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Acting Administrative Director of the Courts

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**TO:** Assignment Judges  
Trial Court Administrators  
**FROM:** Glenn A. Grant, J.A.D. *gag jbg SDB*  
**SUBJ:** Bail and Bail Forfeitures -- Revisions to Procedures and Forms  
**DATE:** August 7, 2017

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**Directive #22-17**

[Supersedes Directive #13-04 and the  
Supplements to that Directive]

This Directive updates the procedures and forms relating to bail processing and bail forfeitures and judgments as currently set forth in Directive #13-04 ("Revisions to Forms and Procedures Governing Bail and Bail Forfeitures") and a series of supplements to that directive. It supersedes Directive #13-04 and those supplements and is effective immediately.

A defendant released on bail is subject to forfeiture of the monetary bail if defendant breaches a condition of that release. The procedures for bail forfeiture are governed by Rules 3:26-6 (Superior Court) and 7:4-5 (Municipal Court). The Criminal Justice Reform (CJR) Law, which went into effect January 1, 2017, did not totally eliminate all monetary bail nor did it change the procedures for forfeiture of monetary bail for breach of a condition of release on bail. Pursuant to the CJR Law, "[m]onetary bail may be set for an eligible defendant only when it is determined that no other conditions of pretrial release will reasonably assure the eligible defendant's appearance in court when required." N.J.S.A. 2A:162-15. The CJR Law also provides for monetary bail to be ordered upon issuance of an arrest warrant for a failure to appear in court by a defendant charged on a complaint-summons. N.J.S.A. 2A:162-16d(2)(a).

Further, petty disorderly persons offenses are not covered by the CJR Law and thus are subject to monetary bail being set on the initial complaint-warrant. Monetary bail can also be ordered upon issuance of a bench warrant for a failure to appear in court if the defendant was released on a complaint-summons. Additionally, defendants released on monetary bail prior to the effective date of the CJR law are subject to forfeiture proceedings for breaches of conditions of their release. There thus are various situations in which monetary bail is used, even post-CJR, and also where bail forfeiture proceedings come into play. This Directive, as noted, updates the procedures and forms relating to bail processing and bail forfeitures and judgments.

Specifically, this Directive promulgates the following:

- (1) a revised *Bail Recognizance* Form and Instructions (Superior and Municipal Courts) (Attachment A);
- (2) a reissuance of the *Judiciary Corporate Surety Bail Forfeiture and Judgement Protocol* and *Judiciary Cash Bail Forfeiture and Judgment Protocol* (as originally promulgated in the October 22, 2008 Supplement to Directive #13-04) (Superior Court) (Attachment B);
- (3) a new *Order to Stay Entry of Judgment* (Attachment C);
- (4) *Revised Remission Guidelines* (Superior and Municipal Courts) (Attachment D);
- (5) a revised *Order to Vacate Bail Forfeiture and/or Judgment and Discharge the Bond upon Payment* (Superior Court) (Attachment E); and
- (6) a reissuance of the *Default Judgment on Forfeited Recognizance and Notice of Removal* form order for Municipal Court promulgated in Directive #13-04 (Attachment F).

The *Order for Bench Warrant and Bail Forfeiture* form (Superior Court) promulgated in Directive #13-04 has been superseded by the automated form order generated in Promis/Gavel. Similarly, the *Default Judgment on Forfeited Recognizance and Notice of Removal* form orders promulgated in Directive #13-04 have been superseded by the automated Default Judgment form orders generated in the Central Automated Bail System (CABS) for Superior Court. Those automated forms will continue to be used in Superior Court.

## **A. Background**

The changes to the forms and procedures promulgated by this Directive were initially recommended in the *Report of the Bail Judge Subcommittee of the Criminal Presiding Judges* issued February 2016. That Subcommittee had been formed in response to the issues and concerns on the bail forfeiture recovery process and the bail bond system included in the Report of the State of New Jersey Commission of Investigation, *Inside Out, Questionable and Abusive Practices in New Jersey's Bail-Bond Industry* (May 2014). The Supreme Court considered and approved the recommendations from the Bail Judge Subcommittee in March 2016; this Directive implements that approval. Consistent with that approval, the Court has adopted amendments to Rules 3:26-6 and 7:4-5, effective September 1, 2017, deleting from both rules the references to "in the interest of justice" regarding bail forfeitures and instead specifically authorizing the courts to set aside an order of forfeiture or judgment in whole

or in part in accordance with the Rules of Court and/or directives, including but not limited to the “Revised Remission Guidelines” promulgated by this directive (Attachment D).

**(1) Revised Bail Recognizance Form and Instructions (Superior and Municipal Courts) (Attachment A)**

The Supreme Court adopted the recommendation for a statewide policy to eliminate the filing fee for persons released on their own recognizance. Consistent with that approval, the Bail Recognizance form for Criminal and Municipal was revised to provide for the waiver of the \$50 bail fee required under R. 1:43 when a defendant is released on his or her own recognizance. This conforms with the statutory requirement under the CJR Law prohibiting a fee or other monetary assessment related to processing the eligible defendant's release. See N.J.S.A. 2A:162-23b.

Additionally, the Court adopted the recommendation for a statewide policy that provides that the filing fee shall be collected at the time the bail is posted, unless the court orders otherwise. The policy also provides that any unsatisfied bail fee shall be deducted from the bail refund amount. The recognizance form therefore was revised to allow for the collection of the bail fee, where applicable, if that fee was not presented at the time the recognizance was effectuated. The instructions for completing the recognizance form were also revised accordingly.

**(2) Reissuance of the Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol and Judiciary Cash Bail Forfeiture and Judgment Protocol (Superior Court) (Attachment B)**

The *Judiciary Corporate Surety Bail Forfeiture and Judgement Protocol* was initially promulgated in Directive #13-04 and revised in the October 22, 2008 Supplement to Directive #13-04. Also promulgated in that October 22, 2008 Supplement was the *Judiciary Cash Bail Forfeiture and Judgment Protocol*. No changes have been made to either of those two protocols and both are reissued as part of this directive.

**(3) New Order to Stay Entry of Judgment (Superior Court) (Attachment C)**

Amendments to Rules 3:26-6 and 7:4-5, effective September 1, 2017, provide for one stay of judgment by consent order of no more than 30 days, unless upon motion to the court a longer period is permitted based on a finding of exceptional circumstances. To conform with these rule amendments, the new form of order limits a surety or defendant to one 30-day stay of judgment once a bail amount has been forfeited. Once that stay expires, the judgment must be satisfied in full by a surety to avoid preclusion. All forfeited judgments shall be docketed as statewide judgment liens to ensure that judgments for bail forfeiture are satisfied by the surety when the defendant is a fugitive.

