

BAIL'S

SET...

WHAT'S

NEXT?

Updated to reflect new bail laws
effective January 1, 2020

Money bail continues to divide New York States' criminal legal system into two tiers: one for those who can pay, and one for those who can't. Unfortunately, this means if you can't afford to pay bail, you go to jail.

**PUBLIC
ACCESS
DESIGN**

+ This booklet can help you and your loved ones navigate the bail system and know your rights. ▶

In 2019, New Yorkers fought for and won major changes to bail. This means that bail can be set for fewer people, but it still exists, and the fight to abolish it continues. To protect yourself and your loved ones, learn about the most common types of bail:

Cash bail, bail bonds,
unsecured bonds, and partially
secured bonds.

If a judge sets bail, they have to offer three types of bail. This means you have choices! One of the three types has to be a partially secured bond or an unsecured bond. The other two options are usually cash bail or bail bond.

If you have questions about your rights in New York related to the bail, bond, or pretrial system, visit brooklynbailfund.org/ny-bail-info or call Brooklyn Community Bail Fund's hotline at (347) 941-2006 and leave a message.



*There are lots of
benefits to picking a*

**PARTIALLY
SECURED BOND**

or

**UNSECURED
BOND**

*Learn why on
the next page!*

UNSECURED BOND

How much do I pay up front?

Nothing! But you do have to fill out paperwork.

Do I get my money back?

Not applicable, because you don't put any money down.

When can I post bail?

As soon as the judge approves you to post the bond.

Could I end up paying more money later?

If the arrestee misses a court date and the bond is forfeited*...
You could end up owing the total amount of the bond.

Are there other rules to follow?

Not usually, but check with the arrestee's lawyer.

PARTIALLY SECURED BOND

Up to 10% of the partially secured bond amount set by the judge.

Yes! As long as the arrestee makes their court dates.

As soon as the judge approves you to post the bond.

You could end up owing the total amount of the bond.

Not usually, but check with the arrestee's lawyer.

CASH BAIL

The full amount of cash bail.

Yes! As long as the arrestee makes their court dates.

As soon as bail is set.

You wouldn't get back the money you already paid.

Not usually, but check with the arrestee's lawyer.

BAIL BOND

A fee (or "premium") based on the bond amount, plus collateral. See page 12 to learn more.

No. You never get the fee back, but you have the right to get your collateral back.

When you find a bondsman to take your case.

If the arrestee misses a court date and the bond is forfeited*...
You will lose your collateral and could end up owing the rest of the bond amount.

The arrestee often has to follow specific rules, like weekly check-ins, that are decided by the bondsman, not by the court.

***Forfeited:** When the court keeps the full bail amount or demands that you pay the remaining bond balance.

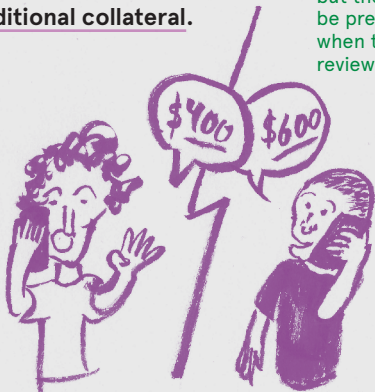
To learn more about the process of posting bail, including where to pay and what paperwork you may need, see pages 6–9 for partially secured bond or unsecured bond, pages 10–11 for cash bail, and pages 12–15 for bail bond.

John and Joe's Choice –
CASH BAIL: \$5,000,
BAIL BOND: \$10,000 OR
PARTIALLY SECURED
BOND: 10% of \$10,000

DEBBIE is arrested and the judge sets bail. Her friends, JOHN and JOE, pool money to pay her PARTIALLY SECURED BOND.

John and Joe know that if they use a bail bondsman, they will lose the nonrefundable fee and will likely have to put up additional collateral.

+ Multiple people can put money towards and sign partially secured bonds, but they must all be present in court when the judge reviews the bond.



They choose a partially secured bond and pay \$1,000 (10% of the total \$10,000 bond amount) which is less than the \$5,000 cash bail.

