

ALBUQUERQUE CRIMINAL LAWYER BLOG

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Bail Bond Companies are Worth the Costs for Most

The Eighth Amendment to the United States Constitution guarantees individuals the right to fair and reasonable bail. Most importantly, it protects individuals from excessive bail.

The purpose of bail bonds are twofold. First, it allows people to be free from incarceration while the criminal process is proceeding. Second, it acts as a guarantee that a defendant will show up to court or they forfeit their money.

Bond amounts are set by the judge who bases the decision on the severity of the crime, a person's criminal history, the individual's flight risk potential, among other considerations. A judge may place a no bond hold on a person if the defendant is found to be a flight risk. In the absence of flight risk, the judge should set a reasonable bail based upon the entirety of the circumstances.

The Court will typically set a cash or surety bail. This means that the defendant may post the entire amount of the bail in cash on his or her own. Most defendants are not in a position to post the entire cash bond. Bail bondsmen serve a very valuable service in allowing the defendant to post bail with only a small portion of the total bail amount. Typically, the bonds company's fees will be 10% to 15% of the total bail.

The bond fees are nonrefundable. Bail bondsmen are licensed and bonded with the state to post bond for individuals to get them out of jail very quickly. The bail bondsman is then responsible for ensuring that the bonded defendant shows up to court. If they don't, the bond company forfeits its bond. The seemingly high fees are to compensate the bond company for that risk.

Some individuals can post the cash bail. Typically, the bail will come from friends or family. A person who pays for the bond is then responsible for the defendant showing up to court. If the defendant does not show, like a bond company, the friends or family will lose their money.

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When a defendant does not show for a hearing, a couple of things happen. First, a bench warrant is issued. Second, the bond is forfeited and the court seizes the money. All is not lost for the bond company, friend or family member. If they or law enforcement can secure the defendant's appearance, they can get their bond once the case is concluded. This accounts for the very aggressive "collection efforts" of bail bonding companies when a defendant flees.

Whenever the defendant is finally brought to court, either voluntarily, by execution of the bench warrant, or through the services of the bond company, a no bond hold will then be placed on the defendant. At that point, neither the defendant nor the bond is going anywhere until the case has been concluded.

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