



## **Federal and Military Courts Do Not Use Cash Bail**

While cash bail remains a common feature in many state and local court systems, the United States federal government and the military justice system operate under very different rules. Neither relies on the commercial cash bail process familiar in county jails and local courthouses.

### **The Federal System: Bail Reform Act of 1984**

In the federal courts, pretrial release is governed by the Bail Reform Act of 1984. The law shifts the focus away from an accused person's ability to pay money and instead emphasizes two questions:

- Is the defendant a flight risk?
- Does the defendant pose a danger to the community?

Defendants may be released on their own recognizance, meaning a promise to return for court dates. Judges may also impose non-financial conditions such as travel restrictions, check-ins with pretrial services, or electronic monitoring.

If financial security is required, it typically comes in the form of a secured bond deposited with the court, not through a commercial bail bondsman. This makes the federal approach more focused on accountability than on financial resources.

### **The Military Justice System: No Bail at All**

In the armed forces, the Uniform Code of Military Justice (UCMJ) does not provide for any form of bail. Instead, a service member awaiting trial is either confined or released based on the judgment of a commanding officer or military judge.

Release decisions are guided by factors similar to the federal system: the seriousness of the charges, likelihood of appearing for proceedings, and whether the accused presents a danger to others. If released, service members may be subject to conditions such as restrictions on movement, duties, or association — but no money changes hands.

### **Contrast With State and Local Practices**

By comparison, many state and local systems continue to use cash bail, in which defendants must pay money (or hire a bail bondsman) to secure their release before trial. Critics argue this system disproportionately harms low-income defendants, leading to reforms in several states.

For example, Illinois eliminated cash bail in 2023, becoming the first state to fully abolish the practice. Other jurisdictions have adopted more limited reforms, replacing money bail with risk-based assessments.

### **Bottom Line**

At the federal level and in the military, cash bail is not part of the justice process. Pretrial release is based on considerations of risk and safety rather than financial resources. The cash bail debate remains primarily a state and local issue, where reform efforts continue to reshape long-standing practices.