



## NAPA COUNTY DISTRICT ATTORNEY'S OFFICE

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**ALLISON HALEY**  
District Attorney

## MEMORANDUM

Date: March 2021  
To: Napa County Law Enforcement  
From: Jodi Dell, Chief Deputy District Attorney  
Subject: Quick Legal Updates on Probation and Bail

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There have been recent changes to probation lengths and bail that the District Attorney's Office would like to alert you to.

### Changes to Probation Lengths

As of January 1, 2021, the legislature put into effect AB 1950 which changes how long people can be placed on probation.

In most misdemeanors, probation can now only be for a maximum of one year. Some notable exceptions include 11550's, DUI's, DV offenses, and child abuse.

In most felonies, probation can now only be for a maximum of two years. Some notable exceptions include DUI's, violent felony strikes, DV offenses, and child abuse.

### Changes to Bail

As of March 25, 2021, the California Supreme Court issued an opinion in the case of *In re Humphrey*. That case changes the way courts are to analyze bail. The Supreme Court held:

- Pretrial detention is "impermissible unless no less restrictive conditions of release can adequately vindicate the state's compelling interests."
- "[W]here the arrestee poses little or no risk of flight or harm to others, the court may offer OR release with appropriate conditions."

- “Where the record reflects the risk of flight or a risk to public or victim safety, the court should consider whether nonfinancial conditions may reasonably protect the public and the victim or reasonably assure the arrestee’s presence at trial.”
- If money bail is reasonably necessary, the court must consider the arrestee’s ability to pay along with the arrestee’s record and the circumstances of the offense. Unless there is a valid basis for detention the court must set bail at a level the arrestee can afford.
- “If the court concludes that public or victim’s safety, or the arrestee’s appearance in court, cannot be reasonably assured if the arrestee is released, it may detain the arrestee only if it first finds, by clear and convincing evidence, that no nonfinancial condition of release can reasonably protect those interests.”
  - o The factors that will influence whether bail can be set above an arrestee’s ability to pay are:
    - Safety of the victim
    - Protection of the public
    - Seriousness of the offense
    - Previous criminal record of the defendant
    - Prior compliance with court orders
    - Probability of defendant appearing

These are significant changes that will have an impact. Please let me know if you have any questions. My direct line is 253-6029.