



ALLEGHENY COUNTY PRETRIAL SERVICES INTERNAL POLICY DIRECTIVE

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BAIL MODIFICATIONS PRIOR TO VERDICT

BACKGROUND

As enumerated in the Allegheny County Rules of Criminal Procedure (All.C.R.Crim.P.), the division of Pretrial Services, Bail Unit, is designated as the "Bail Agency" of the Court of Common Pleas of Allegheny County pursuant to the Pennsylvania Rules of Criminal Procedure Rule 530. According to rule 530, the duties and powers of a "Bail Agency" are as follows:

1. Gathering information about defendants relevant to bail decisions;
2. Making recommendations to the bail authorities concerning the types of release and the conditions of release on bail for individual defendants;
3. Supervising defendants when so designated by the bail authority;
4. Administering percentage cash bail when authorized by a bail authority pursuant to Rule 528, and evaluating for the bail authority the reliability and solvency of prospective sureties for percentage cash bail programs; and
5. Making reasonable rules and regulations to implement the bail agency's functions.

The Allegheny County Rules of Criminal Procedures Rule 529.1 specifies three conditions regarding modifications of bail orders prior to verdict.

1. All motions concerning bail before verdict shall be heard by the Motions Judge of the Criminal Division in open court and on the record.
2. Notice of hearing concerning bail before verdict must be given to the Attorney for the Commonwealth, defense counsel of record and the Bail Unit and no hearing shall be conducted unless the attorney for the Commonwealth and representative of the Bail Unit are present.
3. In case of emergency, if defense counsel of record could not be notified of the bail hearing, defense counsel shall be promptly notified by the Bail Unit of the Motions Judge's disposition on the motion and if, upon such notification, defense counsel requests an opportunity to be heard, another hearing will be scheduled by the Bail Unit.

ADMINISTRATIVE BAIL REVIEW

The Attorney for the Commonwealth, the Public Defender's Office, or any private defense counsel of record may request an administrative review of bail by the Pretrial Services Bail Unit. This review can be requested without a formal petition to the Court for a hearing by submitting the Administrative Bail Review Request form (Form PTS – BR) directly to the Bail Unit of the Pretrial Services Department. These requests will be processed promptly and a decision for a modification hearing will be rendered within 72 hours of receipt of form PTS-BR. If a modification hearing to bail is deemed appropriate, the Pretrial Service Bail Unit will schedule a bail modification hearing with the Motions Judge pursuant to All.C.R.Crim. P Rule 529.1 and the PTS-BR form will be returned to the petitioner with a hearing date.

Homicide Case Exception

Pursuant to All.C.R.Crim.P. Rule 131.1, Pittsburgh Municipal Court is designated as the central location for all preliminary arraignments, whether live or by use of advanced communication technology, where the defendant is charged with the following offenses: Criminal Homicide (18 Pa.C.S. §2501), Murder (18 Pa.C.S. §2502), Voluntary Manslaughter (18 Pa.C.S. §2503), Involuntary Manslaughter (18 Pa.C.S. §2504), Drug Delivery Resulting in Death (18 Pa.C.S. §2506), Homicide by Vehicle (75 Pa.C.S. §3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. §3735), Homicide by Watercraft (30 Pa.C.S. §5502.2), Homicide by Watercraft While Operating Under Influence (30Pa.C.S. §5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. §2603), Murder of Unborn Child (18 Pa.C.S. §2604) and/or Voluntary Manslaughter of Unborn Child (18 Pa.C.S. §2605)

If the defendant is charged with any of the above-enumerated offenses, all motions, including Bail Modifications, are to be heard by the assigned trial Judge of the Criminal Division upon the assignment thereof.

Mental Health Treatment Court Exception

Any Criminal Court case that has been screened by the Mental Health Court Team and accepted into the program is eligible to have all bond hearings held before the Mental Health Court Judge. The Mental Health Court Judge will determine when a pending Criminal case is officially accepted into the program prior to the plea. A designee of the Mental Health Court Judge will submit the hearing request to the Pretrial Services Department at least 72 hours prior to the hearing date.

REVIEW CRITERIA

Any criminal case filed and pending in Allegheny County is eligible for an Administrative Bail Review by the Pretrial Services Department. When the Defendant is incarcerated, all detainers lodged against the defendant must be disposed of before an Administrative Bail Review will be approved.

In the process of reviewing the Administrative Bail Review Requests, the Pretrial Services Bail Unit if applicable, will review the completed Risk Assessment and recommendation as it relates to the eventual bail order. The applied Risk Assessment will also be checked for accuracy and adjusted if any problems are found. On cases where a Risk Assessment was not completed by Pretrial Services, this assessment will be applied on information provided by the defendant and representing counsel as per policy for the Pretrial Services Standardized Investigations. The results and recommendation from this assessment will be compared to the current bail order for the Case. If the Bail Unit deems a discrepancy between the Risk Assessment recommendation and the current bail order significant, a Bail Modification Hearing will be scheduled pursuant to All.C.R. Crim. P., 529.1.

Also in the process of reviewing the Administrative Bail Review Request, the Pretrial Service Bail Unit will consider any new relevant information that has become available concerning the defendant that would affect the issuing authority's decision concerning the type of release and the conditions of release imposed at the preliminary arraignment or subsequent proceedings pursuant to the PA Rules of Criminal Procedure Rule 529. This new information to be considered may also include additional or corrected information to the release criteria as per the PA Rules of Criminal Procedure Rule 523, as follows:

RELEASE CRITERIA RULE 523 (A) (1-10)

1. The nature of the offense charged and any mitigating or aggravating factors that may bear upon the likelihood of conviction and possible penalty;
2. The defendant's employment status and history, and financial conditions;
3. The nature of the defendant's family relationships;
4. The length and nature of the defendant's residence in the community, and any past residences;
5. The defendant's age, character, reputation, mental condition, and whether addicted to alcohol or drugs;
6. If the defendant has previously been released on bail, whether he or she appeared as required and complied with the conditions of the bail bond;
7. Whether the defendant has any record of flight to avoid arrest or prosecution, or of escape or attempted escape;
8. The defendant's prior criminal record;
9. Any use of false identification; and
10. Any other factors relevant to whether the defendant will appear as required and comply with the conditions of the bail bond.

The decision to schedule a bond modification hearing without a formal petition being filed with the court from the requesting party is solely at the discretion of the Pretrial Services Bail Unit as per this policy.

FORMAL PETITION REQUIREMENTS

If the Pretrial Services Bail Unit does not find significant reason to approve and schedule a Bond Modification hearing after the Administrative Bail Review, the requesting party will be notified via the PTS-BR form and instructed to file a formal petition with the Court pursuant to the PA Rules of Criminal Procedures Rule 529 (C). Upon receipt of the formal written petition filed with the Court, the Pretrial Services Bail Unit will administratively present this petition to the Motion's Judge. If approved for a bond modification hearing by the Motions Judge, the Pretrial Services Bail Unit will promptly schedule the hearing at the petitioner's convenience pursuant to All. C.R.Crim. P., 529.1.