


UNEQUAL JUSTICE

**bail and modern day debtors'
prisons in Nebraska**



ACLU

AMERICAN CIVIL LIBERTIES UNION
of NEBRASKA



Providing equal justice for poor and rich, weak and powerful alike is an age-old problem. People have never ceased to hope and strive to move closer to that goal.

Griffin v. Illinois, 351 US 12, 16 (1956)

The ACLU of Nebraska is a non-profit, non-partisan organization that works to defend and strengthen the individual rights and liberties guaranteed in the United States and Nebraska Constitutions through a sophisticated program of integrated advocacy with strategies that include litigation, negotiation, policy research, and public education. In 2016 we are proudly celebrating our 50th anniversary and are supported by over 2,000 members and about 10,000 supporters stretching far across our great state.

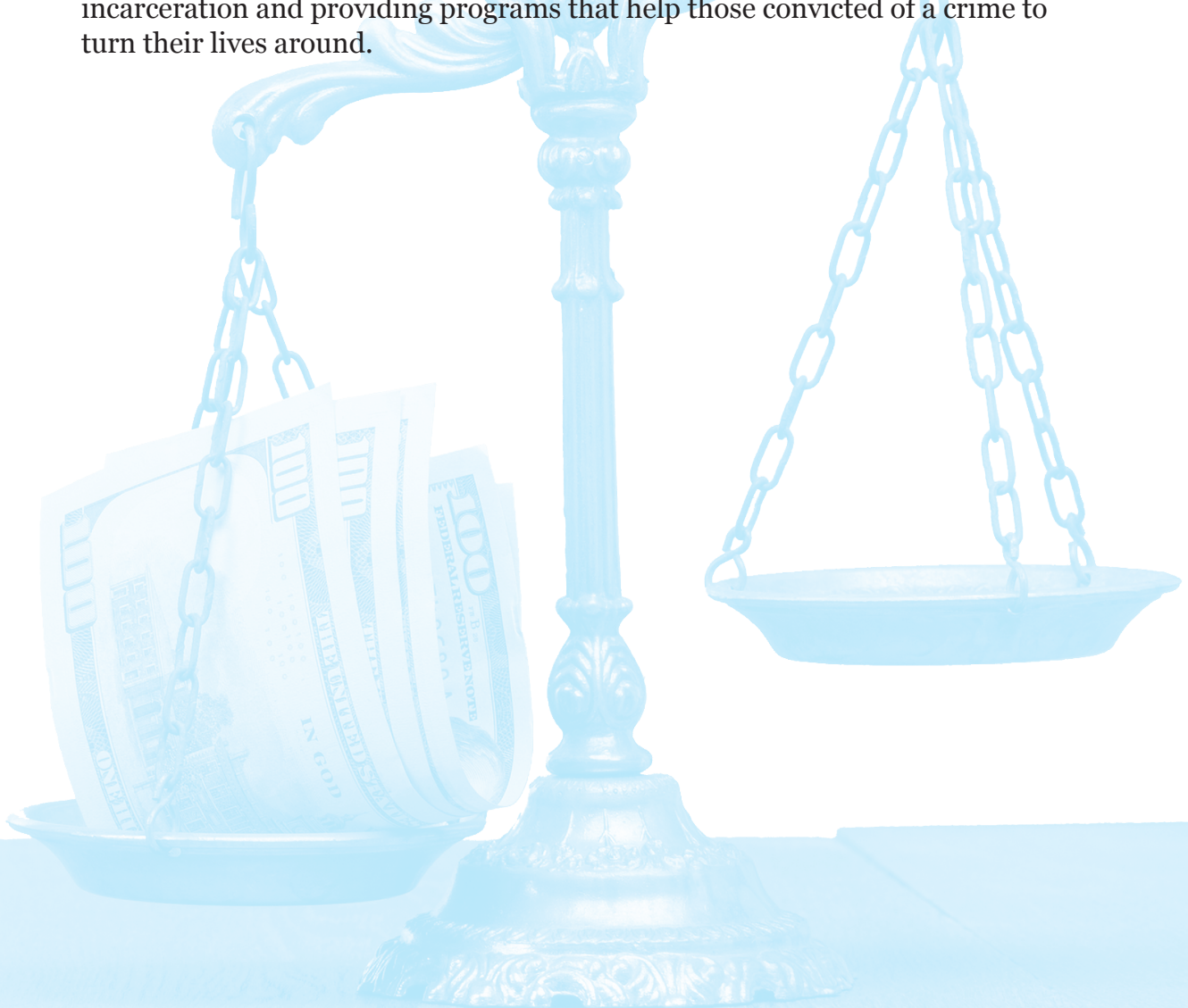
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The ACLU of Nebraska's Campaign for Smart Justice

Criminal justice policies in Nebraska and around the United States have created a system of mass incarceration which hurts our communities and disproportionately impacts low-income families and communities of color. Too many of our neighbors are ensnared in a prison system that is severely overcrowded. Existing prison conditions violate the 8th Amendment's protection against cruel and unusual punishment and do not provide a meaningful transition back into our communities and our economy. The ACLU is leading the way to rethink and reform these policies and conditions through our Campaign for Smart Justice to protect individual rights, reduce the taxpayer burden, and make our communities safer.

"Tough on crime" policies, particularly around punitive drug policies, have failed to achieve public safety while placing an unprecedented number of people behind bars and eroding constitutional rights. This system also erodes economic opportunity, family stability, and civic engagement during incarceration and can create lifelong challenges upon release. America, Land of the Free, has earned the disturbing distinction of being the world's leading jailer. Nebraska has a role to play in reducing America's addiction to incarceration and providing programs that help those convicted of a crime to turn their lives around.



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Executive Summary

Over 30 years ago in *Bearden v. Georgia*, the United States Supreme Court issued a seminal ruling that to imprison someone because of their poverty and inability to pay a fine or restitution would be fundamentally unfair and violate the Equal Protection Clause of the Fourteenth Amendment. Yet today, courts across the United States and Nebraska routinely imprison people because of their inability to pay. This practice has been termed a “modern-day debtors’ prison.” This practice happens at various points in the criminal justice system. First, it can happen to people who are awaiting trial. Individuals are forced to sit in jail while their case proceeds because a bail amount has been set beyond their ability to pay while those with financial resources regain their freedom to go to work, school and be with their families while awaiting trial. Second, some people who have been adjudicated and found guilty end up in jail even though they were not sentenced to jail time because they are unable to pay a fine and are imprisoned instead to “sit it out.”

The end result of these systems: a maze with dead-ends at every turn for low-income people.

In this report, the ACLU of Nebraska presents the results of its investigation into Nebraska’s modern-day “debtors’ prisons” and bail practices. The report shows how, day after day, low-income Nebraskans

are imprisoned because they lack the ability to pay bail or pay fines and fees. These practices are illegal, create hardships for those who already struggle, and are not a wise use of public resources. Debtors’ prisons result in an often fruitless effort to extract payments from people who may be experiencing homelessness, are unemployed, or lack the ability to pay.

The ACLU of Nebraska investigated the imposition of bail as well as the imposition of court fees and fines. Our survey focused on the four largest counties (Douglas, Lancaster, Sarpy and Hall), using open records requests, court record review, and interviews with people involved in the system with additional in-court observations in Douglas, Lancaster and Sarpy Counties.

Key Findings

Nebraska doesn’t have as many problematic practices as found in other jurisdictions. Some states have notorious abusive practices such as private bondsmen who use dangerous tactics to apprehend low-level offenders, staggeringly high interest rates and late fees that make it nearly impossible to ever pay off court costs, and additional fees for serving jail time or applying for a public defender. Therefore we believe Nebraska is well positioned to reform our system to remedy the harms currently being inflicted on people who are poor.

Human Costs

Being held in jail comes with devastating human costs for low-income Nebraskans. **Being held in jail while awaiting trial means one is more likely to be found guilty and more likely to receive a stiffer sentence.** People who are in jail—whether pretrial or whether sitting out a fine—face significant disruption to their lives. **Before they even get to trial, Nebraska defendants charged with nonviolent offenses spend an average of 48 days behind bars.** Being imprisoned has a destabilizing impact on their jobs, their children, and their wellbeing. These burdens fall on people who were already struggling and at risk. It is well documented that racial disparities exist at every stage of our criminal justice system. This research shows a clear and disturbing overrepresentation of people of color behind bars in Nebraska as well.

Waste of Taxpayer Money and Resources

Incarcerating low-income people prior to trial or requiring an indigent defendant to sit out a fine costs much more than counties actually recoup. **Our study revealed that over half of the county jail populations were pretrial people—Nebraskans presumed innocent but unable to afford bail to go home.** At the same time, several counties are facing overcrowded jails and are burdened by paying other counties to take their inmates. Indigent defendants sitting out a fine are doing so at taxpayer expense—it costs between \$80-90 per day per inmate, depending on the county involved. The annual costs to run the jails in our four largest counties will reach over \$73 million in 2017. Both practices strain county budgets and burden taxpayers unnecessarily.

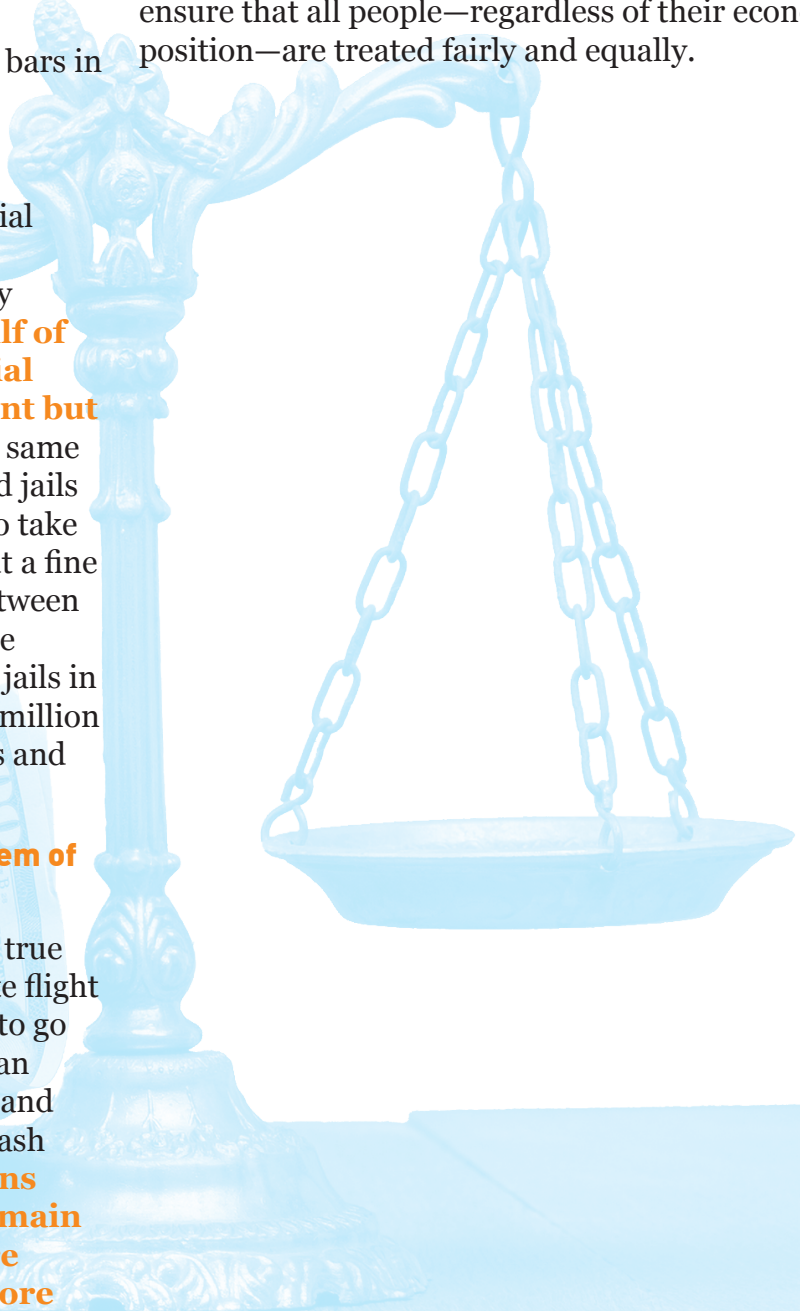
Jailing the Poor Creates a Two-Tiered System of Justice

