

VAN BUREN COUNTY – ALL COURT POLICY		
<b>SUBJECT:</b> BONDS	<b>SECTION:</b> GENERAL	<b>DATE:</b> 7/19/2016
<b>REVISIONS PREPARED BY:</b> Frank Hardester, Cathy Munther	<b>NUMBER:</b> <del>VBC-0020</del>	<b>SUPERSEDES:</b> n/a

Renumbered to "Policy 3.002" on 9/16/20

**REFERENCES:**

- MCL 750.167b; MCL 765.1 et seq; MCL 765.5; MCL 765.6; MCL 765.8; MCL 765.20; MCL 765.26; MCL 765.28(2)
- MCR 3.604; MCR 3.605; MCR 3.606; MCR 3.935; MCR 6.106
- SCAO Administrative Memorandum 2016-03

**DEFINITIONS AND ABBREVIATIONS:**

- A. A&D: apprehension and detention order
- B. LEIN: Law Enforcement Information Network
- C. General bond terminology:
1. Terminology that applies to a release order:  
denied, continued, modified, revoked, reinstated, vacated
  2. Terminology that applies to money (bond):  
posted, continued, forfeited, modified, canceled, reinstated, applied
- D. Appearance Bond (Bail – refers to money): A method of pretrial release of an accused person whereby the accused, or someone on his/her behalf, deposits money with the court or signs a financial obligation intended to guarantee the defendant's/juvenile's appearance for future court proceedings. The amount of the bond is set by a judge, magistrate or referee. The bond can include conditions of release (i.e., no contact with the victim, no alcohol consumption, etc.). Factors influencing the amount of bond set include the seriousness of the charge, the defendant's criminal history/juvenile's delinquency record, and the defendant's/juvenile's ties to the community. Types of bond include:
1. Own Recognizance (OR): Pretrial release without release on personal recognizance, posting money or surety bond. The court takes the defendant's/juvenile's word that he/she will appear as directed by the court.
  2. Personal Recognizance (PR): Pretrial release without posting a money or surety bond, however the court applies a dollar amount in the event the defendant /juvenile fails to comply with conditions of release. The court takes the defendant's/juvenile's word that he/she will appear as directed by the court. If a defendant fails to comply, he/she may be responsible for payment of that dollar amount -- MCR 6.106(C); in the case of a juvenile, a parent, guardian or legal custodian may be responsible for payment -- MCR 3.935(F).

3. **Cash Bond:** A cash deposit of the full bail amount by either the defendant or a third party -- MCR 6.106(E)(1)(a)(ii)[A]; in the case of a juvenile, by a parent, guardian or legal custodian -- MCR 3.935(F).
  4. **10% Bond:** A cash deposit of 10% of the full bail amount by the defendant or a third party -- MCR 6.106(E)(1)(a)(ii)[B]; or in the case of a juvenile, by a parent, guardian or legal custodian -- MCR 3.935(F). The remaining percentage is due only if the defendant/juvenile later fails to appear or comply with bond conditions.
  5. **Surety Bond:** A court-approved bonding agency accepts the responsibility for the bond. Instead of providing money to the court for the payment of the bond, the bonding agency provides a power of attorney from an insurance company authorizing the agency to post the full amount of the bond in the insurance company's name. MCR 6.106(E)(1)(a) and (b).
  6. **Property Bond:** The court does not set/accept property bonds.
- E. **Conditional bond (also known as protective conditional bond):** refers to the terms that the judge intends to enter into LEIN; usually providing protection to an individual. See MCR 6.106(D).
- F. **Conditions of bond:** refers to the terms that are listed as conditions of bond but are not intended for entry into LEIN. See MCR 6.106(D).
- G. **Vacated:** The conditions of the release order have been met. The court vacates the release order and cancels bond, which discharges anyone who has posted bond. MCR 6.106(l)(1).
- H. **Revoked:** When a defendant/juvenile fails to comply with conditions of release on bond, the court may revoke the release order, making the order no longer active. MCR 6.106(l)(2).
- I. **Bond Forfeited:** Money posted by the defendant/juvenile or third party becomes the property of the court. For forfeiture of a surety bond, the court will order the bonding agency to pay the cash value of the bond to the court. MCR 6.106(l)(2).
- J. **Bond Canceled:** Bond is designated no longer active, discharging anyone who posted bond.
1. Bond may be canceled upon a bondsman or a third party surrendering a defendant to the sheriff or a juvenile to the juvenile home, if bond was not previously forfeited.
  2. Bond may be canceled upon the court vacating a release order when the conditions of the release order are met. See MCR 6106(l)(1).

- K. Bond Reinstated: The court reinstates a bond that was canceled; or reinstates a bond that was forfeited upon revocation of a release order. The bond amount is restored to its most recent value.
- L. Bond Applied: Posted cash bond or 90% of a 10% bond will be applied to defendant's/juvenile's financial obligations at time of sentencing. MCR 6.106(l)(3).

**BACKGROUND:** The purpose of this policy is to provide procedures for establishing and maintaining a list of approved bondsmen.