**(4) Revised Remission Guidelines (Superior and Municipal Courts)  
(Attachment D)**

The *Revised Remission Guidelines* promulgated by this directive supersede the existing *Remittitur Guidelines* originally promulgated on November 17, 2004 in Directive #13-04 and supplemented on October 9, 2007 and again on November 12, 2008.

The *Revised Remission Guidelines*, previously titled *Remittitur Guidelines*, have been revised to simplify and streamline the process for handling applications to set aside or remit a forfeiture in Superior and Municipal Courts. Pursuant to amended Rules 3:26-6 and 7:4-5, effective September 1, 2017, the court may remit the forfeiture, "in whole or in part, pursuant to the court rules and/or administrative directives, including but not limited to the Revised Remission Guidelines."

The **primary factor** in the *Revised Remission Guidelines* to **determine the amount to remit is "the length of time that defendant is a fugitive**, rather than the supervision efforts provided by the surety or the defendant's commission of another crime while on bail," which were considered under the prior *Remittitur Guidelines*. Further, the remission amount is **limited to a one-year time period** for the defendant's time at large under the *Revised Remission Guidelines*. This time period is calculated from the date of the defendant's failure to appear in court and the court's issuance of a bench warrant. **After this one-year period, 100% of the bail should be forfeited unless exceptional circumstances are demonstrated by the surety.**

The decision to remit, as well as the amount of bail, are matters within the sound discretion of the judge. This exercise of discretion should adhere to the following policy concerns that have been expressed over the years: (1) the necessity of providing an incentive to the surety to take active and reasonable steps to recapture a fugitive defendant, and (2) that if remission were unreasonably withheld, corporate sureties might be overcautious in their willingness to post bail.

The following factors should also be considered, if applicable, within the framework of the above policy concerns in determining the amount to remit: (1) the prejudice to the State, and the expense incurred by the State, as a result of the fugitive's non-appearance, recapture and enforcement of the forfeiture; (2) the detriment to the State also includes the intangible element of injury to the public interest where a defendant deliberately fails to make an appearance in a criminal case; (3) non-appearing defendants imprisoned out-of-state; (4) the State's knowledge of a defendant's imprisonment; and (5) deportation of defendant while on bail.

**(5) Revised Order to Vacate Bail Forfeiture and/or Judgment and  
Discharge the Bond upon Payment (Superior Court) (Attachment E)**

The Order to Vacate Bail Forfeiture and/or Judgment and Discharge the Bond Upon Payment that was initially promulgated in Directive #13-04 has been revised so as

to provide options based on the circumstances for (1) negotiated amounts that fall within the *Revised Remission Guidelines* for defendant's time at large; and (2) when the negotiated amount does not fall within the range for the remission amount for defendant's time at large, the surety must demonstrate "exceptional circumstances." This modification of the form order to require a demonstration of exceptional circumstances by the surety is intended to provide further encouragement for county counsel and sureties to negotiate bail settlements consistent with the ranges in the *Revised Remission Guidelines*.

**(6) Reissuance of the Default Judgment on Forfeited Recognizance Form Order for Municipal Court (Attachment F)**

No changes have been made to the *Default Judgment on Forfeited Recognizance* form order for Municipal Court originally promulgated by Directive #13-04. It thus is reissued as part of this directive.

Questions or concerns regarding this Directive may be directed to Michelle M. Smith, Clerk of the Superior Court, at 609-984-4200 or [michelle.smith@njcourts.gov](mailto:michelle.smith@njcourts.gov).

**Attachments**

cc: Chief Justice Stuart Rabner  
Hon. Carmen Messano  
Hon. Jack Sabatino  
Hon. Patrick DeAlmeida  
Criminal Presiding Judges  
Municipal Court Presiding Judges  
Steven D. Bonville, Chief of Staff  
AOC Directors and Assistant Directors  
Clerks of Court  
Meryl G. Nadler, Counsel  
Ann Marie Fleury, Special Assistant  
Melaney S. Payne, Special Assistant  
Civil Division Managers  
Criminal Division Managers  
Family Division Managers  
Finance Division Managers  
Municipal Division Managers  
Municipal Court Directors and Administrators  
Kathryn Gilbertson Shabel, Superior Court Deputy Clerk  
Vance Hagins, Chief, Criminal  
Tina LaLena, Chief, Municipal  
Maria Pogue, Assistant Chief, Criminal

## **Attachment A**

### **New Jersey Judiciary Bail Recognizance Form and Instructions (Superior and Municipal Courts)**

|                                                                                                                                                                                                                  |  |                                                                          |                              |                                                                   |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------|------------------------------|-------------------------------------------------------------------|--|
| <b>Document Origination:</b><br><input type="checkbox"/> Jail<br><input type="checkbox"/> Superior Court<br><input type="checkbox"/> Municipal Court<br><input type="checkbox"/> Law Enforcement Agency<br>_____ |  | <b>New Jersey Bail Recognizance</b><br><b>With Waiver of Extradition</b> |                              | Bail Recognizance Number<br><br>Receipt Number<br><br>CABS Number |  |
|                                                                                                                                                                                                                  |  | <b>Court:</b><br><b>Address:</b>                                         | <b>Phone:</b><br><b>Fax:</b> |                                                                   |  |

|                         |                         |                                                 |                               |
|-------------------------|-------------------------|-------------------------------------------------|-------------------------------|
| <b>Case Information</b> | Complaint (CDR) Number: | PROMIS/GAVEL Number:                            | Indictment/Accusation Number: |
| Charge(s):              |                         | Where Offense Occurred<br>Municipality: County: |                               |

|                                                                                               |                                |  |                 |                                        |      |         |
|-----------------------------------------------------------------------------------------------|--------------------------------|--|-----------------|----------------------------------------|------|---------|
| <b>Defendant Information</b><br><br><b>State of New Jersey</b><br><b>vs.</b><br><br>Defendant | First Name:                    |  | Middle Initial: | Last Name:                             |      |         |
|                                                                                               | Address:                       |  |                 |                                        |      | Apt. #: |
|                                                                                               | City:                          |  |                 | State:                                 | Zip: |         |
|                                                                                               | Date of Birth:                 |  |                 | Social Security Number:                |      |         |
|                                                                                               | Phone Number:<br>(     )     - |  |                 | State Bureau of Identification Number: |      |         |