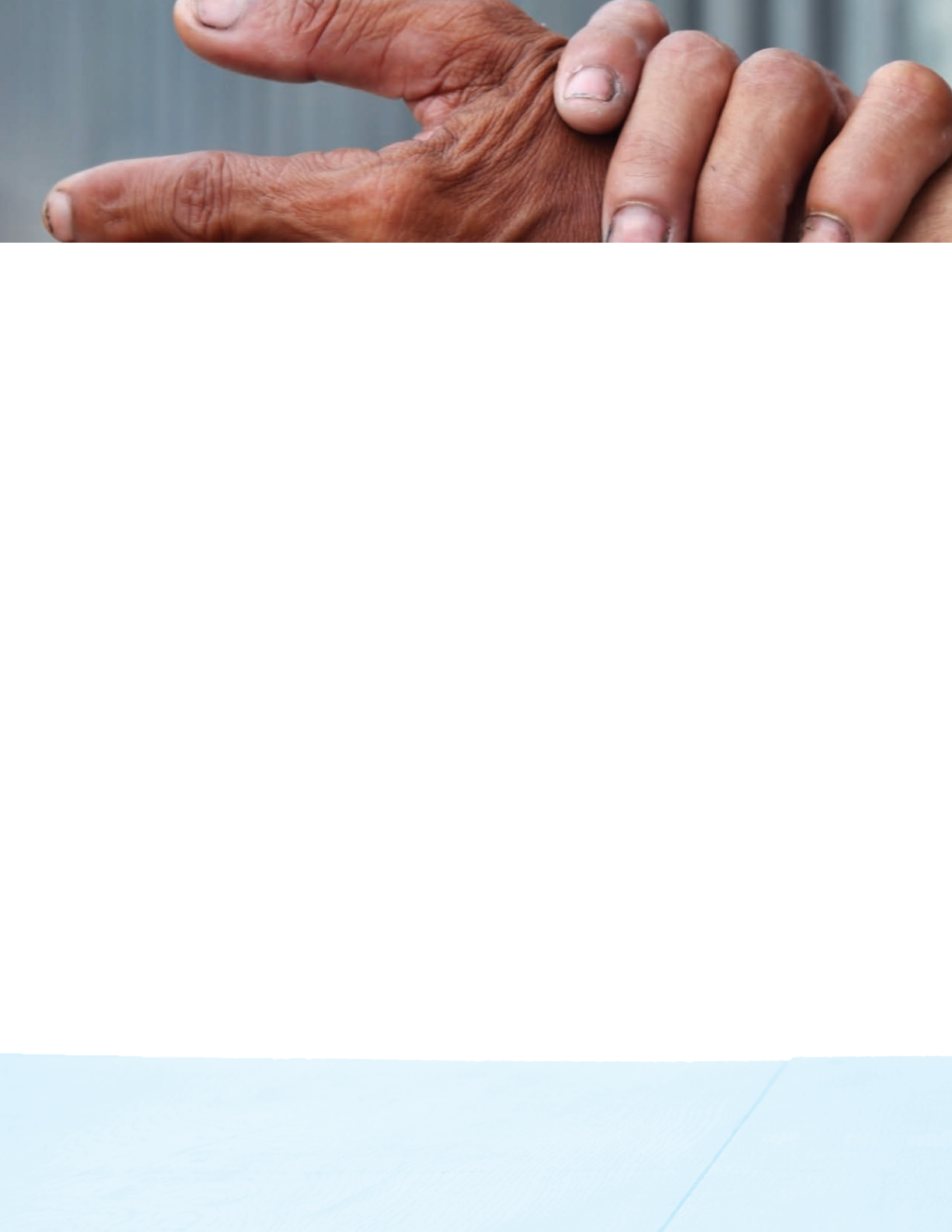
Bail should be limited to people who pose a true risk to public safety or who present a concrete flight risk. All other defendants should be allowed to go home on their own recognizance. Instead of an individualized assessment of dangerousness and flight risk, Nebraska is reflexively placing a cash bail amount for most defendants. **This means the wealthy go home while the poor remain behind bars, though studies show there is no rational basis to treat the poor more**

harshly. Similarly, when a wealthy defendant is sentenced to pay a fine, they can do so and go on their way while a poor defendant without the means to write a check must sit in jail. Nebraska deducts \$90 per day served from court fines, so even a nonviolent misdemeanor offense can result in many days in jail. These practices mean the poorest defendants are punished more harshly than those with money.

Recommendations

The ACLU of Nebraska has made recommendations to judges, police and policymakers to remedy the serious abuses that have resulted in a system of unequal justice. These recommendations are based on proven models in other jurisdictions and seek to ensure that all people—regardless of their economic position—are treated fairly and equally.





Criminalization of the Poor

Nearly two centuries ago, the United States formally abolished the incarceration of people who failed to pay off debts. However, recent years have witnessed the rise of modern-day debtors' prisons—the arrest and jailing of poor people for failure to pay legal debts they can never hope to afford, through criminal justice procedures that violate their most basic rights. Some people sit in jail while still presumed innocent—only because they don't have the money to post bail.

An overwhelming majority of Nebraska jail inmates are deemed indigent. As we examined how court processes impact people who are poor, we found that the system often punishes defendants simply for not having money. Poor defendants in the criminal justice system are much more likely to experience incarceration

because they lack the resources to pay fines or post bail, not because of the severity of their alleged crime.

This report looks at the monetary bookends of the criminal justice system: first, how bail is set when one is first arrested and second, what happens when one is found guilty and ordered to pay a fine and court fees.

Arrestees are presumed innocent and, for most offenses, may be allowed to go home to their family while they wait for their trial. They can do so if they post bail, which is set in the form of a cash amount. Immediately upon arrest, before a defendant is seen by a judge for an individual assessment, the bail amount is determined by a

“schedule” that provides set bail amounts for particular offenses. These schedules vary widely from county to county. After the amount is set, a defendant may also go in front of a judge and request a lower amount. This report will first describe the current bail practices in Nebraska and how they impact the poor.

People who are found guilty of misdemeanors and traffic offenses are often not sentenced to do time—they are given a sentence of a fine, including court costs. Court costs can vary from \$49 to \$500. For example, if a defendant calls a witness they will ultimately be asked to pay the witness fee. In reality, many indigent people end up serving time behind bars simply because they cannot afford to pay those costs. This practice is known as



1 in 10 children in Nebraska have a parent who is behind bars.

Voices for Children in Nebraska



Department of Justice Principles for Bail & Debtors' Prison Reform

Courts must not employ bail practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.

Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an ability to pay determination and establishing that the failure to pay was willful.

Courts must provide meaningful notice and, in appropriate cases, counsel when enforcing fines and fees.

Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.

“debtors’ prison,” and it is pervasive throughout the state. The report will also look at fines and fees collection and how it impacts the poor.

Both of these practices are economically inefficient since taxpayers pay thousands of dollars for defendants to sit in jail for days, weeks, and months. Debtors’ prison is a particularly illogical practice since the court costs and fines imposed ultimately do not generate income—rather, taxpayers pay for inmates to be incarcerated.

These practices don’t just impact the defendant and taxpayers—they ultimately affect the families and children of the defendant. Voices for Children Nebraska documented that one in ten children in Nebraska have a parent behind bars, and the effects of this experience often lead to economic and psychological instability for the child.¹ Parents who cannot post bail or who are sitting out a fine in jail may lose their job, fail to meet a crucial bill deadline, and face eviction or loss of utilities. These all impact the entire family’s likelihood of financial stability and success.

These burdens fall on those who were already poor to start with, as those in the criminal justice system tend to be low income. “People convicted of felonies tend to be financially worse off before arrest and conviction than those not connected to the criminal justice system, and defendants tend to have higher unemployment rates than nondefendants... Nationally, the earned annual income of two-thirds of jail inmates was under \$12,000 in the year prior to arrest.”²

For this study, the ACLU examined court records from the four largest counties in Nebraska (Douglas, Lancaster, Sarpy and Hall) and personally observed county court arraignments and sentencings in the three largest counties (Douglas, Lancaster and Sarpy). In addition, we interviewed criminal defense attorneys across the state and other stakeholders. Through this research, we repeatedly found people sitting in jail simply for being poor and not being able to pay a couple hundred dollars in bail, fines or

1 Chrissy Tonkinson, “A Shared Sentence: the devastating toll of parental incarceration” Voices for Children in Nebraska, <http://voicesforchildren.com/2016/05/a-shared-sentence-the-devastating-toll-of-parental-incarceration/>

2 Harris, Alexes. (2016) “A Pound of Flesh: Monetary Sanctions as a Punishment for the Poor.” (American Sociological Association’s Rose Monograph Series) p. 7.

fees.

This practice is out of step with clear caselaw. The Department of Justice has begun to intervene in cases involving the criminal courts' imposition of financial burdens on the poor and has stated, "incarcerating individuals solely because of their inability to pay for their release, whether through the payment of fines, fees, or a cash bond, violates the Equal Protection Clause of the Fourteenth Amendment."³ In March 2016, the Department of Justice issued guidance to all judges, calling for reform.⁴ The DOJ has enunciated several principles relevant to current Nebraska practices, including:

- Courts must not employ bail practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.
- Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an ability to pay determination and establishing that the failure to pay was willful.
- Courts must provide meaningful notice and,

in appropriate cases, counsel when enforcing fines and fees.

- Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.

The report suggests ways Nebraska can come into compliance with the Department of Justice's guidelines. The good news is that Nebraska doesn't have as many problematic practices as many sister states. Some states have practices such as private bondsmen who use dangerous tactics to apprehend low-level offenders, high interest rates, late fees that make it nearly impossible to ever pay off court costs, and additional fees for serving jail time or applying for a public defender. While our system needs a significant overhaul, we are thankfully free of many of the shocking abuses documented in other states.⁵ **Nebraska is well positioned to take immediate steps to protect the rights of people who are poor trapped in a cruel maze created by our criminal justice system.**

³ Department of Justice Statement of Interest, *Varden v. The City of Clanton* (February 2015). <https://www.justice.gov/file/340461/download>

⁴ Department of Justice "Dear Colleague" letter, March 14, 2016. <https://www.justice.gov/crt/file/832461/download>

⁵ American Civil Liberties Union. "In For A Penny: The Rise of America's New Debtors Prisons." October 2010. <https://www.aclu.org/feature/ending-modern-day-debtors-prisons>



The stories in this report are based on interviews conducted during our court watching experiences or through conversations with criminal defense attorneys. With the exception of Janet Vashon's story on page 26, names have been changed and photos are representations.

HEATHER IS 27 AND THE MOTHER OF TWO YOUNG CHILDREN.

The day before Thanksgiving, she was pulled over for tossing a bag of trash out the window of her car.

“I was so embarrassed when the lights turned on,” Heather said. **“I knew what I did was wrong, so I was ready for a ticket.”**

She was charged with a Class III misdemeanor: “Rubbish on the highway.” At her first court date, she asked for a public defender, but the judge noted on the docket that no jail time would be imposed, so her request was denied. Heather missed her next court date and a warrant was issued for her arrest.

“The cops came and got me. I was flabbergasted. They had time to come get someone over littering? They took me to jail. I had a \$500 bail set. Luckily, my family was able to bring down \$50 to let me go home.”

Ultimately, Heather was found guilty. She was given a \$25 fine plus \$51 court costs. The court gave her two months to pay.

“I made my first payment but then just didn’t get the rest of the money together. I didn’t have an attorney to ask for help and I didn’t know how to ask for more time, so they issued another warrant for me.”

The police came and picked Heather up again and booked her in jail. **“I was humiliated. I had to beg my family to come pay the last \$31 so I didn’t have to stay in jail.”**



Bail Reform

Bail refers to the amount of money a person has to pay to be released from jail after being arrested. Usually, a defendant pays ten percent of the total bail amount set by the judge. For instance, if \$50,000 is set as bail, the defendant must pay \$5,000 to go home.

Money bail should only be required when the prosecutor, after an individualized hearing, demonstrates the defendant's release poses a significant danger or flight risk. As the Department of Justice has said, "Bail that is set without regard to defendants' financial capacity can result in the incarceration of individuals not because they pose a threat to public safety or a flight risk, but rather because they cannot afford the assigned bail amount."⁶ The presumption should always be in favor of release.

Current Nebraska law limits bail to those cases where a defendant might leave the jurisdiction or might hurt someone while free: "Any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the

Over half of those in Lancaster, Sarpy, and Hall County jails on the days of our study had not been convicted of a crime.

judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required or that such a release could jeopardize the safety and maintenance of evidence or the safety of victims, witnesses, or other persons in the community."⁷

Unfortunately, from our research it appears Nebraska courts aren't routinely enforcing this presumption of release based on individualized factors. Instead, courts are treating all defendants the same based on the alleged

crime rather than the defendant's personal circumstances, or they are reflexively complying with requests for high bail amounts made by prosecutors.

The fallacy of our current bail system is that a mere dollar amount does nothing to ensure public safety or the guaranteed appearance of a defendant for trial. For example, a wealthy criminal defendant charged with a more serious crime may be able to post bail because he has financial resources. Meanwhile, a criminal defendant living in poverty who poses less risk must

⁶ Department of Justice Statement of Interest, id.

