

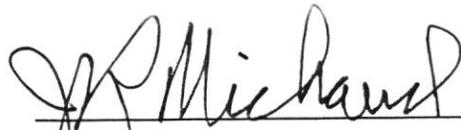
IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO

ADMINISTRATIVE ORDER

IT IS HEREBY ORDERED that the Order entered December 1, 1988, by Gary M. Haman, Administrative Judge, concerning refunding cash bail is hereby rescinded and vacated.

IT IS FURTHER ORDERED that the bail information as contained in the attached Exhibit A is hereby adopted as the policy of the First Judicial District regarding receipt, utilization and disbursement of cash received as bail in criminal cases in the First Judicial District.

DATED this 1 day of November, 1996.



JAMES R. MICHAUD,
ADMINISTRATIVE JUDGE

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO**

BAIL INFORMATION

If bail is required in a criminal matter, it can be posted in three ways:

- 1.) Cash
- 2.) Bail Bond
- 3.) Property Bond

- 1.) For cash bail, the amount posted must be equal to the bail established. It can be posted in person by the defendant or by someone else on the defendant's behalf. If cash bail remains on deposit at the time of entry of a judgment requiring the payment of a fine, the clerk must, under direction of the court, apply the money in satisfaction thereof and after satisfying the fine and costs must refund the surplus, if any, to the person or party posting the deposit. If no fine or cost is levied, the entire bail is refunded. The person posting cash as bail generally has the right at any time to revoke the bond by surrendering the defendant to the custody of the sheriff and making application to the court for the release of the cash bail.

THERE IS NO DISTINCTION SET FORTH IN THE IDAHO CODE AS TO MONIES POSTED BY THE DEFENDANT OR BY A THIRD PERSON. THEREFORE, ANY MONIES POSTED BY ANYONE ON BEHALF OF THE DEFENDANT AND REMAINING AT THE TIME OF JUDGMENT, CAN BE USED TO SATISFY A JUDGMENT IF A FINE IS PART OF THAT JUDGMENT.

- 2.) Bail bond is obtained from a commercial bondsman. For money paid by the defendant to the bondsman, the bondsman will guarantee the defendant's appearance in Court or pay the sum of money set by the Court as bail. In the event of a forfeiture that is paid by the bail bondsman he, of course, has recourse against the defendant for recovery of whatever loss he has suffered. The bail bondsman generally has the right at any time to revoke the bond by surrendering the defendant to the custody of the sheriff and making application to the Court for release of the bond.
- 3.) Idaho Code §19-2901 et seq authorizes the posting of a property bond to insure the appearance in Court of a defendant in a criminal proceeding. The property bond must be backed by real property and prepared in a manner specified by the statutes.

THE SERVICES OF A LAWYER MAY BE REQUIRED TO ASSIST IN MEETING COURT REQUIREMENTS RELATING TO A PROPERTY BOND.

When the bail amount is substantial, property bond may be a desirable alternative.

THE PROPERTY BOND CAN BE POSTED BY PERSONS OTHER THAN THE DEFENDANT BUT THEY SHOULD UNDERSTAND THAT IN THE EVENT THE DEFENDANT'S BAIL IS FORFEITED BY THE COURT THEY MAY LOSE THEIR PROPERTY.

Idaho Code §19-2927 provides that if the defendant, without sufficient excuse, fails to appear for a Court proceeding, bond or bail can be declared forfeited.

Idaho Code §19-2929 provides that if a forfeiture is not set aside within ninety (90) days from the date of the forfeiture, the clerk must deposit the same with the County Treasurer.

NO BAIL FORFEITURE CAN BE SET ASIDE AFTER NINETY (90) DAYS.