

**Rule 39-4016. Breach of Bail and Forfeiture of Bond; Process and Bail Pieces;
Exoneration of Surety**

A. BAIL FORFEITURE PROCEDURE

(1) Upon the failure of the principal for whom bail has been posted to appear before the court at the designated time and place, or any other breach of the conditions of bail, as provided in Pa. R. Crim. P. 4013, the bail bond or recognizance posted shall be forfeitable subject to the following procedures.

(2) Within fifteen days of the breach of bail as provided in paragraph (1) above, the Franklin County District Attorney shall petition the Court for the issuance upon the principal or the surety, as appropriate, a rule to show cause why the bail bond or recognizance should not be forfeited.

(3) Upon receipt of the District Attorney's petition, there shall issue upon the principal or the surety, as appropriate, a rule to show cause why the bail bond or recognizance relating to which there has been a breach as stated in paragraph (1) above shall not be forfeited. The rule shall be returnable on a date set by court in the rule which date shall not exceed forty-five (45) days from the date of the issuance of the rule. The rule shall be served personally or by certified mail at the surety's last known address.

(4) In the event the bail bond or recognizance is forfeited, the order of court directing forfeiture shall direct the principal or the surety, as appropriate, to deliver to the Clerk of Courts, in cash, the sum forfeited on or before the date specified in the order. The order of forfeiture shall be filed in the office of the Clerk of Courts and the office of Prothonotary. Upon filing with the Prothonotary, the order shall be recorded among the judgment records for Franklin County and shall constitute sufficient judgment upon which execution may be taken at any time after said filing.

Failure to deposit cash in the amount of the forfeited bail bond or recognizance with the Clerk of Courts on or before the date set in the order of court directing forfeiture shall constitute an act of criminal contempt to be addressed by the court in accord with the rules appertaining to such procedures. In addition, in the discretion of the court, in accord with the authority granted by 42 P.S. §5746, the Court may direct suspension or revocation of the bail bond license of any licensed bail bondsman who fails to deposit forfeited bail bonds in accord with the Court's order.

(5) Any principal or surety who has deposited a forfeited bail bond or recognizance with the Clerk of Courts, shall have six months from the date of the order of forfeiture to petition the Court for relief from the forfeiture, provided, however, no such petition shall be entertained by the Court until the forfeited bond or recognizance has been paid to the Clerk of Courts.

(6) Upon the expiration of six months from the date of the forfeiture order, subject to any modification directed by the Court, the forfeited bail bond or recognizance shall be paid by the Clerk to the persons entitled thereto as provided by law. Any person who feels they may have a statutory or equitable basis for sharing in any such distribution shall file a petition with the Clerk on or before the expiration of the six month time period. Upon receipt of any such petition within the six month time period, the Court shall set a date for hearing on said petition and the Clerk shall provide notice to Franklin County and any persons who may have filed a petition to share in said distribution. Following any such hearing, the Clerk shall distribute the forfeited bail bond or recognizance in accord with the order of court directing disposition of said funds. If no petition to share in any such distribution is received by the clerk within the six month time period, upon petition of the County, the Court shall order distribution of said forfeited bail or recognizance to be paid into the general funds of the County.

When the forfeited bail bonds or recognizance is distributed in accord with the court order issued pursuant to this paragraph (7), the court will not entertain any further action on behalf of the principal or the surety for remission of the forfeiture.

(7) All forfeited bail bonds or recognizances deposited with the Clerk of Courts shall be held in an interest bearing account and any accrued interest shall be paid to the County at the time of distribution of principal.

(8) The Clerk of Courts shall file with the County Commissioners a quarterly report of forfeited bail bonds and recognizances on deposit in his office.

B. APPLICATION FOR BAIL PIECE

The application for bail piece under Pa. R. Crim. P. 4016(c)(3) shall be in writing and be verified and shall set forth sufficient reason why the court should order a bail piece to issue. Upon examining the petition, the court may, without further hearing, direct that such bail piece issue. If the court is not satisfied on examining the petition, that the bail piece should issue, the court may require a hearing on the issue. At such a hearing the surety shall come forth with evidence to justify the court in directing the clerk to issue a bail piece which would authorize the surety, or his duly designated representative, to apprehend the defendant wherever or whenever he may be found and bring the defendant before the issuing authority or the court without unnecessary delay. In the meantime, upon apprehension the surety may commit the defendant to the Franklin County Prison.