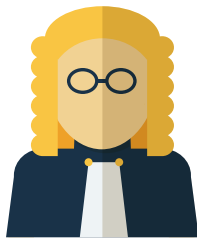
⁷ Neb. Rev. Stat. 29-901

Bail: The Basics

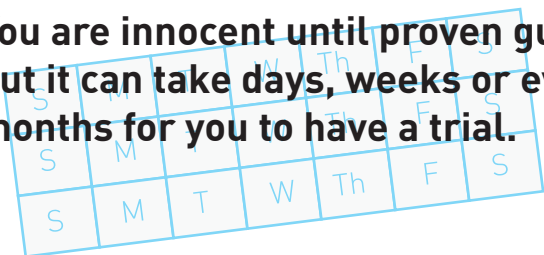


You are charged with a crime and arrested.

If a judge thinks you are a flight risk or a danger to public safety, a judge will require you to post money bail.



You are innocent until proven guilty, but it can take days, weeks or even months for you to have a trial.



If you pay 10% of the bail, you can bail out and go home until your trial.



But if you cannot afford bail, you sit in jail until the trial.



While waiting for your trial, you cannot go to work, school, see your children or otherwise live your life.



stay behind bars. Under this system, the only guaranteed outcome is the over-criminalization of people in poverty.

One's wealth isn't an indicator of how likely he or she is to appear in court for her court date. **In fact, studies have shown that people released on their own recognizance without any money bail appear in court more often and defendants released on cash bail actually have higher failure to appear rates.**⁸ It appears that Nebraska judges may currently impose bail not due to a fear of actual flight risk to another jurisdiction to avoid prosecution but simply due to a fear the accused may not show up for court dates. While a failure to appear imposes inconvenience and cost on the court system and witnesses, a failure to appear is not the same as fleeing.

Many defendants do not show up for court because of unavoidable child care or work conflicts or because they were fearful and confused about the process. These issues can be resolved without using pretrial detention, and Nebraska has already had firsthand experience on how to ensure appearance in court. From 2009 to 2010, the Nebraska State Bar Association implemented a pretrial reminder pilot program in 13 counties and proved that a simple reminder postcard significantly lowered the number of people who failed to appear for court.⁹

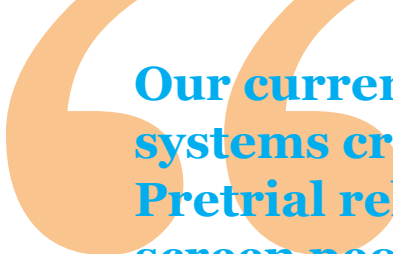
Some Nebraska counties currently offer a pretrial release that is contingent upon technological surveillance methods, including interlock devices on vehicles to test the driver's alcohol usage and ankle monitors. Pretrial surveillance raises independent privacy and fairness concerns. Not only is it intrusive, it has often proven to be ineffective. For

⁸ A Study of Maryland's Pretrial Release and Bail System, at 47. Also see Christopher T. Lowenkamp & Marie VanNostrand, Exploring the Impact of Supervision on Pretrial Outcomes 17 (No. 2013); Tara Boh Klute & Mark Heverly, Report on Impact of House Bill 463: Outcomes, Challenges and Recommendations 6 (2012).

⁹ Brian H. Bornstein, Alan Tomkins, Elizabeth Neely, et al. Reducing Court's Failure-to-Appear Rate by Written Reminders, January 2013. <http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1601&context=psychfacpub>

these reasons, most individuals who are pretrial should not be subjected to such monitoring. But for certain people, these devices could be among the least restrictive conditions necessary to ensure their return to court. Currently, however, all these devices come with a price tag that must be borne by the defendant, which only exacerbates the inequalities of the cash bail system. Officials in Lancaster County's pretrial release program indicated they make every effort to provide no-cost technology options for defendants when the county is able to do so, though indigent defendants don't have these options across the state. To the extent the state could devise a system that reliably determines the rare individuals who require pretrial monitoring, the fact that many rural counties have no such technology-based solutions raises concerns about disparate justice.

The Vera Institute reports that, nationally, 60% of jail inmates are pretrial, meaning either they have been denied bail or, more frequently, are unable to post bail.¹⁰ Out of our sample, we found that over half of inmates in Nebraska are pretrial defendants who are not convicted and presumed innocent. The ACLU believes that money bail should not be imposed unless the court concludes both that (1) the arrestee can afford the bail amount and (2) that less restrictive, nonmonetary conditions would be ineffective on their own. The presumption should always be in favor of releasing people with the least restrictive conditions needed, and money bail must be considered the most restrictive condition short



Our current bond and fine systems criminalize poverty. Pretrial release programs which screen people for risk factors and can assess the level of supervision needed, are more effective at assuring someone appears in court than simply rewarding the person who can come up with a set amount of money. For one person, \$100 is the same as \$10,000 for another. One night in jail can mean the loss of a job, housing, and custody of children. If a bond requiring money is set, the primary factor considered by the court must be the person's ability to pay. Our current system discriminates against the poor.

Joe Nigro, Lancaster County Public Defender

¹⁰ Ram, Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman and Peggy McGarry. Incarceration's Front Door: The Misuse of Jails in America. New York, NY Vera Institute of Justice, February 2015, <http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/01/incarcerations-front-door-report.pdf>



MELISSA IS 43 AND A RESIDENT OF LINCOLN.

She was arrested for Class III misdemeanor domestic violence after a dispute with the father of her children late one evening. The following morning, she was brought to Lancaster County Court with all the other in-custody defendants. Lancaster uses video arraignments—that means to take Melissa’s plea and determine bail, Melissa was physically in the Lancaster County Jail, five miles away from the judge. Melissa was brought into the small hearing room wearing the jail jumpsuit and in shackles. She was facing a screen with a split view—on one half, she could see the judge and on the other side, she could see the prosecutor. She didn’t have an attorney present, but even if she had one, she couldn’t have seen or spoken confidentially with her lawyer. As an officer stood directly behind her, the judge rapidly read the charges against her and her rights and asked her how she wished to plead. Melissa strained forward against the shackles, peering at the screen.

“I don’t understand. I want to explain what happened...”

The judge interrupted and warned her this wasn’t the time to speak about the facts—“We just need to know how you plead, ma’am. Your options are guilty, not guilty, or no contest.”

“I guess I plead no contest? Wait. What does that mean? Don’t I get a lawyer to help me here?”

The judge patiently explained she wasn’t eligible for an attorney yet and explained the difference between a plea of “no contest” and a plea of “not guilty,” and asked her again what she wanted to do.

“Then not guilty. Now do I get to talk to my lawyer? I want to know who’s taking care of my little girl. Do I get to go home now?”

The judge explained she could go home if she could post 10% of \$5,000 (\$500). Her next court date was set for two weeks in the future. Melissa was led away, still trying to ask more questions. Melissa eventually pled guilty.

“I had to. It would have taken forever to let the trial go forward, and how could I live with myself as I worried about my little girl? Yeah, I know that’s on my record now. I just hope it doesn’t hurt me down the road.”

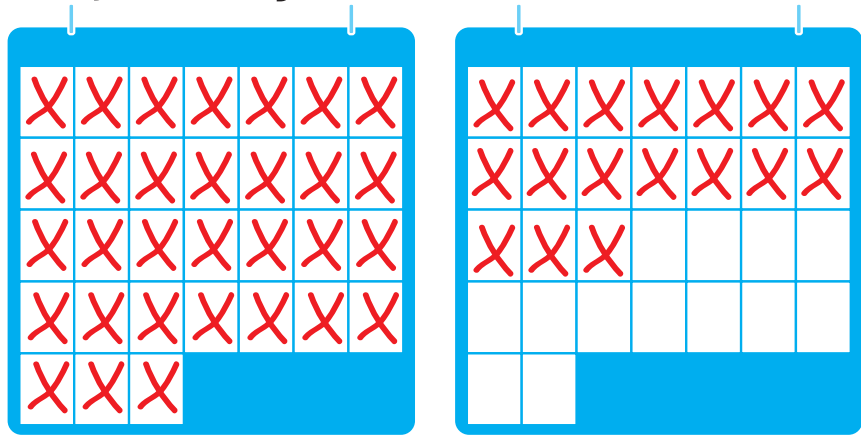
of detention. An individual may only be held, with or without bail, if the court, after an individual assessment, has concluded by clear and convincing evidence that the defendant poses an imminent threat to public safety that no other condition or combination of conditions can reasonably protect against.

Being free on bail affects the ultimate outcome of the case. Several scholarly studies have found that comparable low-risk defendants who are detained for the entire pretrial period are up to five times more likely to receive a lengthier sentence than similar defendants who posted bail.¹¹ Those held pretrial are also statistically more likely to be rearrested even if held only for a few days—our money bail system is actually promoting future criminal behavior.¹²

Detention has devastating consequences beyond the disposition of the case. The psychological impact of being held in jail for even a few days can be severe. The World Health Organization has found that jail suicides often happen within the first few hours of incarceration due to the sudden isolation, the shock of imprisonment, and the individual’s uncertainty about their future.¹³ Nebraska is not immune from these tragedies—one database of recent jail deaths includes several entries for our state, most of which occurred while the defendant was in jail for four days or less.¹⁴

Even those found innocent—or whose charges are dismissed—are punished by our current bail system. The bail

Nonviolent offenders who cannot post bond spent an average of 48 days in jail.



Average among four counties surveyed on four different days.

11 “Don’t I Need a Lawyer: Pretrial Justice and the Right to Counsel at First Judicial Bail Hearing,” National Right to Counsel Committee, March 2015, p. 5, footnote 4. http://www.constitutionproject.org/wp-content/uploads/2015/03/RTC-DINAL_3.18.15.pdf
12 “Incarceration’s Front Door: The Misuse of Jails in America,” Vera Institute of Justice, February 2015, p. 14. <https://www.pretrial.org/download/infostop/Incarcerations%20Front%20Door%20-%20Vera%202015.pdf>
13 World Health Organization, “Preventing Suicide in Jails and Prisons,” 2007, p. 5. http://www.who.int/mental_health/prevention/suicide/resource_jails_prisons.pdf
14 Shifflett, Shane, Hilary Fung and Alissa Scheller. “Since Sandra.” <http://data.huffingtonpost.com/2016/jail-deaths>



More than half of pretrial detainees are held for nonviolent crimes.

money is returned to these people, but the court system still retains ten percent for court costs.¹⁵ In other words, a defendant whose family managed to put together a \$50,000 bail will welcome him home when he is vindicated by a jury, but they will still lose \$5,000 as a court cost.

Findings

To construct a snapshot of the pretrial jail population in Nebraska, on four random days in the summer of 2016 we acquired the jail lists of the four most populous counties: Douglas, Lancaster, Hall, and Sarpy. As more fully described in the Appendix, this meant we were able to capture individual inmates' criminal charge, race, amount of time in jail, and bond amount.

When an inmate had more than one charge, we recorded and categorized that inmate by the most serious charge for which they were awaiting trial. If defendants were being held pretrial for more than one charge, we calculated the total amount of money they would need to post to be released that day.

When categorizing the severity of the charges, we divided crimes into the nine categories in the Appendix. See the Appendix for a full explanation of methodology.

Through court observations, and reviewing bail schedules and jail lists, we discovered many current practices in Nebraska do not comply with the law.

Many defendants are incarcerated for nonviolent crimes. An average of 17.5% of the pretrial defendants in the surveyed counties were in jail for nonviolent drug offenses. 11.4% were theft and shoplifting charges, and 7.3% were traffic related charges. In total, over half of the pretrial population were accused of nonviolent offenses. Notably, Hall County's nonviolent pretrial population was the largest at 66.7%.

We found that all pretrial defendants spend an average of fifty-five days in jail before their trial or the acceptance of a plea deal. The waiting period is shockingly long even for nonviolent offenders, who spend an average of forty-eight days in jail. The amount spent to house each inmate varies by county. In Douglas County, it is estimated to cost

¹⁵ Neb. Rev. Stat. 29-901(3)

\$83.40 per day per inmate¹⁶ and Corrections is 19% of their 2017 budget. Hall County taxpayers pay approximately \$88.00 per detainee per day¹⁷ and Corrections is 25% of their 2017 budget. The extent to which our county jails are overcrowded with low-level arrestees—who are presumed innocent—is demonstrated by the fact that both Sarpy and Douglas Counties are paying other counties to house their overflow inmates.¹⁸

We also reviewed bail schedules, which are generally used for the initial period following an arrest; a defendant picked up after hours, on a weekend or on a holiday can still be released without seeing a judge if she has the cash listed on the bail schedule for her crime. These schedules are set by each of the 12 judicial districts, and the bail amounts vary widely based on geographic location.¹⁹ See the Appendix for bail schedules from each judicial district.

