

ABILITY-TO-PAY MATRIX - PRETRIAL RELEASE

November 23, 2020

ANNUAL INCOME Family Size	Poverty Level			
	≤ 100%	101% - 150%	151% - 199%	200+%
1	\$ 12,760.00	\$12,761 - \$19,140	\$19,141 - \$25,519	\$ 25,520
2	\$ 17,240.00	\$17,241 - \$25,860	\$25,861 - \$34,479	\$ 34,480
3	\$ 21,720.00	\$21,721 - \$32,580	\$32,581 - \$43,439	\$ 43,440
4	\$ 26,200.00	\$26,201 - \$39,300	\$39,301 - \$52,399	\$ 52,400
5	\$ 30,680.00	\$30,681 - \$46,020	\$46,021 - \$61,359	\$ 61,360
6	\$ 35,160.00	\$35,161 - \$52,740	\$52,741 - \$70,319	\$ 70,320
7	\$ 39,640.00	\$39,641 - \$59,460	\$59,461 - \$79,279	\$ 79,280
8	\$ 44,120.00	\$44,121 - \$66,180	\$66,181 - \$88,239	\$ 88,240
9	\$ 48,600.00	\$48,601 - \$72,900	\$72,901 - \$97,199	\$ 97,200
10	\$ 53,080.00	\$53,081 - \$79,620	\$79,621 - \$106,159	\$ 106,160
For each add'l person add \$4,480				
78B-22-202				

If monetary bail is deemed a least restrictive, reasonably available condition necessary to ensure appearance, below is the recommended amount:					
PSA FTA Risk Score (Appearance Rate**):	Poverty Level:	≤ 100%	101% - 150%	151% - 199%	200+%
		FTA 1 (90%)	\$0	\$0	\$0
FTA 2 (85%)		\$0	\$0	\$0	\$0
FTA 3 (80%)		\$0	\$0	\$0	\$0
FTA 4 (69%)		\$100	\$250	\$750	\$1,000
FTA 5 (65%)		\$250	\$500	\$1,250	\$2,500
FTA 6 (60%)		\$500	\$1,000	\$2,500	*\$5,000

**Avg appearance rate for individuals with the same risk score in the PSA validation study.

Notes:

Utah Code §77-20-1(4)(c): "If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition."

*Setting monetary bail is a highly fact dependent decision. The recommended amounts do not reflect the maximum amount a judge may order. Judges should ordinarily impose monetary bail based on a person's ability-to-pay. However, judges continue to have the same discretion to deviate from the recommended amounts as they had under the Uniform Fine and Bail Schedule, provided judges conduct an individualized assessment of ability-to-pay and risk. For example, if the defendant's income is higher than 200% of the poverty level and the circumstances surrounding the arrest or charge indicate a significant flight risk, a judge might determine that a higher monetary amount is necessary to incentivize that particular defendant to appear in court.

The purpose behind all forms of financial release (secured bond, unsecured bond, cash, etc.) is to incentivize an individual to appear in court. There is no rational relationship between money and public safety, so the criminal activity scores on the PSA are not factored into the recommended dollar amounts. No financial condition is recommended when the FTA score is below 4 because the likelihood of appearance for scores 1-3 is very high (1 = 90%, 2 = 85%, 3 = 80%), compared to a significant drop starting at FTA 4 (4 = 69%, 5 = 65%, 6 = 60%).

If the individual and/or the circumstances surrounding the case indicate a public safety risk, non-financial conditions should be considered in lieu of or in addition to financial conditions of release. If the individual poses a *significant* public safety risk, determine whether they are eligible for a no-bail hold under Utah Code §77-20-1(2). Under Utah Code §77-20-1(8), there is a presumption of detention if the individual is charged with criminal homicide or any offense for which the term of imprisonment may include life. Judges may delay issuing a pretrial status order if a prosecutor files a motion for detention under Utah Code §77-20-1(6).

Note: Surety bail agents are only liable for bringing a defendant to court. They are not liable if the defendant commits a new offense. In fact, if the defendant commits a new crime while out on a secured bond, the agent may be released from its obligations.

The maximum recommended amount is \$5,000 because:

1. There is a presumption of own recognizance release;
2. The court is directed to determine the "least restrictive" condition necessary to "reasonably ensure" appearance in court;
3. Even for those with the highest FTA risk (FTA 6), the likelihood of appearance is still relatively high at 60%;
4. Collateral consequences of an over-reliance on money can include loss of housing, loss of jobs, loss of custody, car repossession, interruption in medication and medical care, etc.;
5. Holding low-risk defendants for even 2-3 days increases their risk of recidivism by almost 40% compared those held no more than 24 hours; and
6. Public safety risk will be considered separately and, in addition to, failure to appear risk.

The ability-to-pay matrix may be used to determine monetary bail amounts for every financial condition type including cash, credit/debit cards, secured bonds, and unsecured bonds.