

BAIL BONDS

Bail in the United States grew out of the English legal tradition granting the accused the ability to offer property or monies to the court in order to secure temporary freedom while pending trial for their crime. Bail became more and more expensive as the years went by in order to cover the expenses of the court because the legal system became so complicated.

In pre-independence America, bail law was based on English law. Some of the colonies simply guaranteed their subjects the protections of that law. In 1776, after the Declaration of Independence, those that had not already done so enacted their own versions of bail law.

In 1789, the same year that the United States Bill of Rights was introduced, Congress passed the Judiciary Act of 1789. This specified which types of crimes wereailable and set bounds on a judge's discretion in setting bail. The Act states that all non-capital crimes areailable and that in capital cases the decision to detain a suspect, prior to trial, was to be left to the judge.

The first modern bail bonds business in the US, the system by which a person pays a percentage of the court-specified bail amount to a professional bonds agent who puts up the cash as a guarantee that the person will appear in court, was established by Tom and Peter P. McDonough in San Francisco in 1898.

Bond agents have a standing security agreement with local court officials, in which they agree to post an irrevocable "blanket" bond, which will pay the court if any defendant for whom the bond agent is responsible does not appear. The bond agent usually has an arrangement with an insurance company, bank or another credit provider to draw on such security, even during hours when the bank is not operating. This eliminates the need for the bondsman to deposit cash or property with the court every

time a new defendant is bailed out. The laws on bail bonds are generally inconsistent throughout the United States. Federal laws affecting it include the Eighth Amendment (which contains the Excessive Bail Clause) and the Bail Reform Act of 1984, which was included in the Comprehensive Crime Control Act of 1984. The Uniform Criminal Extradition Act sponsored by the Uniform Law Commission is widely adopted.

Four states — Illinois, Kentucky, Oregon, and Wisconsin — have completely banned commercial bail bonding, usually substituting the 10% cash deposit alternative described above. However, some of these states specifically allow AAA and similar organizations to continue providing bail bond services pursuant to insurance contracts or membership agreements.

The economically discriminatory effect of the bond system has been controversial and subject to attempts at reform since the 1910s. The market evidence indicates that judges in setting bail demanded lower probabilities of flight from minority defendants. Furthermore, the economic incentives of bonding for profit make it less likely that defendants charged with minor crimes will be released. As such, bail bondsmen help release people with higher amounts of bail who are also charged with higher crimes, creating an imbalance in the numbers of people charged with minor crimes (low level misdemeanors) and increasing jail expenditures for this category of crimes. [http://en.wikipedia.org/wiki/Bail_bondsman]