Examples of discrepancies from county to county include:

- DUI in the First Judicial District (Gage, Saline, Nemaha counties) will bail out at \$3,500, while a DUI in the Third Judicial District (Lancaster County) needs only \$2,500.
- Class I misdemeanors have bail at \$10,000 in the Fifth Judicial District (Saunders, Seward, Platte, Hamilton counties) in comparison to \$5,000 in the Fourth Judicial District (Douglas County).
- Driving on a suspended license requires \$2,500 in the Third Judicial District (Lancaster County) but no bail need be posted in the Fifth Judicial District (Saunders, Seward, Platte, Hamilton counties) for the same charge.

\$73 million

Combined cost of jails in Nebraska's four largest counties.

First and foremost, we must ensure that we are in compliance with federal law when it comes to imposing fines and court costs on defendants. We should not be infringing upon people's civil rights and incarcerating nonviolent offenders simply because they are poor and cannot afford to pay. We are in support of the ACLU's efforts of reform.

Mary Ann Borgeson, Chair of the Douglas County Board of Commissioners

¹⁶ Henrichson, Christian, Ruth Delaney, and Joshua Rinaldi. The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration. New York, NY Vera Institute of Justice, May 2015, https://storage.googleapis.com/vera-web-assets/downloads/Publications/the-price-of-jails-measuring-the-taxpayer-cost-of-local-incarceration/legacy_downloads/price-of-jails.pdf

¹⁷ Overstreet, Tracy, "Hall County Now Housing State Inmates at Jail," The Independent, June 18, 2014, http://www.theindependent.com/news/local/hall-county-now-housing-state-inmates-at-jail/article_a0c63664-f6a9-11e3-8842-001a4bcf887a.html

¹⁸ Nitcher, Emily. "Sarpy County's jail is running out of space options," Omaha World Herald, October 20, 2016. http://www.omaha.com/news/metro/sarpy-county-s-jail-is-short-on-space-and-options/article_d1d9328a-465c-59de-81be-330a06a092d1.html

¹⁹ Neb. Rev. Stat. 29-901.05: "It shall be the duty of the judges of the county court in each county to prepare and adopt, by a majority vote, a schedule of bail for all misdemeanor offenses and such other offenses as the judges deem necessary. It shall contain a list of such offenses and the amounts of bail applicable thereto as the judges determine to be appropriate."

- Domestic violence charges—even misdemeanors—automatically jump to \$50,000 in the Second Judicial District (Douglas County) while other counties track the seriousness of the charge.
- Bail amounts automatically increase for non-residents in the First Judicial District (Gage, Saline, Nemaha counties) and Tenth Judicial District (Kearney, Adams counties).
- Officers have the discretion to release anyone without bail in the Second Judicial District (Sarpy County) except in cases of domestic violence and violations of protection orders. Residents may be released without bail in all cases if the arresting officer feels it is not necessary in the Tenth Judicial District (Kearney and Adams counties) and the Eleventh District (Dawson, Lincoln, Red Willow counties).
- Only a few bail schedules emphasize the expectation that requiring a bail is limited to circumstances involving public safety or flight risk: Seventh Judicial District (Madison County), Eighth Judicial District (Howard and Brown counties), Twelfth Judicial District (Scotts Bluff, Box Butte, Cheyenne counties).

In addition, we found that people of color were disproportionately represented in the pretrial populations in comparison to the demographics of the county in which they were incarcerated.

In Lancaster County, whites compose 87% of the population, Blacks compose 4% and Hispanics compose 6%.²⁰ In the Lancaster pretrial jail population, 59.1% are whites, 21.8% are Blacks and 8.2% are Hispanics.

In Hall County, the population is made up of 92% whites, 2% Blacks and 26% Hispanics.²¹ In the Hall pretrial jail population, 47.6% are whites, 20.6% are Blacks, and 25.4% are Hispanics.

In Douglas County, whites compose 81.1% of the population, 11.5% Blacks and 12.2% Hispanics.²² In

the Douglas pretrial jail population, 39% are whites, 47% are Blacks and 10.7% are Hispanics.

In Sarpy County, the population is composed of 89% whites, 4% Black and 8% Hispanic.²³ In the Sarpy pretrial jail population, 67.4% are whites, 16.3% are Blacks and 12.8% are Hispanics.

The racial disparities we discovered extend to the amount of bail as well. The average bond for a nonviolent offense was \$40,251 on the days we studied and \$73,772 for a violent offense. **If you are Black, Hispanic or Native American, you can expect your bond to be \$14,572 more than the average bond for a nonviolent offense and \$13,109 more for a violent offense.** This disproportionate treatment of people of color in the pretrial context shows how the court system systematically disadvantages people of color. Nebraska's racial disparities are not an anomaly; studies across the U.S. have demonstrated that money bail specifically has a disproportionate impact on communities of color.²⁴

Interviews with criminal defense attorneys across the state suggest that the findings from the four surveyed counties are likely a fair representation of Nebraska's pretrial system as a whole. Attorneys identified the final essential problem of high bail amounts: they can result in defendants pleading guilty simply to go home. "My clients regularly do the cost-benefit analysis," reported one public defender. "They can't post bail, and the trial date is a month away. The defendant knows if they plead guilty today to a misdemeanor, it's 'just' a little charge on their record and they can go home. What they don't factor in is what happens on the next charge they might have. The next judge sees this person has a criminal record and accordingly decides to nudge the bail amount up a little more, creating a vicious cycle. I've had clients with a viable defense who just threw in the towel so they could get back to their job, their children, and their lives."

We were also struck in our court observations by how unrepresented defendants are treated while

20 U.S. Census Nebraska Quick Facts Lancaster County (2015). <http://www.census.gov/quickfacts/table/PST045215/31109,31>

21 U.S. Census Nebraska Quick Facts Hall County (2015). <http://www.census.gov/quickfacts/table/PST045215/31079,31>

22 U.S. Census Nebraska Quick Facts Douglas County (2015). <http://www.census.gov/quickfacts/table/PST045215/31055,31>

23 U.S. Census Nebraska Quick Facts Sarpy County (2015). <http://www.census.gov/quickfacts/table/PST045215/31153,31>

24 Brennan Center for Justice, Jessica Eaglin and Danyelle Solomon, Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice (2015). <https://www.brennancenter.org/publication/reducing-racial-and-ethnic-disparities-jails-recommendations-local-practice>

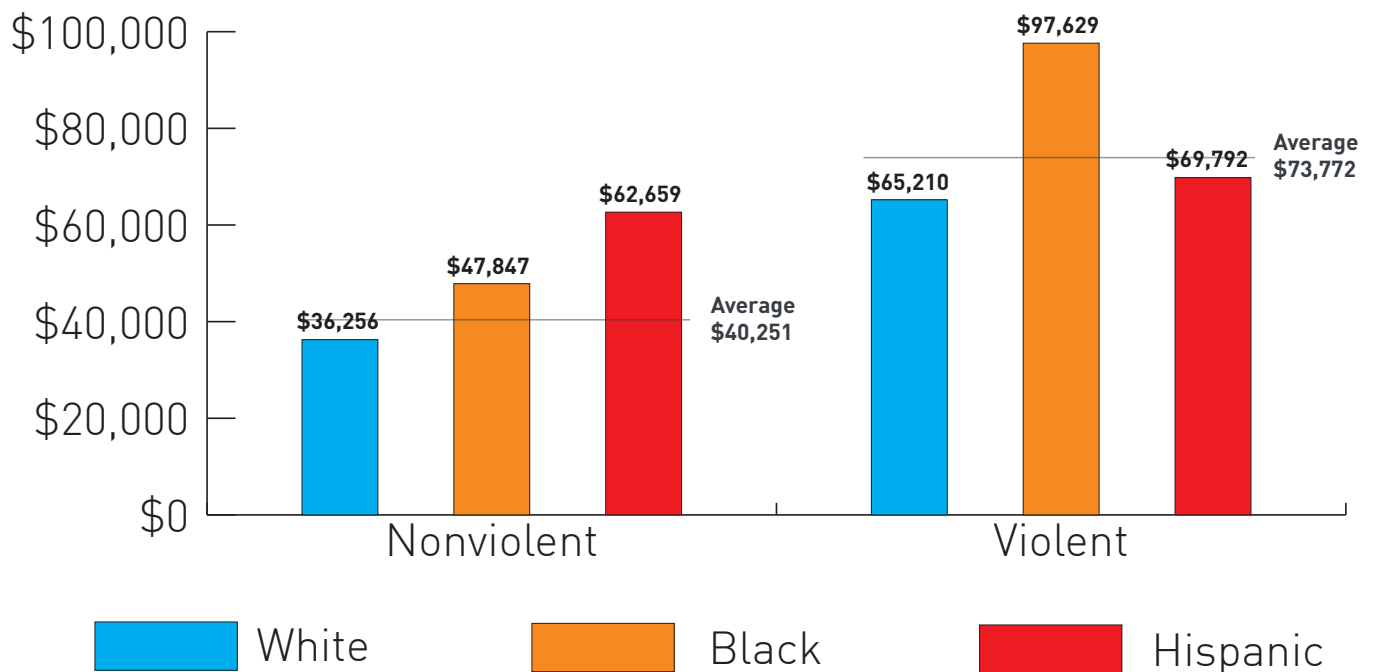
1 in 10 Nebraskans are people of color.



More than 5 in 10 Nebraskans in jail pretrial are people of color.



People of color are asked to pay more in bail for the same offenses than white Nebraskans.



Pretrial population is of Douglas, Sarpy, Lancaster and Hall Counties. Methodology for our study, including into the racial disparities, is also in the Appendix. State racial breakdown data comes from the U.S. Census.

How many paychecks would it take the average Nebraskan to bail themselves out of jail?

Municipal Violations



4.6

Traffic



3.5

Drug



4

Average yearly income of Nebraskans taken from the US Census

appearing before the judge and prosecutor. Without an attorney to advance arguments for a low bail, these defendants frequently did not even know how to articulate the request for release on their own recognizance or on a reasonable bail amount.

Increased incarceration leads to an increase in spending taxpayer dollars on people who are presumed innocent in the eyes of the state, many of whom are not a risk to society but are too poor to post bail. Our current bail practices hurt Nebraskans who are presumed innocent, have devastating impacts on their families, and are fiscally

burdensome for counties. This is why the ACLU, along with professional associations and county officials around the country, are calling for immediate reform.

Examples of Reform

Pretrial defendants should not be incarcerated merely because they are poor and cannot gather enough money for bail. Not only is it unfair to the defendant, but it costs taxpayer money to have inmates sitting needlessly in jail. Many legal professional and criminal justice organizations have issued a call for the abolition of wealth-based bail similar to those used in Nebraska, including

the American Bar Association²⁵, the National Association of Pretrial Services Agencies²⁶, the American Jail Association²⁷, the International Association of Chiefs of Police²⁸, the American Probation and Parole Association²⁹, the Conference of Chief Justices³⁰, and the National Association of Counties³¹.

There are reforms that court systems can adopt to effectively decrease the pretrial jail population and the number of indigent defendants incarcerated because they cannot post bail. Research shows that money is not an incentive for people to appear in court, and a growing number

25 American Bar Association, Standards for Criminal Justice: Pretrial Release, Standard 10-1.4 (2007). http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk.html

26 National Association of Pretrial Services Agencies, Standards on Pretrial Release 4 (2004). <https://napsa.org/eweb/DynamicPage.aspx?Site=NAPSA&WebCode=standards>

27 American Jail Association, Resolution on Pretrial Justice (2010). <https://www.pretrial.org/download/policy-statements/AJA%20Resolution%20on%20Pretrial%20Justice%202011.pdf>

28 International Association of Chiefs of Police, Law Enforcement's Leadership Role in the Pretrial Release and Detention Process 3 (2011). <http://www.pretrial.org/wp-content/uploads/2013/02/IACP-LE-Leadership-Role-in-Pretrial-20111.pdf>

29 American Probation & Parole Association, Resolution, Pretrial Supervision (2010). https://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IB_Resolution&wps_key=3fa8c704-5ebc-4163-9be8-ca48a106a259

30 Conference of Chief Justices, Resolution 3 (2013). <http://www.pretrial.org/wp-content/uploads/2013/05/CCJ-Resolution-on-Pretrial.pdf>

31 National Association of Counties, "County Jails at a Crossroads," (2015). <http://www.naco.org/resources/county-jails-crossroads>

of systems have begun to adapt practices that allow the release of people who otherwise could not make even a small monetary bail.