|                             |                                                                                                                                                                                        |                                                                                                                 |                              |                   |              |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------|-------------------|--------------|
| <b>Bail Information</b>     | Amount of Bail Set:<br>\$                                                                                                                                                              | Bail Type:<br><input type="checkbox"/> ROR <input type="checkbox"/> 10% Cash <input type="checkbox"/> Full Cash |                              | Date Bail Set:    | Bail Set By: |
|                             | Amount of Bail Received:<br>\$                                                                                                                                                         | Filing Fee Received:<br>\$                                                                                      | Total Amount Received:<br>\$ | Bail Received By: |              |
|                             | Payment Type: <input type="checkbox"/> Cash <input type="checkbox"/> Check # <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order # <input type="checkbox"/> Bond |                                                                                                                 |                              |                   |              |
| Special Conditions of Bail: |                                                                                                                                                                                        |                                                                                                                 |                              |                   |              |

|                                                                                                                                   |                                              |                 |                                                                                                                                      |  |                  |
|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------|--|------------------|
| <b>If More Than One Surety/Insurer Is Involved, Complete a Separate Bail Recognizance for Each.</b>                               |                                              |                 |                                                                                                                                      |  |                  |
| <b>Non-Corporate Surety Information:</b><br>(Person Posting Cash Bail)                                                            |                                              |                 | <b>Corporate Surety/Bail Agent Information:</b>                                                                                      |  |                  |
| First Name:                                                                                                                       |                                              | Middle Initial: | Last Name:                                                                                                                           |  |                  |
| Address:                                                                                                                          |                                              |                 | Name of Insurer (Corporate Surety Company) and NAIC number.<br>Attach proof of authority with corporate seal affixed:                |  |                  |
| Address:                                                                                                                          |                                              | Apt. #:         | Bail Agent and License Number:                                                                                                       |  |                  |
| City:                                                                                                                             |                                              | State:          | Bail Agency and License Number:                                                                                                      |  |                  |
| Phone Number:<br>(     )     -                                                                                                    | Driver's License Number or Other Form of ID: |                 | Power of Attorney Number:                                                                                                            |  | Expiration Date: |
| As Surety, I have read, understand and agree to the conditions<br>(see reverse) and special conditions of this Bail Recognizance. |                                              |                 | As Bail Agent I have read, understand and agree to the conditions<br>(see reverse) and special conditions of this Bail Recognizance. |  |                  |
| Date: _____ Signature: _____                                                                                                      |                                              |                 | Date: _____ Signature: _____                                                                                                         |  |                  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Certification of Ownership for Cash Bail Deposited by Someone Other Than Defendant</b>                                                                                                                                                                                                                                                                                                                                                                                       |                                               |
| I, _____, am the lawful owner of the \$ _____, deposited in lieu of bond on behalf of the defendant in the above entitled case. I acknowledge that where the proper filing fee was not remitted at the time this bond was executed that the fee amount shall be deducted from the bond upon return. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. |                                               |
| Date: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Signature of Lawful Owner of Cash Bail: _____ |

|                                                                                                                                                                                                                                                                                                       |                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <b>Defendant Agreement</b>                                                                                                                                                                                                                                                                            |                           |
| I, the defendant, understand and agree that the owner of the bail posted in this case is _____. I also have read, understand, and agree to the Conditions (see reverse) AND Special Conditions of this Bail Recognizance. I further understand that I must appear at all scheduled court appearances. |                           |
| Court Date: ____/____/____                                                                                                                                                                                                                                                                            | Court Time: _____ AM / PM |
| Signature: _____ Date: ____/____/____                                                                                                                                                                                                                                                                 |                           |

|                       |                      |                                                        |
|-----------------------|----------------------|--------------------------------------------------------|
| Date Bail Discharged: | Date Bail Forfeited: | Please Notify Court of Disability Accommodation Needs. |
|-----------------------|----------------------|--------------------------------------------------------|

# Conditions of Recognizance

The parties to the Bail Recognizance understand and agree to be bound by the following conditions:

## 1. Responsibility of Defendant:

- (a) The defendant must personally appear at all court proceedings until the final determination of the matter, unless otherwise ordered by the court. If the defendant fails to appear for a Superior Court proceeding, an ARREST WARRANT for the defendant will be issued. If the defendant fails to appear for a Municipal Court proceeding, an ARREST WARRANT for the defendant may be issued.
- (b) The defendant must notify the court immediately in writing of any change of address.
- (c) The defendant must notify the court immediately in writing if he or she is detained in jail or prison or otherwise cannot appear at a court proceeding.
- (d) If the defendant fails to appear at a scheduled court proceeding and is arrested in another state or jurisdiction, the defendant agrees to waive all rights to extradition proceedings under the New Jersey statutes and the demanding state's or jurisdiction's statutes in regard to extradition law.

## 2. Responsibility of Corporate Surety (Insurer), Bail Agency and Bail Agent:

The insurer, bail agency and bail agent agree to be responsible for:

- (a) Producing the defendant for all court proceedings, unless otherwise authorized by the court;
- (b) Supervising the defendant while he or she is released on bail under the terms of this Recognizance;
- (c) Taking immediate steps to recapture the defendant should the defendant fail to appear for any court appearance;
- (d) Notifying the court immediately in writing of any change in the defendant's address;
- (e) Notifying the court immediately in writing if the defendant is detained in jail or prison or otherwise cannot appear at a court proceeding.

## 3. Responsibility of Non-Corporate Surety (Person Posting Bail):

- (a) The person posting bail must notify the court immediately in writing of any change in the defendant's address.
- (b) The person posting bail must notify the court immediately in writing if the defendant is detained in jail or prison or otherwise cannot appear at a court proceeding.

## 4. Jurisdiction and Notice:

- (a) Pursuant to R. 1:13-3(b), the parties to the Recognizance (principal and the surety) submit themselves to the jurisdiction of the court; that they irrevocably appoint the clerk of the court having jurisdiction as their agency upon whom papers affecting their liability on the bond may be served; that they waive any right to a jury trial; that the liability of the principal and surety may be enforced by motion in the action, if one is pending, without any necessity of an independent action; and that the motion may be served on the principal and surety by mailing it, by ordinary mail, to the clerk of the court, who shall forthwith mail copies thereof by ordinary mail to the principal and surety at the address stated in the Bail Registry.
- (b) Any notice of forfeiture will be served on the defendant and non-corporate sureties (persons posting bail) by ordinary mail at the addresses listed on this Recognizance. Any notice of forfeiture will be served on the corporate surety (insurer), bail agency and bail agent at the address listed in the Bail Registry maintained by the Clerk of the Superior Court pursuant to R. 1:13-3(b).