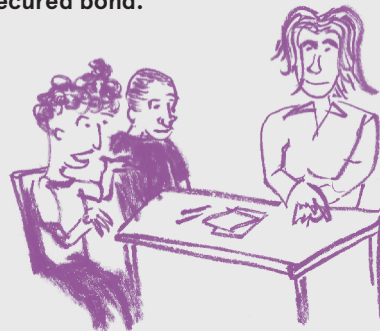


They know that if Debbie makes all of her court dates they'll get all their money refunded!

John and Joe tell Debbie's lawyer that they can be the **OBLIGORS** on her partially secured bond.

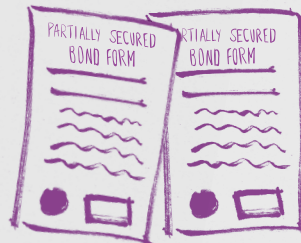
+ An obligor promises that the arrestee will return to court and is responsible for paying the full bond amount if the bond is forfeited.

+ Obligors can either be the arrestee or someone else, like family or friends.



John and Joe each fill out a Partially Secured Bond Form.

The form asks for information like if they have a job, have money saved, or have an annual income.



Once John and Joe complete the paperwork, Debbie's lawyer tells the court clerk.

The judge calls John and Joe into the courtroom, asks them to sign the form, and swear under oath that the information in the form is true.



The judge approves the bond.

+ Based on the information you share in your paperwork, a judge may decide not to approve an arrestee for a partially secured bond and you'd have to choose one of the other bail options.



John and Joe go to the cashier and pay the \$1,000 (10% of \$10,000) in cash.



They get a receipt, bring it back to the court, and show the clerk.

Once bond is posted, Debbie is released!

It's important for the arrestee to show up for their court dates so you can get your money back at the end of the case.



+ It can take a few hours for paperwork to be processed so the arrestee can be released.

The process to pay a partially secured bond is the same as the process to pay an unsecured bond. While you don't have to pay cash upfront for an unsecured bond, you still have to fill out paperwork.

Shawn's Choice –
CASH BAIL: \$7,500,
BAIL BOND: \$10,000 OR
PARTIALLY SECURED
BOND: 10% of \$100,000

SHAWN wants to pay his brother JAY'S CASH BAIL.

+ It's cheaper than what he would have to pay for a partially secured bond (which would be \$10,000).



He'll get a refund if Jay makes all his court dates.



He can pay at court before Jay is sent to jail or anytime after Jay is checked into jail.

+ It can take several hours for someone to be checked into jail.

Shawn fills out paperwork and gives it to the clerk. He also has to show his ID.

+ Bring a photo ID, the arrestee's name, date of birth, and book and case number (if you have it).



+ In some counties, you can pay with cashier's check or money order. Ask the court clerk how you can pay.



He goes to the bail window at the jail.

+ Depending on where you live, you may be able to pay bail at either the court or the jail. In some counties, you may only be able to pay at the jail. In NYC, you can pay bail at ANY jail.

Six hours later, Jay is released!



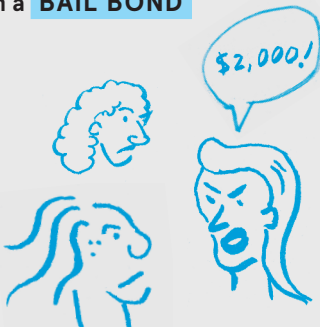
If the arrestee makes all of their court dates, you have the right to a refund! If you're in NYC, call the NYC Department of Finance at 212-908-7619 if you have questions about your refund. If you're outside of NYC, visit brooklynbailfund.org/ny-bail-info.

Aisha's Choice –
CASH BAIL: \$10,000,
BAIL BOND: \$20,000 OR
PARTIALLY SECURED
BOND: 8% of \$40,000

AISHA doesn't have enough
to pay her boyfriend
Benjamin's cash bail or
8% of the partially secured
bond (\$3,200).

She decides to pay with a **BAIL BOND**
 and finds a bondsman.

+ If anyone tells you
 there is an "immigration
 hold" or an "immigration
 warrant," talk to the
 arrestee's lawyer. In most
 cases, this should not
 prevent someone from
 posting bail in New York.