Washington DC has a progressive pretrial release system that was implemented twenty years ago that allows 90% of their pretrial defendants to be released without paying money.³² It constructed a system that includes a twenty-four hour service where pretrial officers meet with the defendants and public defenders and conduct an individual interview to determine the chance of them

committing a crime on release or failing to appear in court. This recommendation is given to the judge in court the next day, who usually follows it, in a process that takes less than five minutes.³³

Kentucky's justice system has a 70% pretrial release rate. Only 4% of those arrested receive money bail. They use one statewide agency that assesses the risks of all defendants arrested so recommendations are consistent, yet individualized, and a majority of those arrested are released without paying bail.³⁴

Similarly, the federal system requires that "the judicial officer may not impose a financial condition that results in the pretrial detention of the person."³⁵ This law requires a more individualized assessment of factors that include employment, previous criminal record, the defendant's character and the amount of evidence in the case. These factors are used to determine the public safety risk and the chance the defendant would return to court. The score results in one of three outcomes: no bail, bail, or release on conditions.

³² Marimow, Ann, "When it Comes to Pretrial Release, Few Other Jurisdictions Do It DC's Way," July 4, 2016, https://www.washingtonpost.com/local/public-safety/when-it-comes-to-pretrial-release-few-other-jurisdictions-do-it-dcs-way/2016/07/04/8eb52134-e7d3-11e5-b0fd-073d5930a7b7_story.html

³³ Id.

³⁴ Ram, Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman and Peggy McGarry. *Incarceration's Front Door: The Misuse of Jails in America*. New York, NY Vera Institute of Justice, February 2015, <http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/01/incarcerations-front-door-report.pdf>

³⁵ 18 U.S. Code § 3142

Reforming Nebraska's Bail System

We propose the following reforms to aid Nebraska's court systems in reconstructing their pretrial release processes so defendants are not incarcerated simply because they lack the financial resources to post bail.

Blue-ribbon commission of experts

Establish a blue-ribbon commission of judges, attorneys, legislators, probation officers, law enforcement and civil rights advocates to evaluate best practices in modern bail systems. The topics for the Commission's study should include: the best risk assessment tool that takes into account local factors; the options of pretrial supervision and monitoring via technology such as GPS monitors or check-ins with pretrial case managers; the current practice of bail schedules; increasing public defender funding to ensure presence of defense counsel at initial appearance.

Localized actuarial risk assessment

The judicial branch should develop an actuarial risk assessment for defendants in custody awaiting their initial appearance in court that calculates one's public safety risk while taking multiple factors into account which follow the best practices that have been tested in other jurisdictions. When such risk assessments are carefully created with local validation, with scrutiny to ensure no racial bias, with transparent data collection and scoring and which does not substitute for an individualized determination of release, they can ensure an expanded pretrial release program.

Citation in lieu of arrest

Police should use citation releases in lieu of arrest whenever possible, using best practice in-field tools to determine if a defendant needs to be taken into custody.

Appointment of counsel

Judges should ensure the appointment of counsel at hearings before imposition of bail.

Reminder systems

Clerks of the Court should adopt reminder systems by postcard, phone call, and/or text message to reduce the number of failures to appear.

Data collection

The judicial branch should collect and publish performance measures. Data showing the effectiveness of pretrial detention vs release will aid future policymakers.





JANET VASHON

IS A 46 YEAR OLD WOMAN WHO RECENTLY EXPERIENCED HOMELESSNESS.



“This is the first time I’ve ever hit rock bottom. It’s been a hard couple of months. I’m living in my car while some social workers are helping me apply for benefits.”

In September, 2016, Janet and a friend decided to stand by the side of the road with signs reading “Homeless, anything will help.”

“I’d seen other people doing it. I was scared and embarrassed but I was out of options and thought I’d try anything.”

Lincoln Police arrested Janet under a city ordinance prohibiting soliciting donations near a roadway.

“When the officer pulled up, I thought he was going to tell me to move on. But he arrested me. He actually put handcuffs on me and put me in the back of his car to take me to jail. When they booked me, one officer told another ‘She’s transient, no address to list.’ This was the first time that word had ever been applied to me and it just hit me like a ton of bricks. I couldn’t stop crying.”

Janet was told she could leave if she could post \$1,000—at 10%, that means she could go free if she had \$100.

“I didn’t have \$100! That’s why I was standing on the corner in the first place!”

Ultimately, Janet was able to call her mother and have \$100 posted.

“My court date was three weeks after my arrest—they would have kept me in jail that whole time if my mother hadn’t come through for me. Not everybody has resources. How does this even make sense?”



Modern Day Debtors' Prisons

Fines and fees collection practices are another set of justice system procedures that punishes defendants for being poor. Defendants who are charged with a misdemeanor or infraction are usually sentenced to pay a fine within the statutory limits, plus at least \$49 in court costs. The dollar amount defendants are ordered to pay can vary significantly. Judges are not required to impose these fines and costs—state law only provides that they “may” impose fines and fees as part of the sentence.³⁶ Unfortunately, our survey suggests that few judges are exercising their discretion to waive or reduce fines and fees based on individualized assessments. As a result, it has become the norm to impose both fines and costs in nearly every case, and many people leave court with financial burdens that they cannot pay.

The defendant is typically given a month or two to make payment to the court. If the person realizes in advance that they cannot pay their fines and fees by the deadline, they can appear in court and ask for more time.

Interviews with criminal defense attorneys across the state indicate that many judges will extend the deadline for payment and may do so several times in an effort to work with the individual who faces difficulty paying fines and fees. However, if the judge loses patience after several extensions or if the defendant ultimately is unable to secure the resources and make payment, a warrant

extension of time for payments presents additional obstacles for the poor and leads to the jailing of people for reasons that do not advance public safety. In practice, some people have difficulty getting transportation back to court or cannot easily get time away from work or child care obligations to come back to request an extension of their time to pay. Some people forget their

“...it shall be the duty of [the court] to discharge such a person from further imprisonment for such fine or cost...”

Neb. Rev. Stat. 29-2412

is issued, and they are arrested. People who are unable to pay are arrested without another hearing in front of a judge. These people are simply left to sit in jail at the statutory rate of \$90 credit per day served.³⁷

This practice of making people come to court to ask for an

extension of time for payments presents additional obstacles for the poor and leads to the jailing of people for reasons that do not advance public safety.

Once a warrant is issued, there are significant negative consequences for the poor. Research has shown that people with an outstanding warrant will avoid visiting a hospital,

³⁶ Neb. Rev. Stat. 29-2206. Misdemeanors in Classes I, II, III, IIIA, IV and V have no minimum sentence or fine at all; see Neb. Rev. Stat. 28-106.

³⁷ Neb. Rev. Stat. 29-2412

attending school, or maintaining a job for fear of being picked up by police.³⁸ If a defendant is arrested unexpectedly, the defendant has no opportunity to make arrangements for their children's care and may result in the taxpayer incurring the additional burden of caring for children whose parent is behind bars. The arrest may cause the defendant to lose her job or miss paying a bill—eviction, joblessness, and further financial instability are the result. The experience of being in jail—even for just a few days—can have significant and far-reaching effects on the defendant's physical and mental wellbeing that destabilize the individual and their entire family. These negative consequences have a disparate impact on people of color due to the racial wealth gap.³⁹

A modern-day debtors' prison should not exist at all in Nebraska in light of our clear state law protections, long-standing United States Supreme Court case law, and recent federal guidance. Neb. Rev. Stat. 29-2412 provides that if a defendant is unable to pay a fine because of their financial circumstances, "...it shall be the duty of such court or judge, on his or her own motion or upon the motion of the person so confined, to discharge such a person from further imprisonment for such fine or cost, which discharge shall operate as a complete release of such fine or cost." The court's burden to determine whether a defendant can pay is clear: the judge should inquire into an ability to pay prior to imposing any financial penalty and no defendant should be incarcerated for nonpayment of fines and fees owed without another hearing in front of a judge. In our months of court watching, we did not witness even one judge inquiring into a defendant's ability to pay prior to imposition of fines and fees.

Findings

We conducted 50 hours of county court watching in Douglas, Lancaster and Sarpy counties over the period of four months. We observed both arraignments and sentencing for misdemeanors

under a total of ten different judges. We noted whether an attorney was present and whether the judge inquired into one's ability to pay.

In addition to hours of in-person court observation, we looked at the same four counties' jail lists and studied the court records of the sentenced inmates to identify any defendants serving time for unpaid fines.

Finally, we interviewed attorneys and indigent individuals from various counties about their experiences with facing a fine they couldn't pay. For a complete description of our methodology, see the Appendix.

In court, we observed several concerning patterns:

- Out of months of observations where people were sentenced to fines and fees, we saw no inquiries from the judge asking if the defendant was able to pay the sentenced amount. We witnessed only one situation where court costs were waived.
- Out of months of observations, we only observed four people who had an attorney present during the imposition of a monetary fine and court costs.
- We found court records for many defendants were incarcerated for failing to pay fines and costs.
- In each county, we witnessed "pay or stay" sentences, where a defendant, without an attorney present, was told if she did not pay money that day she would be forced to sit out her fine in jail.
- Rights advisories were sometimes given in an abbreviated fashion that did not adequately warn the defendant of the consequences of pleading guilty. Notably, there was frequently no mention of immigration consequences. In at least one court, we saw a "group advisory" where the judge read off the advisory at the top of the hour and then never repeated it, despite the fact many

38 Harris, Alexes. (2016) "A Pound of Flesh: Monetary Sanctions as a Punishment for the Poor." (American Sociological Association's Rose Monograph Series) p. 49.

39 The wealth gap is calculated as the difference between the net worth (assets minus debts) of a typical white household and a typical Black household. The gap in white and Black household wealth is a longstanding problem, and has even been widening in recent years. In 2014, a Pew Research Center study found that the median wealth of white households was thirteen times the median wealth of Black households in 2013—the highest racial wealth gap documented since 1989. See Rakesh Kochhar & Richard Fry, *Wealth Inequality Has Widened Along Racial, Ethnic Lines Since End of Great Recession*, Pew Research Center, 2014. <http://www.pewresearch.org/fact-tank/2014/12/12/racial-wealth-gaps-great-recession/>

defendants arrived later and never heard the advisory. We did not witness a single rights advisory that informed people that they could request a waiver of fines or fees upon a demonstration of inability to pay.

Community Service

In some counties, community service is offered as an alternative to sitting out a fine. Lancaster County has the most robust community service program, with options including evenings and weekends to permit a defendant to meet their court obligations with flexibility. Defendants in Lancaster County “earn” \$10 per hour of community service towards their fine.

Community service can be problematic for many people. People with no ability to make financial payments are also often without reliable transportation or child care. People with disabilities find there are few options that they would be able to access. Rural defendants rarely have any community service option, according to our interviews of criminal defense attorneys in greater Nebraska. Even the Lancaster County program presents public policy concerns since the \$10 per hour rate was not set by state statute or even regulation—it is simply the practice and has not been revised upward to account for inflation for over 13 years.

Community service can be an alternative for some people who are willing and capable of discharging their court fines, but the bottom line is clear: no one should be forced to sit in jail, perform labor, or otherwise be punished for not having the money to pay fines or fees.

Sentenced to Jail Without an Attorney

Nebraska law only requires the provision of a public defender if the defendant is facing jail time. We frequently observed judges rebuffing people’s inquiries about getting an attorney with statements such as, “The prosecutor isn’t seeking jail time and I’m not going to sentence you to any time, so you don’t qualify for a public defender.” As discussed above, many of these people ultimately do end up in

Debtors’ Prison: The Basics

You are ticketed for a misdemeanor, such as a traffic offense.



You have to appear in court but because you aren’t facing jail time, you are not given an attorney.

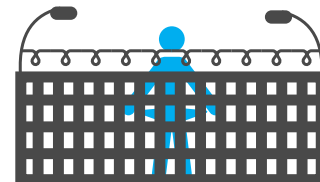


If you are convicted the court sets a fine.

If you can afford to pay the fine, you get to go home.



If you cannot afford the fine, you sit in jail. \$90/day is deducted from your fine each day you are in jail.



While sitting out your fine, you cannot go to work, school, see your children, or otherwise live your life.





*These are the actual fines
imposed on “Angelita.”*

ANGELITA

IS 21 & LIVES IN GRAND
ISLAND.

In 2015, she was arrested for shoplifting. She pled guilty and was ordered to serve 30 days in jail, one year on probation, plus she was ordered to pay court costs.

