



SB 562 – Debt Free Justice Act

Financial justice for individuals who are arrested, not charged, or have charges dismissed.

SUMMARY

SB 562 allows a defendant to receive a refund of the fee paid to a bail bond company to secure their release if one of the following conditions are met: 1) the prosecuting agency does not file charges within 21 days of the posting of the individual's bond or 2) the prosecuting agency files a motion to dismiss the charges within 21 days of the individual's arraignment.

This bill also allows the bail bond company to retain 2% of the bond surety amount as an administrative fee and any taxes paid to the state.

BACKGROUND

The interaction between bail bond companies and the courts primarily consist of submitting **promissory notes** to secure a defendant's release, rather than direct financial payments. The promissory note is meant to ensure to the court that the defendant will attend their court hearings. If the defendant appears, the bail bond company is no longer liable for the defendant. If a defendant fails to appear, courts may issue a notice of forfeiture of the bond, but bail bond companies are often able to challenge or delay payments, minimizing their financial liability.

For example, in Los Angeles County from May 2016 to May 2017, approximately \$1.73 billion in bonds were issued, resulting in \$173 million in non-refundable profits for bail bond agencies.¹ However, only \$1.4 million was collected by the courts in forfeitures.² This discrepancy highlights the reality of financial responsibility for bail bond companies, as the amount of money collected by the courts was significantly smaller than the amount of money the bail bond company made in profit.

When an individual is arrested and the court determines the bail amount, they can secure their release by paying the full bail directly to the courts, purchase a bail bond through a bail bond company and pay a non-refundable fee, or stay in jail and await their hearing date.

Under current law, bail bond companies are only required to pay the full bail amount to the court if a defendant fails to appear and the court forfeits the bond. If no charges are filed, not only is the bail bond company not required to pay the bond amount, but they receive their bonded note back from the courts and are made whole. However, the individual who paid the bail bond company does not receive any money back, even when there are no charges filed against them or their charges are dismissed before trial.

THE PROBLEM

Under current law, even if there are no charges filed or charges are dropped against someone who has been arrested, they cannot receive any of their money back from the bail bond company. This means that people who are not charged with a crime incur significant debt simply because they were arrested, even if no evidence exists to set a trail.

In California, where the average bail amount is \$50,000 to \$100,000, paying the full bail is nearly impossible for many people, but especially for low-income individuals.³ Even with the assistance of a bail bond company, the cost is a challenge for everyday Californians. 59% of Americans lack enough savings to pay even a \$1,000 emergency.⁴ This can make paying the fee to a bail bond company, which on average is \$5,000 to \$10,000, an overwhelming financial hardship.

For many individuals, the cost of securing their release can mean choosing between basic needs, like food, housing, and their ability to go to work, or staying in jail while awaiting a hearing. This financial strain is a furtherance of cycles of poverty and inequality, making it more difficult for low-income people to access justice and navigate the legal system without facing severe financial consequences.

¹ [Pretrial Detention Reform: Recommendations to the Chief Justice. Pretrial Detention Reform Workgroup. October 2017, p. 38.](#)

² Ibid

³ [Bail Debt - Public Counsel](#)

⁴ [Most Americans can't afford a \\$1,000 emergency expense, report finds - CBS News](#)

THE SOLUTION

At the heart of it, SB 562 is a financial justice bill. SB 562 seeks to remedy the unjust circumstance of individuals being in debt to bail bond companies when charges are never filed or charges are dismissed.

SB 562 allows a defendant to receive a refund of the bond fee paid to the bail bond company if: 1) the individual uses a bail bond company to secure their release, and 2) the prosecuting agency does not file charges within 21 days of the posting of the bond **or** the prosecuting agency dismisses the charges within 21 days of the individual's arraignment.

If these two requirements are met, SB 562 allows a defendant to receive a refund of the fee paid to the bail bond company within 30 days, minus the amount the bail bond company paid in state taxes and administrative fees equal to 2% of the surety bond.

SUPPORT

- Anti-Recidivism Coalition (Co-Sponsor)
- Californians for Safety and Justice (Co-Sponsor)
- California Civil Liberties Advocacy
- Debt Free Justice California
- Ella Baker Center for Human Rights
- Greater Sacramento Urban League
- Initiate Justice
- Smart Justice California

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