

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LASSEN**

**GENERAL ORDER**

**2020-07**

Order of the Presiding Judge

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**FILED**  
Clerk of the Superior Court  
County of Lassen

**APR 09 2020**

By *[Signature]*  
DEPUTY CLERK

Effective April 6, 2020, the California Judicial Council adopted Emergency Rule 4, Bail Schedule, of the California Rules of Court. In part, Emergency Rule 4 mandates bail be set at \$0 for every accused person arrested and in pretrial custody and every accused person held in pretrial custody.

Under the Statewide Emergency Bail Schedule, bail for all misdemeanor and felony offenses; violations of misdemeanor probation; and violations of felony probation, parole, post-release community supervision, or mandatory supervision must be set at \$0, with the exception of only the offenses listed below:

- (1) A serious felony, as defined in Penal Code section 1192.7(c), or a violent felony, as defined in Penal Code section 667.5(c);
- (2) A felony violation of Penal Code section 69;
- (3) A violation of Penal Code section 166(c)(1);
- (4) A violation of Penal Code section 136.1 when punishment is imposed under section 136.1(c);
- (5) A violation of Penal Code section 262;
- (6) A violation of Penal Code sections 243(e)(1) or 273.5;
- (7) A violation of Penal Code 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;
- (8) A violation of Penal Code section 422 where the offense is punished as a felony;

- (9) A violation of Penal Code section 646.9;
- (10) A violation of an offense listed in Penal Code section 290(c);
- (11) A violation of Vehicle Code sections 23152 or 23153;
- (12) A felony violation of Penal Code section 463; and
- (13) A violation of Penal Code section 29800.

The Judicial Council's stated purpose for creation of a Statewide Emergency Bail Schedule is provided within the Report to the Judicial Council, Item No.: 20-141, for business meeting on: April 6, 2020. The stated purpose in part states:

During the COVID-19 pandemic, trial courts have a vital role to play in balancing public safety and public health by assisting to safely reduce jail populations in a manner that protects the health of inmates, jail staff, those who transport defendants to courts, and others as individuals leave jail and return to their communities. The courts can assist by permitting more persons accused of misdemeanors and other lower-level offenses to be released from jail custody prior to arraignment, which in turn will reduce the immediate burden on the courts to conduct arraignments and preliminary examinations within compact timeframes.

After arrest, an accused person held in jail prior to arraignment must be brought before a magistrate for arraignment within 48 hours (a timeframe that has been extended to seven days under the Chief Justice's order of March 30). Alternatively, if the person has bailed out of custody, there is no specified timeframe within which the arraignment must occur. Whether an accused is in or out of custody, a preliminary hearing must occur within 10 court days after arraignment (a timeframe that has been extended to 30 days under the Chief Justice's order of March 30). If more individuals can bail out of custody, arraignments can be delayed and calendared to a later date, reducing the burden on courts to hold large numbers of arraignments and preliminary examinations within a short timeframe, especially at a time when many courtrooms are closed, and staff is limited.

The current countywide bail schedule of the superior court must remain in effect for all offenses listed in exceptions (1) through (13) listed above of the Statewide Emergency Bail Schedule, including any count-specific conduct enhancements and any status enhancements. Each superior court retains the authority to reduce the amount of bail listed in the court's current countywide bail schedule

for offenses in exceptions (1) through (13), or for any offenses not in conflict with the Statewide Emergency Bail Schedule.

The Judicial Council's Emergency Rule 4 states "No later than 5 p.m. on April 13, 2020, each superior court must apply the Statewide Emergency Bail Schedule." It further states, "Nothing in the Emergency Bail Schedule restricts the ability of the court to deny bail as authorized by article I, section 12, or 28(f)(3) of the California Constitution."

Section 28 of the California Constitution, referred to as Victim's Bill of Rights, in part states:

(f) In addition to the enumerated rights provided in subdivision (b) that are personally enforceable by victims as provided in subdivision (c), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:

(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.

The purpose stated for the California Judicial Council adopted Emergency Rule 4 is not at this time being experienced in Lassen County. Protection of the public,

victim's rights and the safety of the victim should not be displaced because of COVID-19 without careful consideration.

As it pertains to all accused persons currently arrested and in pretrial custody and all accused person currently held in pretrial custody who do not have an offense listed in the above exceptions (1) through (13), at 4:59 p.m. on April 13, 2020, the Statewide Emergency Bail Schedule will be imposed setting bail at \$0. As to these persons the Prosecutor may request the matter be placed on calendar for April 13, 2020 at 1:00 p.m. The Prosecutor shall also provide notice to the opposing party of the bail hearing. The Prosecutor's request for such hearing should be made to the court by no later than Friday, April 10, 2020 at 4:00 p.m.

At the bail hearing, the parties will be afforded the opportunity to provide evidence and argument as to whether or not the impending release of these persons will compromise public safety, the safety of a victim or return to court. In considering bail, the court will 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, pursuant to 28(f)(3) of the California Constitution. If the court finds by clear and convincing evidence that no combination of conditions will reasonably assure public safety, safety of the victim or return to court, bail will be set in an amount to provide sufficient sureties.

The Prosecutor is to notify any victim of a defendant whose bail will be set at \$0 of a defendant's impending release.

With respect to any newly accused person arrested and in pretrial custody and any newly accused person held in pretrial custody who do not have an offense listed in the above exceptions (1) through (13). When said person is arrested and a peace officer or prosecutor has reasonable cause to believe that the amount of bail set at \$0 pursuant to the Statewide Emergency Bail Schedule is insufficient to ensure the person's appearance or to ensure the protection of the public or the safety of the victim, the peace officer or prosecutor shall prepare a declaration under penalty of perjury setting forth the facts and circumstances in support of his or her request to increase bail. The application to increase bail is to be filed with a magistrate, as defined in Penal Code Section 808.

The magistrate to whom the application is made is authorized to set bail in an amount that he or she deems sufficient to ensure the person's appearance or to ensure the protection of the public or the safety of the victim 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 person'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 person shall be entitled to be released on posting the amount of bail set forth in the applicable bail schedule.

At arraignment, the prosecution may make a request that the court set bail pursuant to 28(f)(3) of the California Constitution. If the court finds by clear and convincing evidence that no combination of conditions will reasonably assure public safety, safety of the victim or return to court, bail will be set in an amount to provide sufficient sureties.

IT IS SO ORDERED.

Dated: April 9, 2020

  
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Presiding Judge of the Superior Court of Lassen