COURT FINE LISTING

Witness fees	\$20.00
Sheriff service fees	\$21.02
Sheriff service fees	\$22.84
Automation fee	\$8.00
Legal Services fund	\$3.25
LASF	\$2.00
L.E.I.F.	\$2.00
Civil Legal Services fund	\$1.00
Crime Victim fund	\$1.00
Filing fee	\$2.00
J.R.F.	\$6.00
Uniform Data Analysis	\$1.00
Indigent Defense fee	\$3.00
Dispute Resolution fee	\$.75
NSC Education fee	\$1.00
Probation administration	\$30.00
Filing fees	\$18.00
TOTAL:	\$142.86

“I couldn’t get the money together. The deadline came and went for paying and my probation officer sent me a copy of his letter to the Judge that said, ‘I recommend the jail time in the above captioned case be imposed for the period of 30 days commencing two weeks from now. The above named Probationer has not complied with probation requirements in a satisfactory manner to date.’ I didn’t know what to do—I just sort of froze. A couple of days later, the police came to arrest me. I sat in jail for a day and a half. They let me go halfway through the second day, saying I’d paid my time. By the time they let me go, I was just a mess, I couldn’t believe life would ever be the same.”

jail when they can't pay their costs—and yet they never had an attorney by their side. “I’ve sometimes run across a former client in jail or in court and asked them how they ended up there,” one public defender mentioned. “They tell me they couldn’t pay, and they weren’t allowed to call me because they were just swept up off the streets since they were considered to be in contempt of court. No one ever alerts the public defender when this happens; they started and ended without even a chance to discuss their options with counsel.”

Shockingly, most defendants were advised of the charge against them, pled guilty, and were sentenced to a fine without any inquiry into their ability to pay—and with no attorney present—in a single one-stop-shop process taking less than five minutes.

End Result: Modern Day Debtors’ Prisons

This system means that poor people are punished not for their offense but because of their poverty. This is arbitrary, unconstitutional, and financially ruinous for the individuals as well as the counties. It is fiscally imprudent for judges to impose fines and costs against indigent defendants. Instead of gaining money from the fine or court costs, taxpayers have to pay for defendants to be

incarcerated. For example, Sarpy County finds itself considering the massive expense of a new jail, even though their own expert has pointed to one problem being the number of inmates who are serving debtors’ prison sentences.⁴⁰ Beyond the jail costs, it is a drain on police resources when they are used in executing warrants for misdemeanor nonviolent offenders who simply are late in making a payment.

Nebraska has many successful models from sister states to look to as we end our debtors’ prison practices. For example, Ohio created a statewide bench card to walk judges through the appropriate inquiry to determine indigency before imposing court costs or fines. Michigan changed its court rules to ensure proper procedures to eliminate poor people sitting out a fine in jail. Colorado passed a state law banning the practice of jailing people who are too poor to pay a fine. Some of these reforms have been advanced by forward-thinking public policy makers, while some have come about after expensive protracted litigation. Nebraska should make immediate changes to its debtors’ prison practices to avoid change mandated by class action lawsuits.

40 Nitcher, Emily. “Sarpy County’s jail is running out of space options,” Omaha World Herald, October 20, 2016. http://www.omaha.com/news/metro/sarpy-county-s-jail-is-short-on-space-and-options/article_d1d9328a-465c-59de-81be-330a06a092d1.html



MARCUS IS 54 AND AN AFRICAN AMERICAN RESIDENT OF OMAHA.

In February 2016, he was at a friend's party in Bellevue and things got out of hand. He and several other partygoers were ticketed with misdemeanor "disorderly conduct." Marcus doesn't have a driver's license, so it was hard for him to get to Sarpy County for his first court date.

"I took the bus as far as it goes out of Omaha. Then I got out and walked."

Marcus had to do this four times for the arraignment, hearings, trial and sentencing. He was found guilty and ordered to pay a total of \$149 in fines and court costs.

"They gave me 56 days to pay. They might as well have given me until crack of doom. I don't have \$149, I don't know anyone with \$149, and I don't have any idea how to get \$149."

When the deadline passed, it took a while before anyone bothered to come and arrest Marcus. The arrest warrant was issued in May, but they didn't pick Marcus up until September.

"I sat out my fine for a day and a half, and then I had to do that long, long walk one last time to get all the way back home."

Reforms & Headlines From Around the Country.



The Washington Post

Is It a Crime to Be Poor?

Judge makes right call on modern 'debtors prison': Editorial

Reforming Nebraska's Fee System

We propose the following reforms to aid Nebraska's court systems in reconstructing their fines and fees practices so defendants are not incarcerated simply because they lack the financial resources to pay.

Amend state law

The Legislature should amend Neb. Rev. Stat. 29-2412 to prohibit assessment of fines, fees or costs until the judge has held an individual hearing on ability to pay with appointed counsel present.

Consider ability to pay

Judges should change court processes so every defendant's ability to pay is considered before imposition of fines, fees and costs. Consideration should include but not be limited to the defendant's present employment, earning capacity and living expenses, dependents, outstanding debts and liabilities, public assistance, etc. Fines, fees and costs should not be imposed if the payment will subject the defendant or the defendant's dependents to substantial financial hardship.

Bench card

The Nebraska Supreme Court should create guidelines for determining an inability to pay and policies for assessing fines, fees and costs. Courts in Ohio and Biloxi, Mississippi have created a model bench card to walk judges through the process of determining indigency that could be a model for future Nebraska practice.

Judicial training

The judicial branch should train all judges and other court personnel about federal and state laws that prohibit incarceration of defendants who are too poor to pay fines, fees, and costs as well as train

all judges about their statutory authority to waive all non-mandatory fees when the defendant is indigent.

Appointment of counsel

Judges should ensure the appointment of counsel at hearings before imposition of fines, fees, and costs as well as when a person is reported for nonpayment.

Community service standards

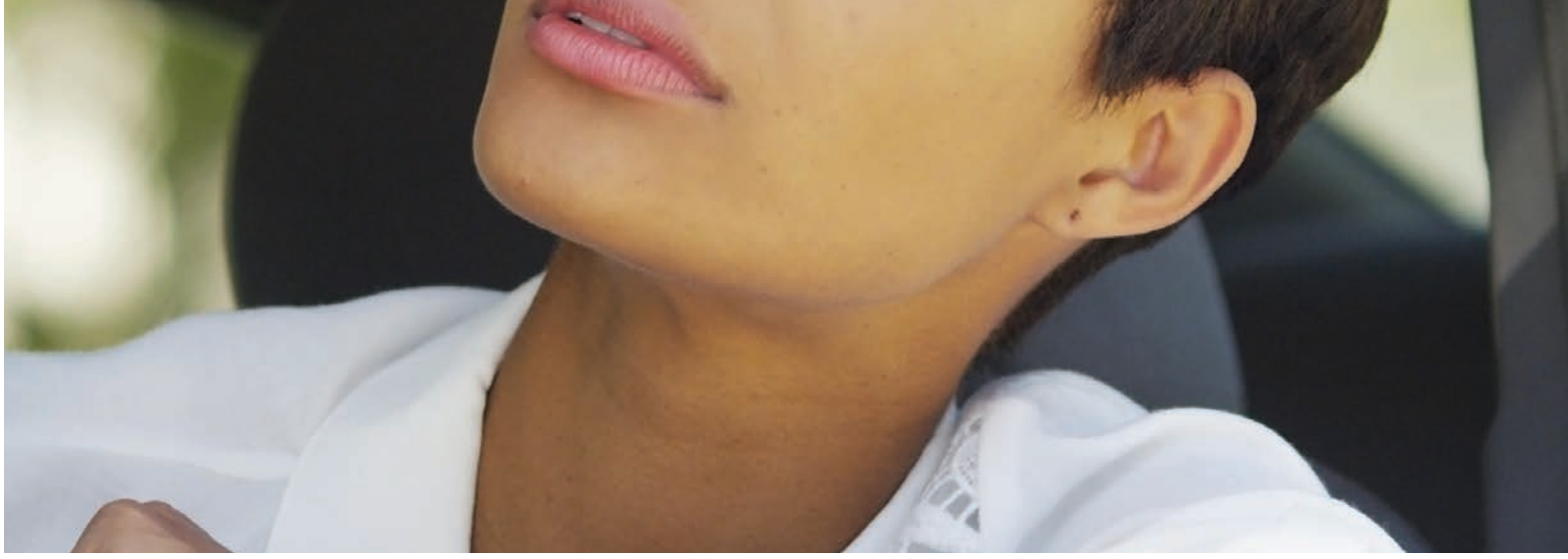
The legislature should review the statutes relating to community service to ensure uniformity in its application across the state and ensure that community service is not imposed on defendants who lack transportation or the physical ability to participate in such work.

Court date reminders

The Clerks of the Court should institute proven, effective methods of reminding people of court dates via text message and/or postcard in order to reduce missed court dates.

Data collection

The judicial branch should collect and publish data regarding the assessment and collection of fines, fees, and costs, how collected funds are distributed, broken down by race and type of crime. Tracking should separately show imposition of fines, restitution, fees, and costs.



DONNELLA

IS A 22 YEAR OLD OMAHA
RESIDENT.

In all of our court watching, only once did we see a judge ask about ability to pay. Donnellla had been pulled over twice in 24 hours and given two tickets for “no proof of registration”—but it was a bureaucratic mistake and Donnellla was able to show there was just a records problem at the DMV. Donnellla appeared in court with documentation from the DMV and the court dismissed her first ticket—though she was still charged \$49 court costs.

“I left, a little mad about paying \$49, but I was glad to have it behind me.”

A couple of weeks later, she got notice in the mail that there was a warrant out for her arrest.

“It turns out the judge dismissed one of my tickets—but overlooked the paperwork on the second ticket, and now it looked as if I had skipped court for the second ticket.”

Donnellla immediately got time off work and went back downtown to appear and explain the story all over again. The judge agreed it was all in error and prepared to dismiss the second ticket, but wanted to impose a second \$49 court cost fee.

“I tried to be respectful. But no, sir! That’s not fair, and I didn’t have any more money to pay—I was already on my second work shift lost to these court visits.”

The judge listened to her protest, asked “How much cash DO you have on you right now,” and upon being told she had nothing, finally dismissed the second ticket with a full waiver of costs.

“I’m glad this is done for me, but it’s shaken my faith. I only make minimum wage, and I’m barely paying my bills as it is. How can they expect people to pay costs for things that aren’t our fault?”



Conclusion

Nebraska's state motto is "Equality before the law." We need to work toward a system where all citizens are treated equally when they are charged with a crime or punished with a fine, regardless of their financial circumstances.

We look forward to further study of these issues, as this report did not reach a study of similar practices' impact on people charged with more serious crimes, the use of debtors' prison tactics in juvenile court, how the suspension of drivers' licenses impacts defendants, and other aspects of our current system. As described in the Appendix, our survey was limited to only the most populous counties on randomly selected days; a comprehensive statewide survey is needed.

As one commentator noted, "it violates fundamental and longstanding principles of equality and fairness at the core of our legal system to keep a human being in a cage because of her poverty."⁴¹

Across the country, the ACLU has brought lawsuits to challenge court practices that burden the poor. Successful class action lawsuits are occurring across the country, often with the help of the U.S. Department of Justice as an interested party. In Jennings, Missouri, the city has reached a \$4.7 million settlement to pay to people who were unjustly jailed for their inability to pay fines and court costs.⁴² Changing our state systems will require time and resources, but we can devote the effort to change voluntarily or await expensive litigation to force reform.

Our criminal justice system does not need to trap people who are poor in what amounts to modern-day debtors' prisons.

With courts, prosecutors, criminal defense attorneys, policy makers and our community stakeholders working together, we can—and we must—work together to reform practices and reduce disparities to ensure justice for all.

⁴¹ Bertrand, Natasha. "A Tiny City is Allegedly Jailing People for Being Poor, and the Justice Department is Weighing in on the Case." Business Insider. Mar. 3, 2015, <http://www.businessinsider.com/the-justice-department-files-paperwork-in-lawsuit-against-clanton-2015-3>

⁴² Hsu, Spencer, "Jennings to Pay \$4.7M Settlement to Those Jailed Over Court Debts, July 14, 2016, http://www.stltoday.com/news/local/metro/jennings-to-pay-m-settlement-to-those-jailed-over-court/article_eoffdc5c-6996-5cb9-b9db-8d6cbfa9dcoa.html

Table of Offenses

	Category	Description
1	Municipal violations	City ordinance offenses such as trespassing, loitering, criminal mischief, terroristic threats, destruction of property, interfere with official duties, disturbing the peace, possession of alcohol, tampering with evidence or witness, disorderly conduct, lewd conduct, pandering
2	Traffic	Any traffic offense, including DUI, driving under suspension, no insurance
3	Drug	Drug related charges including distribution, manufacture, possession, and paraphernalia, drug tax stamp
4	Theft/Fraud/ Forgery	Shoplifting, bad check, forgery, theft in any amount
5	Burglary	Any burglary charges
6	Violation of supervision; status offense	Violation of probation, violation of parole, fugitive, habitual criminal, failure to appear, escape, bench warrant
7	Weapon	Weapon offense excluding use of a weapon against a person – that would be captured by “violent” category: includes possession of weapon or ammunition by a felon, possession of illegal weapon
8	Sex offenses	Sexual assault, sex offender failure to register, possession of child pornography
9	Violent	Violent offense include murder, manslaughter, robbery, kidnap, carjacking, use of weapon, aggravated assault, arson, assault, stalking, violation of protection order, domestic violence, child abuse, motor vehicle homicide

Methodology

Bail Study

To study bail practices, we requested data from four counties on randomized dates: Lancaster County on June 9, Hall County on June 29, Sarpy County on July 1 and Douglas County on September 12. We used open records requests to obtain the list of people currently housed in each jail, eliminated all people serving a sentence and all people being held on an ICE or extradition hold, and categorized all remaining pretrial individuals. Approximately one-half of every county was pretrial. Other holds such as ICE or extradition holds were less than 2% of the jail populations.

