

Local Rules of the Superior Court of California, County of Alameda

Title 4. Criminal and Traffic Rules

Chapter 2. Criminal Rules

Rule 4.116. Emergency rule re requests to set bail pursuant to Penal Code section 1269c

- (a) This rule applies only to bail modification requests (i) for offenses within the scope of Penal Code section 1269c, and (ii) where the underlying offense is one that would make the arrestee eligible for pre-arraignment release.

Bail for offenses not within the scope of Penal Code section 1269c or where the arrestee is not eligible for [pre-arraignment judicial review](#) or pre-arraignment release will remain as provided ~~in the Emergency Bail Schedule adopted by the Judicial Council of California in Emergency Rule 4(b) on April 6, 2020, and adopted by the Court in emergency Local Rule 4.115, or as otherwise provided in the Court's local Emergency Bail Schedule as set forth~~ in emergency Local Rule 4.115. This rule does not preclude requests or motions to modify bail in those instances at arraignment or other proceedings.

- (b) In addition to the requirements set forth in Penal Code section 1269c, any request by a peace officer to increase bail to an amount higher than provided ~~in the Emergency Bail Schedule adopted by the Judicial Council of California in Emergency Rule 4(b) on April 6, 2020, and adopted by the Court in emergency Local Rule 4.115, or as otherwise provided in the Court's local Emergency Bail Schedule as set forth~~ in emergency Local Rule 4.115, must be included as a separate paragraph within the probable cause declaration submitted by the peace officer at the time of booking.
- (c) The paragraph to be included within the probable cause declaration must:
- (1) State that the bail consideration request is being made under Penal Code section 1269c;
 - (2) Explain the basis for the request; and
 - (3) Specify the bail amount requested and related calculation.
- (d) A probable cause declaration that includes a request for bail increase pursuant to Penal Code section 1269c for a person eligible for [pre-arraignment judicial review](#) and pre-arraignment release will be transmitted to the Probation Department to be considered with the risk assessment performed as part of the Pretrial Pilot Program, only if the probable cause declaration and the bail increase request are submitted at the time of booking. Late requests will not be transmitted to the Probation Department or considered by the Court, and bail will remain at the amount provided in ~~the Emergency Bail Schedule set forth in Emergency Rule 4(b) or in~~ emergency Local Rule 4.115 pending arraignment.

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- (e) Where authorized under Penal Code section 1269c, any application for lower-than-schedule bail by an arrestee, either personally or through the arrestee's attorney, friend, or family member, must be transmitted to the Probation Department via email at PPTSA@acgov.org to be considered with the risk assessment performed as part of the Pretrial Pilot Program. This application must be submitted to the Probation Department prior to its completion of the risk assessment report, otherwise it will not be considered by the Probation Department or the Court.
- (f) The Probation Department must include reference to any timely request to increase or lower the bail amount in the "Mitigating/Aggravating Considerations" section of the pretrial risk assessment report.
- (g) After performing the risk assessment, the Probation Department must transmit the probable cause declaration, any timely submitted requests for bail increase or decrease, and the pretrial risk assessment to the reviewing judge.
- (h) The reviewing judge will rule on both the risk assessment and timely bail increase or decrease requests at the same time through the Pretrial Order.
- (i) The Pretrial Order and any related bail order will be returned to the Probation Department via CRIMS. Consistent with the protocols of the Pretrial Pilot Program, the Probation Department must notify the jail of the Court's related release or detention orders.
- (j) While a proper and timely request for bail increase is pending, the bail amount will be set at the amount stated in the Alameda County Superior Court 2020 Bail Schedule for the offense(s) listed as the basis for the arrest. If the reviewing judge does not rule on the bail increase request within 8 hours of booking [or the arrestee is not eligible for pre-arraignment judicial review](#), bail returns to the amount stated in ~~the Judicial Council's Emergency Bail Schedule or in the Court's local Emergency Bail Schedule as set forth in E~~mergency Local Rule of Court 4.115, ~~whichever applies~~.

Rule 4.116 amended June 20, 2020; adopted effective May 21, 2020.