## 5. Additional Information:

- (a) With a 10% cash bail option, the non-corporate surety, if other than the defendant, is responsible for the 10% deposit if the bail is forfeited and the defendant is responsible for the remaining 90%. If the defendant is the depositor he or she is responsible for the full amount of the bail if the bail is forfeited.
- (b) Bail will **NOT** be returned until discharged by the court. In municipal court the surety may be required to present the Bail Recognizance and show two forms of identification for the return of bail. Bail discharged by the Superior Court will be refunded by mail and, in most instances, will be refunded within ten to fourteen business days after the address has been verified.
- (c) When the defendant has been granted a conditional discharge or has been admitted into Pretrial Intervention (P.T.I.), bail will **NOT** be returned until the court makes a final determination.
- (d) The filing fee on indictable offenses is required to be paid upon execution of this Recognizance.
- (e) On breach of a condition of the Recognizance in Superior Court matters, the court will order a forfeiture of the bail on its own motion and a default judgment will be entered absent any objection seeking to set aside the forfeiture. On a breach of a condition of the Recognizance in Municipal Court matters, the court may order a forfeiture of the bail on its own or on the prosecuting attorney's motion and a default judgment may be entered.
- (f) Where the proper filing fee was not collected at the time the bond was executed, that fee shall be deducted from the amount returned to the surety.
- (g) Where a defendant is released on his or her own recognizance, no fee is required.

## **Attachment B**

Judiciary Corporate Surety Bail Forfeiture and Judgment Protocol  
(Superior Court)

and Judiciary Cash Bail Forfeiture and Judgment Protocol  
(Superior Court)

# **JUDICIARY CORPORATE SURETY BAIL FORFEITURE AND JUDGMENT PROTOCOL**

**[Reissued August 7, 2017]**

This protocol defines the procedures and responsibilities for financial and case processing of bail forfeitures and judgments in the Criminal and Finance Divisions of Superior Court and the Office of the Clerk of the Superior Court in accordance with R.3:26-6, R.1:13-3 and R.2:9-6(c). [This version was issued on October 22, 2008, superseding the version originally promulgated November 17, 2004 as an attachment to Directive #13-04. No changes have been made in this August 7, 2017 reissuance.]

## **I. BREACH OF RECOGNIZANCE**

a When a defendant breaches a condition of a recognizance by failing to appear at court event, the following steps shall take place:

- A. The court, on its own motion, shall order a warrant for the defendant's arrest and forfeiture of the bail.<sup>1</sup>
- B. The Criminal Division shall generate from PROMIS GAVEL a joined warrant and forfeiture order.
- C. The Criminal Division shall enter the forfeiture into PROMIS GAVEL and an electronic notice of the order of forfeiture will be sent to the Finance Division via the PROMIS GAVEL/Central Automated Bail System (CABS) Interface.
- D. The Finance Division shall enter the forfeiture into CABS.
- E. The Finance Division shall mail the CABS-generated notice of forfeiture to the insurer, bail agency and bail agent whose names appear on the recognizance the address recorded in the Bail Registry. The Finance Division shall mail the CABS-generated notice of forfeiture to the defendant and County Counsel. The notice of forfeiture shall contain the language authorized by R.3:26-6.

## **II. PROCEDURE TO BE FOLLOWED WHEN A FORFEITED BAIL IS REINSTATED.**

- A. If bail has been forfeited, after a fugitive's capture the bail shall not be reinstated without the surety's consent.

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<sup>1</sup> Bail should not be forfeited if the warrant is only being issued in order to lodge a detainer against the defendant.

**B.** If the court orders reinstatement of a forfeited bail, the Criminal Division shall update PROMIS GAVEL and provide written notice of the reinstatement to the Finance Division.

**C.** The Finance Division will update the bail status in CABS.

**III. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO SET ASIDE THE BAIL FORFEITURE.**

**A.** The surety files a motion with the Criminal Division seeking to set aside the bail forfeiture.

**B.** The Criminal Division will schedule a hearing date and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.

**C.** The Criminal Division will notify County Counsel and the party filing the motion of the scheduled motion date.

**D.** Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and send copies of the judge's order to County Counsel, the party that filed the motion, and the Finance Division. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

**IV. PAYMENT OF FORFEITURE BEFORE ENTRY OF JUDGMENT**

**A.** All forfeiture payments are to be made to the Judiciary Finance Division, with Checks to be made payable to "Treasurer, State of New Jersey".

**B.** Unless otherwise specifically ordered by the court, partial payments shall not be accepted.

**C.** The Finance Division shall enter the payment into CABS and deposit the funds.

**V. PROCEDURE TO BE FOLLOWED TO SUMMARILY ENTER A JUDGMENT IF A FORFEITURE IS NOT SET ASIDE BY THE COURT OR SATISFIED BY THE SURETY AT THE EXPIRATION OF 75 DAYS.**

**A.** The Finance Division will track all forfeitures. When a forfeiture becomes 75 days old, the Finance Division shall print a CABS-generated judgment

and send it to the Criminal Division for the judge's signature. The judgment shall contain the language authorized by Rule 3:26-6.

- B.** The Criminal Division will review the judgments to ensure that a motion has not been filed before submitting the judgment to the designated bail judge for signature.
- C.** The Criminal Division will enter the date of the signed judgment into PROMIS/GAVEL.
- D.** The Criminal Division will provide a copy of the original signed judgment to the Finance Division.
- E.** The Finance Division will update the bail status in CABS.
- F.** The Finance Division will mail copies of the judgment to the insurer, the bail agency, and the bail agent whose names appear on the recognizance using the addresses recorded in the Bail Registry.
- G.** The Finance Division will forward a copy of the judgment to County Counsel for collection.
- H.** The Finance Division will send a copy of the judgment to the Clerk of the Superior Court indicating that the surety has failed to pay or to file an objection pursuant to Rule 3:26-6(a).
- I.** The Clerk of the Superior Court in accordance with Rule 1:13-3 (e) (2) will notify the insurer, at the address recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days of the date of the notice the insurer will be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court will provide a copy of the notice to the Criminal and Finance Divisions.
- J.** The Finance Division will within one business day notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), when a judgment has been satisfied.

K. Unless an appeal is filed and simultaneously the full amount of the judgment is deposited \* with the Clerk of the Superior Court or the judgment is satisfied within 15 days of the date of the notice, the Clerk of the Superior Court will remove from the Bail Registry the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State. In addition, the Clerk of the Superior Court will remove the names of those who acted in such capacity with respect to the forfeited bond from the Bail Registry from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agency, or bail agent shall not be accepted during the period that they are removed from the Bail Registry.

\*For good cause shown the trial court may allow the posting of a supersedeas bond in lieu of the cash deposit. See R. 2:9-6 (c) and also Section VII of this Protocol.