There were some pretrial detainees whose bond amount or charge was not available in court records. They may have been on a hold for extradition or ICE, or the data may have just been missing. We eliminated those detainees from our survey. 1.2% of the sample size was missing data and therefore not included in the final data in this report.

Other than the exceptions described above, we were able to research every single pretrial detainee in Hall, Sarpy, and Douglas for our sample days. We used a random sample of one-half of the pretrial detainees in Lancaster County. On the randomized dates, the pretrial populations studied were as follows: 840 in Douglas, 141 in Sarpy, 63 in Hall and 110 in Lancaster, for a total of 1,154 pretrial detainees.

We then used Nebraska's online

court records system JUSTICE to examine the pretrial individuals' court record. We recorded all pending charges, the person's race, the booking date and the bond amount.

There was one anomaly in our gathering of race data: Sarpy County's jail list did not include any Hispanic inmates. They apparently classify all Hispanics as white. We consulted with the Nebraska Latino American Commission and then decided to proceed by categorizing Hispanic inmates by surname and their perceived race in the booking photo. While this posed a level of discomfort, we did not wish to omit the Hispanic representation from Sarpy County.

As shown in the Appendix, we grouped crimes into nine categories that clustered similar offenses together. We ranked those offenses from the least serious municipal violations such as loitering and trespass to the most serious offenses involving violence such as assault, child abuse, and murder. This permitted us to then rank the seriousness of the charges pending against the pretrial population. Throughout the report and in the graphs, "nonviolent" meant offenses from the first six categories and "violent" means any offense involving a weapon, a sex offense, or a violent offense.

Many individuals had multiple charges. For example, an individual pulled over for speeding might be found to be intoxicated and during her arrest, she might have punched

the arresting officer. This hypothetical driver started with a low-level Category 2 traffic offense (speeding and DUI) but her assault of the officer means she would be rated the highest Category 9 violent offense in our final label for her case.

Some individuals had two open court cases—in other words, not just multiple charges in one court filing but several separate docketed cases. For example, a shoplifter who managed to post his initial bail might have gotten out, been re-arrested for driving on a suspended license, and now be sitting in jail on two separate cases with two separate bail amounts. For those individuals, we calculated the total amount that they would need to post to go home that day to arrive at their current bail amount.

In addition to calculating bail amounts through the aforementioned process, we conducted interviews with criminal defense attorneys. We interviewed private attorneys whose clients hired them in a criminal defense case, public defenders, and attorneys who were appointed by the court to provide indigent defense. We interviewed 21 attorneys whose practices stretched from Scottsbluff to Falls City.

Debtors' Prison Study

Between June and September 2016, law students and undergraduate pre-law students watched approximately 50 hours of court proceedings in Douglas, Lancaster, and Sarpy counties. Due to the distance from our

office, we did not conduct any court observation in Hall County. Our observations were of ten different county court judges who were currently presiding over arraignments and sentences—the judges were not selected for observation, but rather were simply whoever was assigned to the courtroom on the days of observations.

The court observations were conducted after each observer was trained by two attorneys and taken to court with an attorney to train in person. A matrix was provided for the observers that captured name, charge (if available), whether an attorney was present with the defendant, whether the judge provided a rights advisory, whether the rights advisory included a specific warning about immigration consequences, whether the judge made any inquiry into the defendant’s ability to pay before imposing court costs or fines, and the sentence.

In addition to the in-person court observation, we also used court records from the same random sample days from the four counties in our bail reform. We separated the jail populations into “pretrial” and “sentenced” for the bail study. For the purposes of the debtors’ prison study, we then used the JUSTICE database to examine the charge for those serving a sentence.

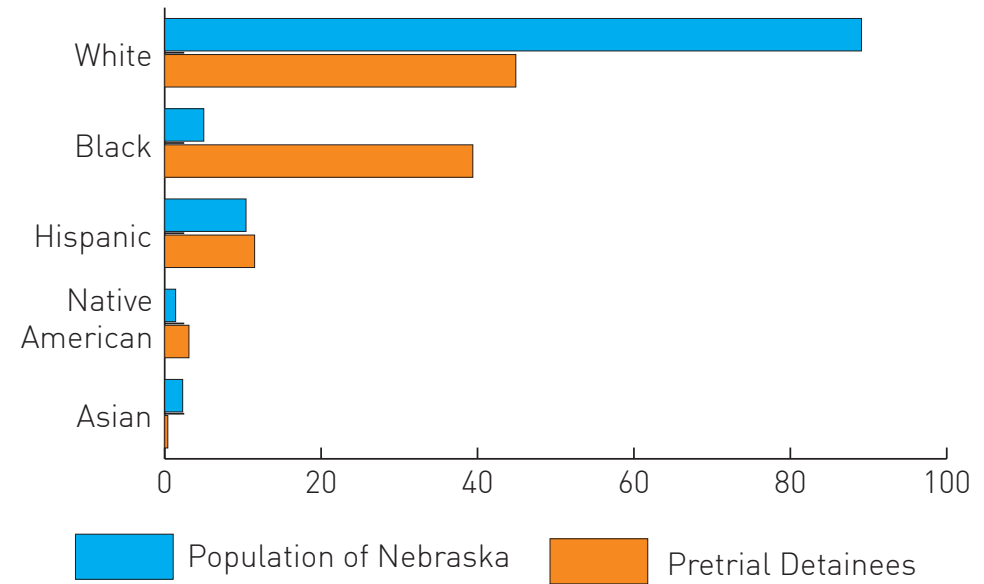
Identifying those sitting out a fine for inability to pay was difficult due to differences in each county’s practices. For example, some defendants who missed the deadline to pay court costs and fines were listed as serving a sentence for “Failure to appear,” or “Failure to pay,” while others were simply listed with the underlying charge and no indication this was sitting out a fine. We used JUSTICE to review court records for all defendants listed as “Failure to appear” and “Failure to pay” to determine whether it was a debtors’ prison

incident.

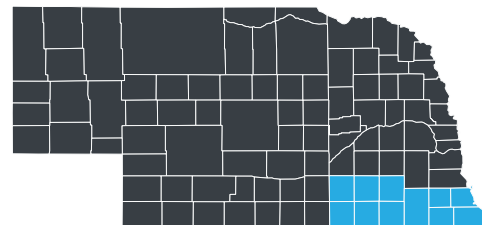
Interviews were conducted to supplement the data we collected through court proceedings. We interviewed approximately 20 individuals who we observed in court by contacting them after their arraignment and/or sentencing to learn more about individual cases. We also asked about debtors’ prison practices while interviewing the criminal defense attorneys we interviewed for bail reform. Finally, we interviewed approximately 10 civil practice attorneys who primarily handle bankruptcies and work with people in financial crisis to inquire about their clients’ experiences with court-ordered fees and costs. The personal stories shared throughout the report were from people we met during the observation sessions or whose attorneys referred their client to the ACLU.

While racial disparities most profoundly impacted African Americans on the day of our study, there were also significant negative disparities impacting Latinos and Native Americans.

Racial Disparities in Pretrial Detainees



Bond Schedule District 1



IN THE COUNTY COURTS OF THE 1ST JUDICIAL DISTRICT, STATE OF NEBRASKA

TERMS AND CONDITIONS OF RELEASE
OF PERSONS TAKEN INTO CUSTODY

)
)

ORDER

Pursuant to Section 29-901.05 R.R.S., the following bond schedule is hereby adopted for ADULTS taken into custody without a warrant or where no bond appears on the face of the warrant, subject to the terms and conditions of this order:

MISDEMEANOR APPEARANCE BONDS (10% DEPOSIT)

	Resident of the State of Nebraska for at least 1 year	Nonresident
Class III	\$1,500	\$3,000
Class II	\$2,500	\$5,000
Class I	\$5,000	\$10,000
DUI 1 st Offense	\$3500	\$7000
DUI 2 nd Offense	\$5,000	\$10,000
DUI 3 rd Offense	\$10,000	\$20,000
All other <u>jailable</u> offenses	\$1500	\$3000
All other <u>nonjailable</u> offenses	PR	PR

Persons arrested on more than one charge will be released up posting bond for the highest charge only.

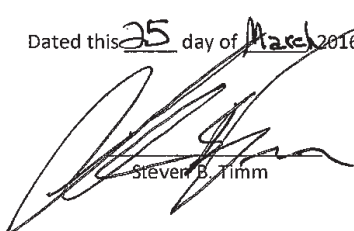
Bonds in assault cases shall be conditioned upon the suspect having no contact with the alleged victim and/or being within one block of his/her residence.

PROVIDED, THE FOLLOWING PERSONS SHALL BE DETAINED UNTIL THE FIRST REGULAR COURT DAY NEXT FOLLOWING THEIR ARREST AND BROUGHT BEFORE THE COURT FOR THE SETTING OF TERMS AND CONDITIONS OF RELEASE (Subject to probable cause being established as required by law in warrantless arrests):

- A. Persons arrested for a felony offense.
- B. Persons known to be on probation or parole, or previously released on bond for another pending charge.
- C. Persons taken into custody pursuant to a bench warrant for failure to appear where no bond is set on warrant.
- D. Persons arrested for violation of domestic abuse or harassment protection order. (Must be brought before a county or district court judge.)
- E. Personal unable to post bond as per this schedule.
- F. Persons deemed by the sheriff to be a flight risk, regardless of bond listed on schedule, or a danger to themselves or others.

IT IS ORDERED that bond is set as above-stated and that the sheriffs of the First Judicial District may take bail in accordance with this schedule.

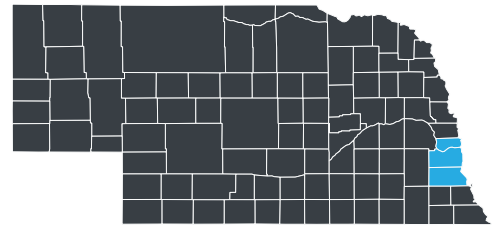
Dated this 25 day of March 2016


Steven B. Timm


Curtis L. Maschman


Linda A. Bauer

Bond Schedule District 2



Sarpy

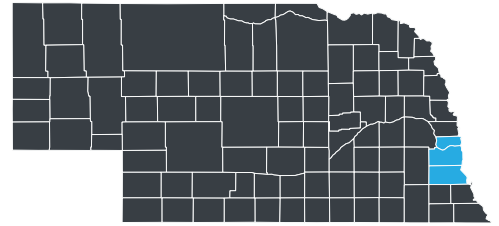
Bond Schedule Second Judicial District

NOTE: THIS BOND SCHEDULE DOES NOT APPLY TO ANY OFFENSE FOR WHICH NO JAIL SENTENCE CAN BE IMPOSED.

Pursuant to N.R.S. 29-901.05, Reissue 1995, the Sheriffs of the Second Judicial District (Cass, Otoe and Sarpy Counties) are authorized to accept bonds and bond deposits, as follows, of persons arrested for Class I, II, III, IIIA and W misdemeanors and city ordinance violations involving jail sentences, and to release such persons from custody without bringing them before the Court.

