

## **CHAPTER 29-08 BAIL**

### **29-08-01. Bail defined.**

Bail is the security required and given for the release of a person who is in the custody of the law that the person will appear before any court in which the person's appearance may be required and that the person will do, or refrain from doing, such things as are stipulated in the bail bond or recognizance referred to in this chapter as the undertaking.

### **29-08-02. Admission to bail defined - Delegation of authority by magistrate.**

Admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody upon an undertaking with sufficient sureties for the defendant's appearance. Any magistrate or municipal judge in this state may designate, authorize, and appoint an additional person or persons to arrange, receive, and approve bail in cases involving traffic violations.

### **29-08-03. Taking of bail defined.**

The taking of bail consists of the acceptance by a competent court or magistrate, or a legally authorized officer, of an undertaking with sufficient sureties for the appearance of the defendant in person, according to the terms of the undertaking, or that the sureties will pay to the state a specified sum.

#### **29-08-03.1. Supreme court uniform bail schedule initiative - Report.**

1. The supreme court shall establish a uniform bail schedule to apply when an individual has been taken into custody and has not yet appeared before the district court for a violation of a state offense to achieve substantial uniformity of bail in district court.
2. The uniform bail schedule must be established in cooperation with the district court.
3. When establishing the uniform bail schedule, the supreme court shall consider the following factors when setting the standard amount of bail:
  - a. Maintaining public safety;
  - b. The severity of the offense justifying the bail amount;
  - c. The need to assure defendants appear for court hearings;
  - d. Equal treatment within the judicial system;
  - e. Constitutional limits and requirements related to bail;
  - f. Prohibiting excessive bail; and
  - g. Any other factors considered by the supreme court to be relevant.
4. The supreme court may adjust the standard bail amounts established by the uniform bail schedule as needed or when requested by the district court.
5. The uniform bail schedule must be implemented by August 1, 2024.
6. Before September 1, 2024, the supreme court shall provide a report to the legislative management regarding the implementation of the uniform bail schedule and the standard amount of bail for each state offense.

#### **29-08-04. When bail must be taken.**

Superseded by N.D.R.Crim.P., Rule 46.

#### **29-08-05. Bail upon charge of murder in first degree.**

Superseded by N.D.R.Crim.P., Rule 46.

#### **29-08-06. Bail on appeal after conviction.**

Superseded by N.D.R.Crim.P., Rule 46.

#### **29-08-07. Amount of bail upon charge of larceny of livestock.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-08. Admission to bail before conviction.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-09. Admission to bail after conviction.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-10. Bail in cases of illness.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-11. Bail taken - Order of discharge.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-12. Qualification of bail - Justification.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-13. Fidelity and surety company may act as sureties on criminal undertaking for bail.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-14. Deposit of money or bonds as bail.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-15. Bail after deposit of money or bonds.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-16. Notice to state's attorney.**

Whenever admission to bail is a matter of discretion, the court, magistrate, or officer to whom application therefor is made shall require reasonable notice thereof to be given to the state's attorney of the county.

**29-08-17. Who may take bail.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-18. Form of undertaking of bail.**

Superseded by N.D.R.Crim.P., Rules 46, 58.

**29-08-19. Who may make order admitting to bail on appeal.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-20. Defendant may be arrested by bail.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-21. Forfeiture of bail - Excuse - Disposition of traffic violation cases.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-22. Increase or decrease of bail - Notice to state's attorney.**

The court in which a criminal action is pending, or a judge thereof, for good cause and with or without notice to the defendant, may increase or reduce the amount of bail. If the defendant applies for a reduction of the amount of bail, reasonable notice of such application must be given to the state's attorney of the county.

**29-08-23. Additional security may be required by court.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-24. Action on undertaking - Defects not fatal.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-25. When surety may be discharged.**

Superseded by N.D.R.Crim.P., Rule 46.

**29-08-26. Bail pending extradition.**

Pending the determination of habeas corpus proceedings, a person taken into custody under a warrant issued by the governor of this state upon the requisition of the governor of another state or territory at the discretion of the court or judge may be admitted to bail by the court or judge issuing the writ of habeas corpus.

**29-08-27. Jumping bail a misdemeanor.**

Repealed by S.L. 1975, ch. 106, § 673.

**29-08-28. Bail - Defendant's property.**

Except as otherwise provided in this section, moneys deposited as bail are the property of the defendant, whether deposited by the defendant or by a third person on the defendant's behalf. If bail moneys are deposited by a third person, the person must be notified at the time of deposit that the moneys may be paid to the defendant upon final disposition of the case or applied to any fine, cost, or restitution imposed on the defendant. The person may direct, subject to further order of the judge, that the deposited moneys be released to that person upon final disposition of the case. When moneys are accepted by the court as bail, the judge shall order that the moneys received be deposited with the clerk of court. The clerk shall retain the moneys until the final order of the court disposing of the case. Upon release of the moneys held by the clerk, the moneys must be paid to the defendant or pursuant to the defendant's written direction or, unless otherwise ordered by the judge, as directed by a person who deposited moneys on behalf of the defendant. In the case of a conviction, the judge may order the moneys to be applied to any fine, cost, or restitution imposed on the defendant. The balance of the deposit, if any, must be paid to the defendant. Moneys deposited with the court or clerk of court as bail are exempt from garnishment, attachment, or execution.