in all courts in Michigan and shall be applicable to all offenses charged: (1) When setting bail and conditions of release in Michigan, consideration of public safety shall be the paramount consideration; (2) There shall be a presumption against release on one's own recognizance or unsecured bond that may only be overcome by clear and convincing evidence that a person is not a flight risk or danger to the community in the following circumstances: (a) A person has been convicted of a prior felony, sexual offense, or violent charge within the past five years; (b) A person is already on release on a pending charge; (c) A person is on probation or parole; (d) A person is charged with possession of a firearm when disqualified to do so based on a prior conviction of a felony; (e) A person has failed to appear in the immediate matter as required; and, (f) A person has failed to appear in court as required once in the previous three years.

¹ <https://ambailcoalition.org/download/20/bureau-of-justice-statistics/805/bureau-of-justice-statistics-1990-2004.pdf>

² <https://www.youtube.com/watch?v=QbfGxvphI5A&t=5s>

³ Link to DOJ and the Fugitive