L. The Clerk of the Superior Court shall forward a copy of the Order of Judgment to the Commissioner of the Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625-0329, with a cover letter requesting that the Department take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request for the Department to send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

M. Upon receipt of notice that all judgments contained in the preclusion notice issued to a insurer have been satisfied, the Clerk of the Superior Court will reinstate to the Bail Registry the names of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manager its bail bond business in this State. In addition, the Clerk of the Superior Court will reinstate the names of those who acted in such capacity with respect to the forfeited bond to so act for any other insurer.

## **VI. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO VACATE A JUDGMENT**

A. The surety files a motion to vacate the judgment with the Criminal Division.

B. The Criminal Division will schedule a hearing date for the motion and will enter that date and schedule into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.

- C. The Criminal Division will notify the party filing the motion and County Counsel of the court date.
- D. The Criminal Division will notify the Clerk of the Superior Court if the court enters an order to stay removal of the insurer, bail agency or agent from the Bail Registry pending the motion to vacate being heard. Such stays granted by the court should be limited to thirty days.
- E. The Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and will provide written notification to the Finance Division if the motion is granted.
- F. The Finance Division will update the bail status in CABS in accordance with the judge's decision.
- G. The Criminal Division will notify the Clerk of the Superior Court of the decision on the motion only if the outcome of the motion vacates the judgment.

**VII. PROCEDURE TO FOLLOW IF A SUPERSEDEAS BOND IS REQUESTED.**

- A. The surety files a motion with the Criminal Division seeking to file a supersedeas bond.
- B. The Criminal Division will schedule a date for hearing the motion and will enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C. The Criminal Division will notify the party filing the motion and County Counsel of the court date.
- D. If the judge grants the motion to post a supersedeas bond, the Criminal Division will send a copy of the judge's order to the Finance Division.
- E. The Finance Division will immediately notify the Clerk of the Superior Court, via electronic transmission (e-mail or fax), once a supersedeas bond has been posted to ensure that the Clerk of the Superior Court does not remove the names of the insurer, bail agency or agent from the Bail Registry.
- F. The Finance Division will attach the supersedeas bond to the original bond.
- G. The Criminal Division will notify the Finance Division and the Clerk of the Superior Court when any appeal has been concluded.

## **VIII. PROCEDURE FOR CONSENT ORDERS**

- A.** Whenever County Counsel and a surety reach an agreement to satisfy a judgment, County Counsel shall provide the Criminal Division with a completed uniform Consent Order form for submission to the designated bail judge.
- B.** The Criminal Division will provide a copy of the signed Consent Order to the Finance Division and to County Counsel.
- C.** The Finance Division will send a copy of the signed Consent Order to the Clerk of the Superior Court if the Consent Order is entered after the judgment has been sent to the Clerk of the Superior Court.
- D.** The Criminal Division will record the judge's action on the Consent Order into PROMIS GAVEL.
- E.** The Finance Division shall monitor the compliance of the terms of the uniform Consent Order.
- F.** All payments on Consent Orders shall be made to the Judiciary Finance Division, with checks made payable to "Treasurer, State of New Jersey".

## **IX. PROCEDURE TO BE FOLLOWED WHEN A SURETY FAILS TO FOLLOW THE CONSENT ORDER WHERE A JUDGMENT WAS PREVIOUSLY ENTERED.**

- A.** The Finance Division will track Consent Order payment schedules and payments and upon a surety's failure to pay in accordance with the provision of a Consent Order, the Finance Division shall notify County Counsel and the Clerk of the Superior Court of that failure to pay pursuant to the Consent Order and that, as provided by the Consent Order, the judgment thus is reinstated.
- B.** The Finance Division will mail a copy of the notice to the insurer, the bail agency and the bail agent whose name appears on the recognizance using the address recorded in the Bail Registry, advising them that the judgment is being reinstated due to the failure to follow the provisions of the Consent Order previously entered.
- C.** The Clerk of the Superior Court will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the original judgment within 48 hours, it will be removed from the Bail Registry, and its bail agents and agencies,

guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.

- D. The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, PO Box 329, Trenton, New Jersey, 08625-0329 with a cover letter requesting the Department to take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request that the Department send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.

**X. PROCEDURE TO BE FOLLOWED WHEN A SURETY FAILS TO FOLLOW THE CONSENT ORDER AND A JUDGMENT WAS NOT PREVIOUSLY ENTERED.**

- A. The Finance Division will track consent orders, payment schedules, and payments. Upon a surety's failure to pay in accordance with the provisions of the Consent Order, a judgment can be entered without further notice for the original amount of the bond. The Finance Division will generate such order for judgment for signature by the judge.
- B. The Criminal Division will enter the date of the signed judgment into PROMIS GAVEL.
- C. The Criminal Division will provide a copy of the original signed judgment to the Finance Division.
- D. The Finance Division will update the bail status in CABS.
- E. The Finance Division will mail a copy of the judgment to the insurer, the bail agency, and the bail agent whose name appears on the recognizance at the address recorded in the Bail Registry.
- F. The Finance Division will forward copies of the judgment to County Counsel and to the Clerk of the Superior Court.

- G.** The Clerk of the Superior Court in accordance with Rule 1:13-3 (e) (2) will notify the insurer, at the address of the insurer recorded in the Bail Registry, by certified mail, return receipt requested, that if it fails to satisfy the judgment within 15 days it will be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. The Clerk of the Superior Court will provide copies of the notice to the Criminal and Finance Divisions and to corporate surety counsel.
- H.** The Finance Division will immediately notify the Clerk of the Superior Court via electronic transmission (e-mail or fax) when a judgment has been satisfied.
- I.** In accordance with Rule 2:9-6(c), unless an appeal is filed and simultaneously the full amount of the judgment is deposited with the Clerk of the Superior Court or the judgment is satisfied within 15 days, the Clerk of the Superior Court will remove the name of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in the State from the Bail Registry until such time as the judgment has been satisfied. In addition, the names of those who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied. Bail bonds from the insurer, bail agent or bail agency shall not be accepted during the period that they are removed from the Bail Registry.
- J.** The Clerk of the Superior Court will forward a copy of the preclusion notice to the Commissioner of the Department of Banking and Insurance, PO Box 329, Trenton, New Jersey, 08625-0329 with a cover letter requesting the Department to take steps to obtain payment on the judgment without the necessity of executing on the judgment. The Clerk's cover letter shall contain a request that the Department send a response to the Clerk of the Superior Court advising of the Department's action and the results of that action.
- K.** Upon receipt of notice that all judgments contained in the preclusion notice issued to an insurer have been satisfied, the Clerk of the Superior Court will reinstate to the Bail Registry the name of the insurer and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State. In addition, the

Clerk of the Superior Court will reinstate the names of those who acted in such capacity with respect to the forfeited bond, to so act for any other insurer.

