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PRETRIAL POLICY: STATE LAWS

6/17/2013

State legislatures consider and enact laws that address all aspects of pretrial policy, including release eligibility, conditions of release, bail, commercial bail bonding and pretrial diversion. These legislative policies have an important role in providing fair, efficient and safe pretrial practices carried out by law enforcement and the courts.

Pretrial Policies: 50 State Charts

Citation in Lieu of Arrest

A citation in lieu of arrest is permitted in most states for certain low-level crimes. A citation is a written order, in lieu of a warrantless arrest, that is issued by a law enforcement officer or other authorized official, requiring a person to appear in a designated court or governmental office at a specified time and date. A [summary and chart](#) provide more information on state laws.

Pretrial Policy 50 State Charts

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Pretrial Release Eligibility

Nearly every state has a presumption in favor of releasing all but a specified few defendants prior to trial. While state laws broadly provide for presumption of release, they also define who is and is not eligible for pretrial release, and under what conditions. A [summary and chart](#) provide

more information on the laws.

Guidance for Setting Release Conditions

Many defendants charged with crimes may be released prior to trial, and courts decide whether or not to impose conditions on the release. About half of states have adopted laws that provide additional guidance to courts when setting conditions of pretrial release. A [summary and chart](#) provide more information on the laws.

Pretrial Release Conditions

State law provides a framework for judges when setting conditions of pretrial release. In general, conditions imposed must be related to assuring the appearance of the accused and ensuring safety of victims, witnesses and the public. A [summary and chart](#) provide more information on the laws.

Pretrial Detention

Pretrial detention is limited to those charged with the most serious crimes and other specified circumstances such as violating conditions of, or committing a new crime while on pretrial release. A [summary and chart](#) provide more information on the laws.

Bail Bond Agent Licensure

A professional bail agent is a surety who guarantees a defendant's appearance in court for financial gain. To participate as a bail agent in the commercial bail industry, state law often provides licensure requirements. A [summary and chart](#) provide more information on the laws.

Bail Bond Agent Business Practices

To conduct business, bail agents advertise their services, meet with their clients and interact with public officials. For each of these activities, state law provides guidelines that bail agents must comply with in their operation. A [summary and chart](#) provide more information on the laws.

Bail Forfeiture Procedures

Bail forfeiture is the procedure where, as the result of a breach of a condition of bail, the defendant's bond is forfeited to the court. State laws provide many guidelines for the procedure. A [summary and chart](#)

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provide more information on the laws.

Recovery Agents

A recovery agent or “bounty hunter” is a person who is lawfully authorized to apprehend bail fugitives and surrender them to the court. State law provides licensure requirements and other guidelines for bail recovery agents. A [summary and chart](#) provide more information on the laws.

Victims' Rights and Protections

Laws in each state provide rights for and services to victims. Most states have laws that specifically address victim interests related to pretrial release. A [summary and chart](#) provide more information on the laws.

Pretrial Diversion

Diversion programs address factors that contribute to criminal behavior of the accused, called criminogenic needs. A [summary and chart](#) provide more information on the laws.

Additional NCSL Resources

- [Search Pretrial Policy by State](#)
- [Return to Pretrial Policy Law Database](#)
- [Criminal Justice homepage](#)
- [Pretrial Release homepage](#)

NCSL Contact

- NCSL's [Criminal Justice Program](#) in Denver, 303-364-7700

NCSL Partners

- A [NCSL project](#) with the Public Welfare Foundation
- A [NCSL project](#) with the Arnold Foundation

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Denver

7700 East First Place
Denver, CO 80230
Tel: 303-364-7700 | Fax:
303-364-7800



Washington

444 North Capitol Street,

- [StateConnect Directory](#)

N.W., Suite 515
Washington, D.C. 20001
Tel: 202-624-5400 | Fax:
202-737-1069

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