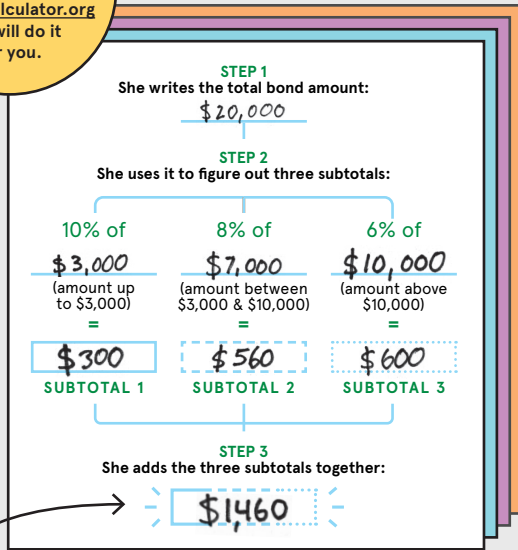
The bondsman
 says he'll charge
 Aisha \$2,000.

Aisha knows that by law, there's a **MAXIMUM**
FEE a bondsman can charge. She also knows
 she won't get this money back.

NEED HELP TO
FIGURE OUT A
MAXIMUM FEE? Find
 a free calculator at
nybondcalculator.org
 that will do it
 for you.

Aisha DOES THE MATH...

+ It's **ILLEGAL** for a bondsman to
 charge more than the **MAXIMUM FEE**.



She sees the **MAXIMUM FEE** the
 bondsman can charge is \$1,460.



Aisha tells the
 bondsman he's
 charging more than
 the **MAXIMUM FEE** set
 by law, and that she'll
 only pay \$1,460.

+ You can shop around or pay
 what the bondsman asks—it's
 your decision! If you think the
 bondsman broke the law by
 charging you too much, you
 can file a complaint.

If the bail bond set by the judge is...	The MAXIMUM FEE a bondsman can charge you is...
\$200 or less	\$10
\$201 to \$3,000	10% of the bond
\$3,001 to \$10,000	10% of the first \$3,000 + 8% of the amount above \$3,000
\$10,001 or more	10% of the first \$3,000 + 8% of the next \$7,000 + 6% of the amount above \$10,000

The bondsman also asks Aisha for **COLLATERAL.**

Collateral is extra money or property, such as a car, that Aisha has to provide to the bondsman.



She knows that by law, collateral has to be charged separately from the fee she was charged for the bond.

+ Ask to keep them separate and get receipts for both.



She also knows that collateral can only be **10% or less of the total bail amount.**

+ You may also have to provide paperwork, like pay stubs or a W2.

+ Bondsmen can decide to accept or not accept your payment.



Aisha also knows she has the right to get her collateral back after the case is over.

+ If the arrestee misses court, the bondsman can return the arrestee to jail. Then you won't get your collateral back—and you could end up owing the remainder of the bond amount.

If a bail bond agent asks for more than the 10% limit OR you do not receive your collateral back within 45 days, you can contact the Department of Financial Services at (800) 342-3736 or dfs.ny.gov/complaint

Then Aisha has to sign a **CONTRACT.**

She reads the contract before she signs it and asks the bondsman to point out important information, including:



- 1 The fee charged for the bond
- 2 The amount of collateral she agreed to
- 3 When she can get her collateral back
- 4 Rules the arrestee has to follow
- 5 What happens if the arrestee misses a court date

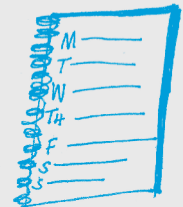
+ These contracts can be confusing. Make the bondsman show you where to find important information like this.

Aisha asks for a copy of her contract.

She also asks when Benjamin will be released. The bondsman tells her it can take a couple of days.

When Benjamin is released, he has to follow specific rules, like weekly check-ins, that are decided by the bondsman.

+ If you can, get the bondsman to write down when the arrestee will be released. If the arrestee is not released promptly after you pay the bondsman, you are entitled to a full refund of all fees.



If you have problems doing business with a bondsman, **YOU HAVE THE RIGHT TO FILE A COMPLAINT.** Go to dfs.ny.gov/complaint for more info.



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This guide is adapted from its original version designed by Alex Tatusian.

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