## **XI. SATISFACTION OF JUDGMENT**

- A.** All judgment payments are to be made to the Judiciary Finance Division, with checks made payable to "Treasurer, State of New Jersey.
- B.** The Finance Division shall enter the payment into CABS and deposit the funds.
- C.** The Finance Division will notify the Clerk of the Superior Court when a judgment forwarded to the Clerk of the Superior Court under this protocol has been paid, so that the insurer, the bail agency or bail agent may be reinstated in the Bail Registry. To enable the Clerk of the Superior Court to reinstate promptly, this notice shall be provided to the Clerk by facsimile at (609) 292-6564 or by telephone at (609) 292-4987. Such notice shall include the following information.
  - The name of the defendant;
  - The CABS #;
  - The name of the insurer;
  - The dates of the forfeiture and Order of Judgment, and
  - The date the judgment was paid and the amount paid.

## **XII. REMISSIONS (Refunds)**

### **A. Motions**

1. The surety files a motion with the Criminal Division seeking remission of a satisfied judgment.
2. The Criminal Division will schedule a hearing date and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
3. The Criminal Division will notify County Counsel and the party filing the motion of the scheduled motion date.
4. Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and will send copies of the judge's order to County Counsel and to the party that filed the motion.

5. If the motion is granted, the Criminal Division will provide a copy of the judge's order to the Finance Division. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

**B. Consent Agreements**

1. County Counsel and the surety enter into a Consent Agreement for Remission of all or part of funds paid on a judgment.
2. The parties submit the proposed Consent Agreement to the judge for signature.
3. If the judge signs the Consent Agreement the Criminal Division will provide copies of the signed agreement to the County Counsel and to the surety.
4. The Criminal Division will provide a copy of the signed agreement to the Finance Division. The Finance Division will update the bail status in CABS in accordance with the signed agreement.

**C. Payments**

1. Orders and Consent Agreements should indicate that the remission payments be made directly to the surety by the State and county in proportion to the original distribution of forfeited funds. Remissions are not to be applied against other outstanding judgments of the surety.

# JUDICIARY CASH BAIL FORFEITURE AND JUDGMENT PROTOCOL

**[Reissued August 7, 2017]**

This protocol defines the procedures and responsibilities for financial and case processing of cash bail forfeitures and judgments in the Criminal and Finance Divisions of Superior Court and the Office of the Clerk of the Superior Court in accordance with Rules 3:26-6 and 1:13-3.

[This version was issued on October 22, 2008. No changes have been made in this August 7, 2017 reissuance.]

## **I. BREACH OF RECOGNIZANCE**

When a defendant breaches a condition of a recognizance by failing to appear at a court event, the following steps shall take place:

- A.** The court, on its own motion, shall order a warrant for the defendant's arrest and for forfeiture of the bail.
- B.** The Criminal Division will generate from PROMIS GAVEL a joined warrant and forfeiture order.
- C.** The Criminal Division will enter the forfeiture into PROMIS GAVEL and an electronic notice of the order of forfeiture will be sent to the Finance Division via the PROMIS GAVEL / Central Automated Bail System (CABS) Interface.
- D.** The Finance Division will enter the forfeiture into CABS.
- E.** The Finance Division will mail the CABS-generated notice of forfeiture to the defendant, the sureties, and County Counsel. The notice of forfeiture shall contain the language authorized by Rule 3:26-6.

## **II. PROCEDURE TO BE FOLLOWED WHEN A FORFEITED BAIL IS REINSTATED**

- A.** If bail has been forfeited, it shall not be reinstated after a fugitive's capture without the surety's consent.
- B.** If the court orders reinstatement of a forfeited bail, the Criminal Division will update PROMIS GAVEL and will provide notice of the reinstatement to the Finance Division.

- C. The Finance Division will update the bail status in CABS.

### **III. PROCEDURE TO BE FOLLOWED IF A MOTION IS FILED TO SET ASIDE THE BAIL FORFEITURE.**

- A. The surety files a motion with the Criminal Division seeking to set aside the bail forfeiture.
- B. The Criminal Division will schedule a date for the hearing and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C. The Criminal Division will notify County Counsel, the party filing the motion, and the Finance Division of the scheduled motion date.
- D. Once the motion is heard, the Criminal Division will record the judge's decision on the motion into PROMIS GAVEL and send copies of the judge's order to County Counsel, the party that filed the motion, and the Finance Division.
- E. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

### **IV. PROCEDURE TO BE FOLLOWED TO SUMMARILY ENTER A JUDGMENT, IF FORFEITURE IS NOT SET ASIDE BY THE COURT OR SATISFIED BY THE SURETY AT THE EXPIRATION OF 75 DAYS.**

- A. The Finance Division will track all forfeitures. When a forfeiture becomes 75 days old, the Finance Division will print a CABS-generated judgment and send it to the Criminal Division for the judge's signature. The judgment shall contain the language authorized by Rule 3:26-6.
- B. The Criminal Division will review the judgments to ensure that a motion has not been filed before submitting the judgment to the designated bail judge for signature.
- C. The Criminal Division will enter the date of the signed judgment order into PROMIS GAVEL.
- D. The Criminal Division will provide a copy of the original signed judgment to the Finance Division.

- E. The Finance Division will update the bail status in CABS, resulting in the forfeited funds being split between the State and the county.
- F. The Finance Division will mail copies of the judgment to the parties listed on the order. A copy must be mailed to the Clerk of the Superior Court for 10% cash bails so that a civil judgment can be entered and recorded against the defendant for the remaining 90%.
- G. Judgments should be mailed to the Superior Court Clerk's Office, Civil Judgment Unit, P.O. Box 971, Trenton, N.J. 08625-0971.

## **V. MOTIONS TO VACATE JUDGMENTS**

- A. The surety files a motion to vacate the judgment with the Criminal Division.
- B. The Criminal Division will schedule a date for hearing the motion and enter the motion and scheduled date into PROMIS GAVEL. The hearing shall be held within five weeks of receipt of the motion.
- C. The Criminal Division will notify the party filing the motion, County Counsel, and the Finance Division of the court date.
- D. The Criminal Division will record the judge's decision on the motion into PROMIS GAVEL. The order should indicate whether the bail is reinstated or remitted.
- E. The Criminal Division will provide a copy of the judge's order to the Finance Division.
- F. The Finance Division will update the bail status in CABS in accordance with the judge's decision.

## **VI. PROCEDURES FOR CONSENT ORDERS**

- A. If County Counsel and a surety reach an agreement to satisfy a judgment, County Counsel shall provide the Criminal Division with a completed uniform Consent Order form for submission to the designated bail judge for signature.
- B. The Criminal Division will provide copies of the signed Consent Order to the Finance Division and to County Counsel.
- C. The Criminal Division will record the judge's decision on the Consent Order into PROMIS GAVEL.

