

GENERAL OFFICE MEMORANDUM 20-086

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: LOS ANGELES COUNTY EMERGENCY BAIL SCHEDULE
MODIFICATION

DATE: JUNE 23, 2020

Effective June 20, 2020, the Judicial Council (JC) repealed Emergency rule 4 of the California Rules of Court, the statewide COVID-19 Emergency Bail Schedule that set bail at \$0 for most misdemeanor and low-level felonies. In response, the Los Angeles County Superior Court adopted an Emergency Bail Schedule Modification that went into effect on June 20, 2020 at 5:00 p.m. It sets bail for all infraction, misdemeanor, and felony offenses at \$0 *except* for offenses listed below and excludes more offenses from \$0 bail than Emergency rule 4. An additional exception has also been included for repeat offenders who, while released on \$0 bail, are arrested or charged with a subsequent separate offense. Bail for repeat offenders shall be set according to the applicable *non-emergency* 2020 Bail Schedules.

Misdemeanor Exceptions:

1. Penal Code § 149, Officer Unnecessarily Assaulting or Beating any Person;
2. Penal Code § 166(c)(1), Contempt of Court (Violation of a Stay-Away Order or Protective Order);
3. Penal Code §§ 191.5, 192, & 192.5, Misdemeanor Manslaughter;
4. Penal Code § 243(b), Battery on a Peace Officer;
5. Penal Code § 243(e)(1), Battery on an Intimate Partner (spouse, cohabitant, child's parent, former spouse, fiancé, fiancée, current/prior dating or engagement relationship);
6. Penal Code § 273.5(a), Domestic Violence;
7. Penal Code § 273.6, Violation of a Court Order, 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. Penal Code § 409, Riot, Rout, or Unlawful Assembly; Remaining Present After Warning to Disperse;
9. Penal Code § 409.5, Authority of Peace Officers to Close Disaster Area; Exclusion from Command Post Area; Unauthorized Entry;
10. Penal Code § 416, Assembly for Purpose of Disturbing the Peace or Committing Unlawful Act; Refusal to Disperse; Exception (Media);
11. Penal Code § 417, Exhibiting a Firearm;
12. Penal Code § 463, Looting During a State of Emergency;

13. Penal Code § 646.9, Stalking;
14. Penal Code § 25400, Carrying Concealed Firearm;
15. Penal Code §§ 29805, 29815, 29820, 29825 (Firearm Offenses);
16. Vehicle Code §§ 23152 & 23153, Driving Under the Influence;
17. Health & Safety Code § 120280, Refusal to Comply with Isolation Order;
18. Health & Safety Code § 120290, Intentional Transmission of Infectious or Communicable Disease;
19. Repeat Offenders

Felony Exceptions:

1. Penal Code § 667.5(c), Any Violent Felony;
2. Penal Code § 1192.7(c), Any Serious Felony;
3. Penal Code § 69, Obstructing or Resisting Executive Officer in Performance of Duties;
4. Penal Code § 136.1, Witness Intimidation, when punishment is imposed under Penal Code §136.1(c) (accompanied by force or by an express or implied threat of force or violence, in further of a conspiracy, with a prior conviction of this section, or when committed for pecuniary gain);
5. Penal Code § 149, Officer Unnecessarily Assaulting or Beating any Person;
6. Penal Code § 166(c)(1), Violation of a Criminal Protective Order;
7. Penal Code § 186.11, Any Theft with a Loss Greater than \$100,000;
8. Penal Code § 236.1, Human Trafficking;
9. Penal Code § 237, False Imprisonment of Elder/Dependent Person;
10. Penal Code § 243(d), Battery with Serious Bodily Injury;
11. Penal Code § 243.4, Sexual Battery;
12. Penal Code § 245(a)(4), Assault by Means of Force Likely to Produce Great Bodily Injury;
13. Penal Code § 262, Spousal Rape;
14. Penal Code § 266h, Pimping;
15. Penal Code § 266i, Pandering;
16. Penal Code § 273a(a), Child Abuse;
17. Penal Code § 273.5(a), Domestic Violence;
18. Penal Code § 278, Child Stealing;
19. Penal Code § 290 Registerable Offenses listed in Penal Code § 290(c) (Note, *not* for a violation of Penal Code § 290 itself which would be eligible for \$0 bail);
20. Penal Code § 368, Elder Abuse;
21. Penal Code § 422, Criminal Threats;
22. Penal Code § 463, Looting;
23. Penal Code § 594(b)(1), Vandalism;
24. Penal Code § 646.9, Stalking;
25. Penal Code § 4502, Possession of Deadly Weapon by Prison Inmate;
26. Penal Code §§ 4530/4532, Escape or Attempt by Prison Inmate with or without Force or Violence;
27. Penal Code §§ 29800, 29805, 29815, 29820, 29825, Firearm Possession by a Restricted Person (felon; specified conviction offense; in violation of a probation condition; specified offense committed by a juvenile; TRO, injunction, protective order);

28. Penal Code § 31360, Possession of Body Armor by a Restricted Person (Violent Felon);
29. Vehicle Code § 2800.2, Driving in Willful or Wanton Disregard for Safety of Persons or Property while Fleeing Pursuing Police Officer (Evading);
30. Vehicle Code §§ 23152 & 23153, Driving Under the Influence;
31. Repeat Offenders.

Bail for Post-Conviction Supervision

Bail for violations of misdemeanor probation may be \$0 unless the charges include at least one of the misdemeanor exceptions listed above. If an exception applies, bail may be set using the 2020 non-emergency bail schedule. Bail for felony probation, parole, post-release community supervision, or mandatory supervision may be set in accord with the Emergency Bail Schedule (\$0) unless either the charges of conviction or any new criminal charge or arrest is for a felony exception listed above. If an exception applies, bail may be set as the greater of the bail associated with the charges of conviction or bail for any new criminal charge or arrest when the violation involves new alleged criminal conduct.

All general principles of bail are still applicable. “The superior court retains the ability to depart from the scheduled zero bail amount or impose bail conditions under appropriate circumstances in an individual case.” *Ayala v. Superior Court* (2020) 48 Cal.App.5th 387.

The full text of the modified Emergency Bail Schedule can be found [here](#).

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