**POLICY STATEMENT:**

- A. This court will only accept applications where bonds are backed by an insurance company. Property bonds are not allowed.
- B. Only those bond agents backed by insurance companies will be placed on the approved bond agency list. Runners will not be included.
- C. All applications for Bond Agencies and Agents must be renewed annually and submitted to the court by December 15 of each year.
- D. Bonding Agents and Agencies will be removed from the Bond Agency list in the event they fail to satisfy a judgment forfeiting bond. The court will also file a complaint with the Department of Insurance and Financial Services.  
[http://www.michigan.gov/documents/cis\\_ofis\\_comp\\_all\\_25074\\_7.pdf](http://www.michigan.gov/documents/cis_ofis_comp_all_25074_7.pdf)
- E. Bond lists will be updated quarterly.

**PROCEDURES:**

- A. **List of Bondsmen.**  
MCL 750.167b(4) requires : "A typewritten or printed list, alphabetically arranged, of all persons engaged in the business of becoming surety upon bonds for compensation in criminal cases within the county shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock and house of detention and in every other place in which persons in custody of the law are detained, and 1 or more copies thereof shall be kept on hand. The list shall be compiled annually by the judges of the circuit court of each circuit, and the names of persons engaged in the business of becoming surety upon bonds for compensation shall be added to the list by the judges upon proper application. When any person who is detained in custody in any such place of detention requests any person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, the list shall be furnished to the person so requesting, without recommendation, and the person in charge of the place of detention within a reasonable time shall put the person detained in communication with the bondsman selected and, contemporaneously with the transaction, make in the blotter or book of record kept in any place of detention a record showing the name of the person requesting the bondsman, the offense with which the person is charged, the time at which the request was made, the bondsman requested, and the person by whom the bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered."

1. The chief judge will approve a bondsmen list by the 1<sup>st</sup> of January, April, July and October of each year; compiled, maintained and distributed by the trial court administrator, or designee, of persons engaged in the business of becoming surety upon bonds for compensation in criminal/juvenile delinquency cases.
2. Persons desiring to engage in the business of becoming surety upon bonds backed by insurance must contact the trial court administrator or designee and they will be provided with a packet of information for submission to the court. MCL 765.20.
3. The bond agency/bondsperson backed by insurance is required to submit the following documentation to the trial court administrator or designee.
  - a. *A Bonding Agency Application and Affidavit*, form VBC-0030.
  - b. A copy of the agency's license AND verification of "Active" status from Michigan Department of Insurance and Financial Services (DIFS) website.  
Site: [http://difs.state.mi.us/fis/ind\\_srch/ins\\_agcy/](http://difs.state.mi.us/fis/ind_srch/ins_agcy/)
  - c. Copy of Power of Attorney with seal from the insurance company, authorizing the company's agents to post bonds in the company's name.
  - d. Current copy of the *Michigan Department of Labor and Economic Growth Certificate of Authority* for each insurance company.
  - e. *Bond Agent Application and Affidavit*, form VBC-0031, for each applicant.
  - f. Copy of driver's license for each agent.
  - g. A copy of each bond agent's resident producer's license AND certificate of good standing\* from the Michigan Department of Labor and Economic Growth and/or Michigan Department of Insurance and Financial Services (DIFS).  
\* Agents must provide a recently dated webpage verification from DIFS website indicating they are in "Active" status.  
Site: [https://difs.state.mi.us/fis/ind\\_srch/ins\\_agnt/](https://difs.state.mi.us/fis/ind_srch/ins_agnt/)
4. Upon receiving the completed documentation, the trial court administrator or designee will approve or deny the applicant's request to be placed on the bondsmen list at the next scheduled quarterly review.
5. All information for the yearly bond agency list must be submitted to the trial

court administrator or designee by December 15 of each year. An alphabetized list by agency will be issued annually following chief judge approval of the list, and will be updated quarterly.

6. The trial court administrator (or designee) will annually request all bond agencies and agents to re-apply if they want to remain on the Bond Agency List using forms VBC-0030 & VBC-0031.
7. New applications and modifications received during the year will be added to the list at the discretion of the court at the next scheduled quarterly review. Deletions from the list will be made as soon as appropriate information is received by the court. Bonding agents and bonding agencies deleted as a result of failing to satisfy a *Judgment After Bond Forfeiture* will be reinstated to the list at the scheduled quarterly review following satisfaction of the judgment.
8. The trial court administrator or designee will circulate the list to the following locations each time the list is modified:
  - Michigan State Police – Paw Paw Post
  - Van Buren County Sheriff's Department
  - Van Buren County Clerk
  - Court Administrators for all Van Buren County Court Locations

FORMS:

VBC-0030, Bonding Agency Application and Affidavit

VBC-0031, Bond Agent Application and Affidavit

VBC-0033, Bond Agency List – Alphabetical

VBC-0034, Notice to Bond Agency – Re Annual Application Submission

VBC-0035, Notice to Bond Agency – Re Additional Documentation Needed

VBC-0036, Notice to Bond Agency – Re Application Status

APPROVAL:

Date: \_\_\_\_\_

7/20/16

  
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Kathleen M. Brickley – Chief Judge