**XI. SATISFACTION OF JUDGMENT**

- A.** All judgment payments are to be made to the Finance Division, with checks to be made payable to "Treasurer, State of New Jersey."
- B.** The Finance Division will enter the payment into CABS and deposit the funds.

**Attachment C**

Order To Stay Entry Of Judgment  
(Superior Court)

STATE OF NEW JERSEY

v

Superior Court of New Jersey  
Law Division, Criminal  
\_\_\_\_\_ County

\_\_\_\_\_  
**Defendant**

CABS Number \_\_\_\_\_

Recognizance Number \_\_\_\_\_

Indictment or CDR Number \_\_\_\_\_

Power of Attorney Number \_\_\_\_\_

\_\_\_\_\_  
Insurer/Surety

\_\_\_\_\_  
Bail Agency

Total of Bond \_\_\_\_\_

Date Posted \_\_\_\_\_

\_\_\_\_\_  
Bail Agent

**Order to Stay Entry of Judgment**

**THIS MATTER** having been brought before this Court on the application of \_\_\_\_\_, attorney for the Surety for an Order Staying Entry of Judgment in this matter, and \_\_\_\_\_, Office of County Counsel, [consenting/opposing] hereto; and having considered the proofs shown,

**IT IS THEREFORE ORDERED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that the entry of judgment is to be stayed for (choose appropriate option):

- ☐ no more than 30 days from the date of this order; or  
☐ \_\_\_\_ days from the date of this order for exceptional circumstances shown], after which judgment shall be entered

**IT IS FURTHER ORDERED**, that a copy of this Order be served upon all parties within \_\_\_\_ days of the date hereof.

This is to notify the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it shall be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.

\_\_\_\_\_  
J.S.C.

We hereby consent to the form and entry of this Order:

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Attorney for Surety

Distribution:

Clerk of Superior Court  
Finance Division  
Criminal Division

Insurer/Surety  
Bail Agency  
Bail Agent

Defendant  
County Counsel

## **Attachment D**

### **Revised Remission Guidelines (Superior and Municipal Courts)**

## **REVISED REMISSION GUIDELINES**

### **- Issued August 7, 2017 -**

The *Revised Remission Guidelines* (hereafter *Guidelines*) previously titled *Remittitur Guidelines*, have been revised to simplify and streamline the process for handling applications to set aside or remit a forfeiture in Superior and Municipal Courts. To conform with the deletion of the "interest of justice" standard from Rules 3:26-6 and 7:4-5, court opinions, formerly included in the *Remittitur Guidelines*, have been deleted since they interpreted that standard. Additionally, those court opinions placed emphasis on factors that are not relevant under these *Guidelines*, such as the surety's supervision efforts or the commission of a new crime while the defendant is out on bail.

### **REMISSION OF A FORFEITURE**

The decision to remit bail, as well as the amount of bail, are matters within the sound discretion of the trial judge. This exercise of discretion should adhere to the following policy concerns that have been expressed over the years: (1) The necessity of providing an incentive to the surety to take active and reasonable steps to recapture a fugitive defendant, and; (2) That if remission were unreasonably withheld, corporate sureties might be overcautious in their willingness to post bail.

Pursuant to Rules 3:26-6 and 7:4-5, the court may remit the forfeiture in whole or in part, "pursuant to the court rules and/or administrative directives, including but not limited to the Revised Remission Guidelines." The court's primary focus under these *Guidelines* in determining whether to set aside forfeiture and the amount to remit is the length of time the defendant is a fugitive. See factor 1. This factor is calculated from the date of the defendant's failure to appear in court and the court's issuance of a bench warrant. The remission amount is based upon defendant's time at large, which is limited to a one-year period. Thereafter, 100% of the bail is forfeited unless exceptional circumstances are demonstrated by the surety.

### **FACTORS TO WEIGH IN DETERMINING REMISSION**

The following factors need to be weighed, if applicable, within the framework of the policy concerns in determining whether to remit bail and the amount to be remitted.

1. The length of time the defendant is a fugitive. The court's primary focus in determining whether to set aside forfeiture and the amount to remit is the defendant's time at large, which is calculated from the date of defendant's failure to appear in court and the court's issuance of a bench warrant. Additional time spent in the custody of law enforcement is excluded once the State and/or the court is advised in writing by the surety that the defendant is incarcerated. Where the defendant remains a fugitive when the remission motion is made, the essential undertaking of the surety remains unsatisfied, and the denial of any remission is entirely appropriate. The time period for remission is limited to one year. Thereafter, 100% of the bail is forfeited, unless exceptional circumstances are demonstrated by the surety.

2. The prejudice to the State, and the expense incurred by the State, as a result of the fugitive's non-appearance, recapture and enforcement of the forfeiture.
3. The detriment to the State also includes the intangible element of injury to the public interest where a defendant deliberately fails to make an appearance in a criminal case.
4. **Non-Appearing Defendants Imprisoned Out-of-State.** The court should proceed with forfeiture or remission proceedings upon receipt of written notification by the surety that the defendant is in custody out-of-state. The fact that non-appearing defendants were found in custody out-of-state and had not been returned to New Jersey when the remission or exoneration was sought is a factor that the court should balance when determining a remission amount. The court should consider whether bail should be remitted when defendants were located in out-of-state custody and a detainer was lodged.
5. **The State's Knowledge of a Defendant's Imprisonment.** The court may consider the failure of the State to notify the surety or the court of the fact that a defendant has been found and securely incarcerated when the State has resources, such as use of a NCIC database, to locate defendants that are not available to the surety. The absence of such notification may increase the surety's costs in attempting to locate a defendant and deprive the surety of an early opportunity to avoid bail forfeiture. Additional time spent in the custody of law enforcement is excluded once the State and/or the court is advised in writing by the surety that the defendant is incarcerated.
6. **Deportation of Defendant While on Bail.** Where deportation is the sole reason a defendant is unable to attend court, a crucial factor that the trial court should consider is whether the defendant was a fugitive from New Jersey at the time of deportation. The court should consider whether the defendant while compliant with the terms of his or her release, voluntarily attended a deportation hearing or was brought there by the authorities and thereafter was deported; or, whether the defendant was a fugitive when captured and then subsequently deported. If the former, then some degree of remission should be considered; if the latter, then remission generally should be denied.

## GUIDELINES

The following are a broad set of guidelines that have been developed to provide judges with a **starting point** when determining whether to grant a remission for applications made either before or after judgment is enforced, and, if granted, the amount to remit. In making this determination, the judge should consider the particular facts in an individual case, along with subsequent case law to determine what effect those facts have on increasing or decreasing the remission amounts in the *Guidelines* after balancing the factors that have been weighed in accordance with the policy concerns. The motion judge should make a record, including an explanation of what factors were considered under these *Guidelines*, and if none were considered, a statement of the ways that the surety failed to present a prima facie basis for relief.

**REVISED REMISSION GUIDELINES**  
**(Amount remitted to bondsman or surety)**  
**(Amount forfeited to State and County)**

State is reimbursed its costs.

| <u>Time at Large</u> | <u>Amount Remitted</u> | <u>Amount Forfeited</u> |
|----------------------|------------------------|-------------------------|
| 1-30 days            | 90-99%                 | 1-10%                   |
| 31-60 days           | 80-89%                 | 11-20%                  |
| 61-90 days           | 60-79%                 | 21-40%                  |
| 91-180 days          | 40-59%                 | 41-60%                  |
| 181-270 days         | 20-39%                 | 61-80%                  |
| 271-365 days         | 1-19%                  | 81%-99%                 |
| 366 days or more     | 0%                     | 100%                    |

**Where Defendant Is A Fugitive When Remission Motion Is Made**

Amount Remitted – 0%

Amount Forfeited – 100%

**Attachment E**

Order To Vacate Bail Forfeiture And/Or Judgment  
And Discharge The Bond Upon Payment  
(Superior Court)

STATE OF NEW JERSEY

v

Superior Court of New Jersey  
Law Division, Criminal  
\_\_\_\_\_ County

\_\_\_\_\_  
**Defendant**

CABS Number \_\_\_\_\_  
Recognizance Number \_\_\_\_\_  
Indictment or CDR Number \_\_\_\_\_  
Power of Attorney Number \_\_\_\_\_

\_\_\_\_\_  
Insurer/Surety

\_\_\_\_\_  
Bail Agency

Total of Bond \_\_\_\_\_  
Date Posted \_\_\_\_\_

\_\_\_\_\_  
Bail Agent

**Order to Vacate Bail Forfeiture and/or Judgment  
and Discharge the Bond Upon Payment**

**THIS MATTER** having been opened to the Court on \_\_\_\_\_, by  
\_\_\_\_\_, attorney for \_\_\_\_\_, and the Court having  
considered the papers submitted, and \_\_\_\_\_, Office of County Counsel,  
[consenting/opposing] hereto, and (choose appropriate option):

- ☐ for good cause shown, the amount below falls within the remission amount for defendant's time at large in Directive #22-17; or
- ☐ where the amount below does not fall within the remission amount for defendant's time at large in Directive # 22-17, exceptional circumstances have been demonstrated by the surety,

**IT IS THEREFORE ORDERED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that  
\_\_\_\_\_, shall pay the sum of \$\_\_\_\_\_, on or before \_\_\_\_\_, which  
sum shall be distributed proportionally between the State of New Jersey and the County of \_\_\_\_\_, and

**IT IS FURTHER ORDERED** that the bail forfeiture and/or judgment entered shall be vacated and the bond discharged upon the State's receipt of the aforesaid payment; and

**IT IS FURTHER ORDERED** that if the aforesaid amount is not paid to the State of New Jersey within the time set forth herein, this order will become null and void, the original amount of the bail bond will be immediately due and owing to the State of New Jersey, and a default judgment previously entered will remain in full force and effect; and

**IT IS FURTHER ORDERED** that if a forfeiture was ordered but a judgment has not been entered, then the parties agree to waive the requirement contained in R. 3:26-6(a) that a judgment not be entered until 75 days after the forfeiture was ordered, and a default judgment shall be entered immediately for the original amount of the bail bond; and

**IT IS FURTHER ORDERED**, that a copy of this Order be served upon all parties within \_\_\_\_ days of the date hereof.

This is to notify the insurer that if it fails to satisfy a judgment, and until satisfaction is made, it shall be removed from the Bail Registry and its bail agents and agencies, guarantors, and other persons or entities

authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied

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J.S.C.

We hereby consent to the form and entry of this Order:

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County Counsel

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Attorney for Surety

Distribution:

|                         |                |                |
|-------------------------|----------------|----------------|
| Clerk of Superior Court | Insurer/Surety | Defendant      |
| Finance Division        | Bail Agency    | County Counsel |
| Criminal Division       | Bail Agent     |                |

**Attachment F**

Default Judgment On Forfeited Recognizance  
and Notice of Removal  
(Municipal Court)

STATE OF NEW JERSEY

v

Defendant

Insurer

Bail Agency

Bail Agent

Municipal Court of \_\_\_\_\_  
County

**Order of Default Judgment**

Bail Type \_\_\_\_\_

Complaint Number \_\_\_\_\_

Power of Attorney Number \_\_\_\_\_

Surety Company Number \_\_\_\_\_

Address: \_\_\_\_\_

**Default Judgment on Forfeited Recognizance  
and Notice of Removal**

**THE COURT** on motion has previously ordered the forfeiture of bail in the above matter and has sent notice of said forfeiture in accordance with R. 7:4-5. No written objection seeking to set aside the forfeiture was filed within 75 days of the notice of forfeiture nor has the forfeiture been satisfied;

**IT IS THEREFORE ORDERED** on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that pursuant to R. 7:4-5(c) judgment of default is hereby entered in favor of the Municipality of \_\_\_\_\_, in the County of \_\_\_\_\_, and against defendant \_\_\_\_\_, and \_\_\_\_\_, as surety in a Bail Recognizance forfeited on \_\_\_\_\_, in the sum of \$\_\_\_\_\_; and

**IT IS FURTHER ORDERED** that the aforesaid sum shall be payable to "The Municipality of \_\_\_\_\_"; and

**IT IS FURTHER ORDERED** that the Court shall serve a copy of this judgment by ordinary mail on all persons listed below in the distribution list.

This is to notify the insurer that if it fails to satisfy this judgment, and until satisfaction is made, it shall be removed from the Bail Registry, and its bail agents and agencies, guarantors, and other persons or entities authorized to administer or manage its bail bond business in this State will have no further authority to act for it, and their names, as acting for the insurer, will be removed from the Bail Registry. In addition, the bail agent or agency, guarantor or other person or entity authorized by the insurer to administer or manage its bail bond business in this State who acted in such capacity with respect to the forfeited bond will be precluded, by removal from the Bail Registry, from so acting for any other insurer until the judgment has been satisfied.

\_\_\_\_\_  
J.M.C.

Distribution:

Clerk of Superior Court

Municipal Attorney

Defendant

Insurer

Bail Agency

Bail Agent