1. Traffic Offenses (Chapter 60 of Neb. Rev. Stat.)	Cite and Release
2. Exceptional Traffic Offenses:	
Drag Racing	\$2,500 signature
Driving Under the Influence	\$2,500
Driving Under the Influence over .15	\$3,500
Driving Under the Influence, second offense	\$3,500
Driving Under the Influence over .15, second offense	\$4,500
Driving Under the Influence, third offense	\$5,000
Driving Under Revocation	\$2,500 signature
Driving Under Suspension	\$2,500 signature
Motor Vehicle Homicide	\$10,000
Operating a Motor Vehicle to Avoid Arrest	\$5,000
Reckless Driving	\$2,500 signature
Refusal of Chemical Test	\$2,500
Refusal of Chemical Test, second offense	\$3,500
Refusal of Chemical Test, third offense	\$5,000
Unauthorized Use of a Propelled Vehicle	\$2,500 signature
Willful Reckless Driving	\$2,500
3. Misdemeanor Offenses- Class I (not identified in #4 and #5)	\$5,000
4. Exceptional Misdemeanor Offenses:	
Arson Third Degree	\$10,000
Assault with Bodily Fluid Against Public Safety Officer	\$10,000
Attempt of Class IV felony	\$10,000
Carrying a Concealed Weapon- Gun	\$10,000
Carrying a Concealed Weapon- Not Gun	\$3,500
Criminal Mischief \$0-\$5,000	\$2,500
Cruelty to Animals	\$2,500
Disturbing the Peace	\$2,500
False Reporting	\$2,500

Bond Schedule District 2



Intimidation by Phone	\$5,000
Prostitution First and Second Offenses	\$2,500
Public Indecency	\$5,000
Trespass First and Second Degree	\$2,500

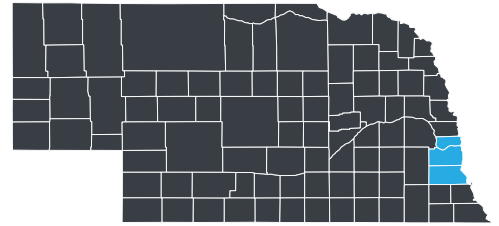
5. Bonds that must contain the following language, "Defendant shall have no contact with the victim(s)."

Assault on Unborn Child in Third Degree	\$10,000
Debauching a Minor	\$5,000
Domestic Assault Third Degree	\$10,000
Stalking	\$10,000
Third Degree Assault	\$10,000
Third Degree Sexual Assault	\$10,000

6. Misdemeanor Offenses - Not listed in #3, #4 and #5

Inchoate Offenses	\$2,500 signature
§28-201 through §28-206	
Offense Against the Person	\$3,500
§28-301 through §28-3,111	
Drugs and Narcotics	\$2,500 signature
§28-401 through §28-462	
Offenses Against Property	\$2,500
§28-501 through §28-524	
Offenses Involving Fraud	\$1,500
§28-601 through §28-640	
Offenses Involving the Family Relation	\$2,500 signature
§28-701 through §28-739	
Offenses Relating to Morals	\$2,500 signature
§28-801 through §28-833	
Offenses Involving Integrity and Effectiveness of Government Operations	\$2,500
§28-901 through §28-935	
Offenses Against Animals	\$2,500 signature
§28-1001 through §28-1020	
Gambling	\$2,500 signature
§28-1101 through §28-1117	
Offenses Against Public Health and Safety	\$1,500
§28-1201 through §28-1254	
Miscellaneous Offenses	\$1,500
§28-1301 through §28-1357	
Noncode Provisions	\$2,500 signature
§28-1401 through §28-1483	

Bond Schedule District 2



7. City Ordinance Violation (unless comparable statutory
Offense) \$2,500 signature

8. No bonds for persons arrested for violation of a Court issued Protection Order. They
must appear before a Judge for bond to be set.

A person in custody of the Sheriff may secure his or her release by depositing with the
Sheriff ten (10%) percent of the sum listed above for which they were arrested and by giving
the Sheriff a properly signed bond form.

Such person in custody may also be released by posting with the Sheriff a corporate surety
bond or cash in the sum listed above for which they were arrested.

Bond deposits for persons arrested for multiple offenses shall be in the amount of the highest
deposit required for any one offense, not in the sum of the deposits for all offenses.

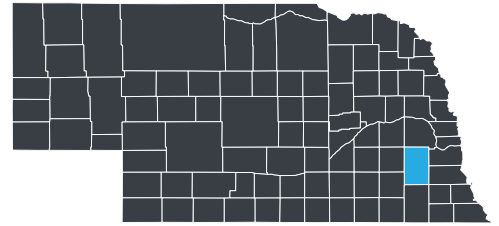
Law enforcement officers may, without requiring bond, release arrested persons who sign the
uniform citation and complaint agreeing to appear in court, except in Domestic Assault and
Violation of Protection Order cases.

Adopted effective the 16th day of September, 2015, by vote of Judges Hutton, Martinez,
Steinheider and Wester.

By the Court:


Stefanie A. Martinez, Presiding County Judge

Bond Schedule District 3



IN THE LANCASTER COUNTY COURT, THIRD JUDICIAL DISTRICT

Under the authority of Neb. Rev. Stat. § 29-901.05 (Reissue 2008), the Judges of the County Court of Lancaster County, Nebraska, do hereby establish the following schedule of bail and rules governing such bail. These rules are not intended to supersede the citation or pretrial release rules now in effect but apply only when the arresting authorities do not feel an individual should be released on his own or to another person. If a higher bond is required because of special circumstances, a different bond may be set on the verbal order of a Judge of the County Court.

- I. Misdemeanor Insufficient Fund Check or No Account Check -- \$100.00 -- full cash bond or 10% of a \$1,000.00 appearance bond minimum.
- II. Misdemeanor Assault (Excluding Domestic Assault -- *see Exceptions on Page 2*) -- \$1,000.00 -- 10% cash bond.
- III. All other criminal misdemeanors (*see Exceptions on Page 2*) -- \$1000.00 -- 10% cash bond.
- IV. Warrants: If arrested on a misdemeanor bench warrant, defendant may post bond of \$1,000.00 -- 10% bond, unless the warrant states that the defendant is to be held for court. A Jury Trial Bench Warrant is \$1,000.00 full cash.

If the warrant is for one of the offenses listed under "*V. Traffic Misdemeanor Offenses*," the bond amount listed for those offenses shall apply.

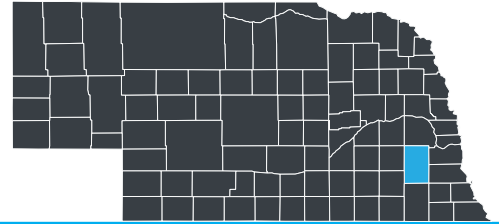
If a regular misdemeanor warrant, the defendant may be released or bonded out as in any other arrest.

V. Traffic Misdemeanor Offenses:

Driving While Intoxicated (or DUI) -- <i>1st or 2nd offense</i>	\$2,500.00 -- 10% cash bond
Operating a motor vehicle with more than .08% alcohol -- <i>1st or 2nd offense</i>	\$2,500.00 -- 10% cash bond
Refusal to submit to chemical test -- <i>1st or 2nd offense</i>	\$2,500.00 -- 10% cash bond
Suspended license or Interlock Violation	\$2,500.00 -- 10% cash bond
3 rd offense DWI or Refusal	To be held for court

Bond Schedule

District 3



- VI. Class IV felonies (*see Exceptions below*) -- \$2,500.00 – 10% cash bond, unless the arresting law enforcement officer designates that the detainee shall be held for Court without bond.
- VII. Class III felonies are not eligible for pre-arraignment release.

Exceptions: NO BOND

- 1. Anyone arrested for a sexual offense of any degree involving sexual contact or sexual penetration as defined in Section 28-318 is not eligible to bond out of jail and must be held for court. Lincoln City Ordinances 9.16.230 and 9.16.240 are not considered to be “sexual offenses” for purposes of pre-arraignment release on bond.
- 2. Anyone arrested for a domestic related assault is not eligible to bond out of jail and must be held for court.
- 3. Anyone arrested for violation of a protection order (either harassment or domestic abuse) is not eligible to bond out of jail and must be held for court.
- 4. Anyone for whom there is a contempt warrant is not eligible to bond out of jail and must be held for court. (Exception on civil cases with posting of \$2000 – 10% cash bond.)
- 5. Anyone arrested for the offense of stalking shall not be eligible to bond out of jail and must be held for court.
- 6. Anyone arrested for terroristic threats is not eligible to bond out of jail and must be held for court.
- 7. Anyone arrested for failure to register as a sex offender is not eligible to bond out of jail and must be held for court.
- 8. Anyone arrested for criminal child enticement is not eligible to bond out of jail and must be held for court.
- 9. Anyone arrested for possession of child pornography is not eligible to bond out of jail and must be held for court.
- 10. Anyone arrested for strangulation is not eligible to bond out of jail and must be held for court.
- 11. Anyone extradited from another state is not eligible to bond out of jail and must be held for court.

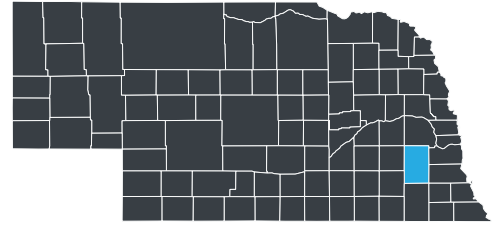
Identification: Any arrestee who lies about identify or refuses to identify himself or herself to the arresting authorities or corrections officials or who presents identification which appears to be fictitious shall not be released under these rules until such arrestee can be properly identified.

Bail Bond: The bail bond shall be pre-numbered forms furnished by the Lancaster County Court and County Jail.

Surety: The defendant shall have the following options for posting bail:

- 1. 10% bail bond – Defendant shall post 10% of the total amount of bond. Defendant shall be informed that 90% of the 10% will be returned to him at the conclusion of the case or by order of the court, i.e., bond \$1000.00, post \$100.00, return to defendant upon final disposition of \$90.00.

Bond Schedule District 3



2. 100% bail bond - Defendant shall post 100% of the bond. Defendant shall be informed that the entire 100% will be returned to him at the conclusion of the case or by order of the court.

Multiple Counts: If it is anticipated that there will be multiple counts filed against the defendant, only one bond will be required.

Miscellaneous Rules:

1. No checks will be accepted.
2. No real estate or personal property will be accepted as surety.
3. All funds will be receipted and signed for on a master log maintained by the Lincoln-Lancaster County Jail and remitted to the Lancaster County Court the following work day.
4. Anyone wishing to post bond after 6:00 a.m. on any weekday (on which the Court is open) may do so only AFTER appearing in Court that day; provided they post the bond amount set in the courtroom.

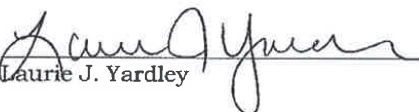
The above bail schedule and rules shall become effective on SEP 17 2014.

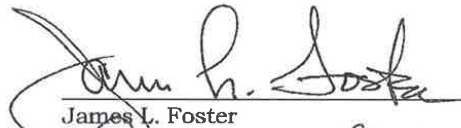
Dated this 17th day of September, 2014.


BY THE COURT:

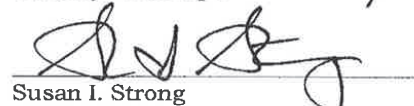

Matthew L. Acton


Thomas W. Fox

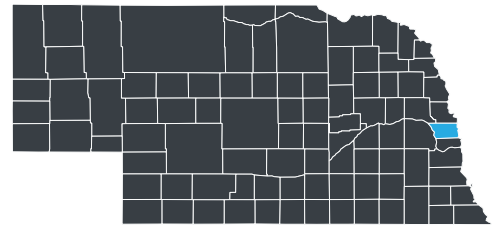

Laurie J. Yardley


James L. Foster


Timothy C. Phillips


Susan I. Strong

Bond Schedule District 4



I. FELONIES

Persons arrested without an arrest warrant for a felony shall be released from custody only by a written or telephonic order by a judge of this Court upon such bail, terms and conditions that the judge shall direct.

II. DOMESTIC VIOLENCE OFFENSES

Any bond for a misdemeanor offense listed on this schedule shall be increased to \$50,000 if it involves domestic violence to persons or property.

A peace officer making an arrest pursuant to Section 42-924 (Violation of Protection Order) shall take such person into custody and take such person before a judge of the county court. An appearance before a judge is required for bond setting.

III. OFFENSES REQUIRING BAIL BONDS

A. The amount of the appearance bond for persons arrested for all state statute misdemeanor and traffic infraction violations **EXCEPT AS SPECIFIED IN SECTION B BELOW** shall be as follows:

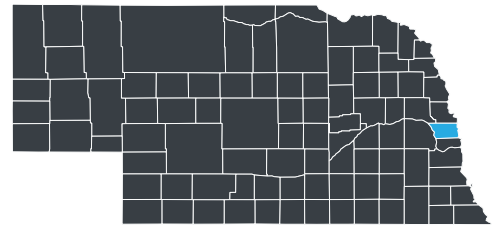
- Class I Misdemeanor.....\$5000
- Class II Misdemeanor.....\$3500
- Class III Misdemeanor.....\$2500
- Class W Misdemeanor.....\$2500
- Class IIIA Misdemeanor.....\$1000
- Class IV Misdemeanor.....ROR
- Class V Misdemeanor.....ROR
- Traffic Infractions.....ROR
- Criminal Infractions.....ROR

B. For the following specified state statute violations the amount of the appearance bond is as follows:

- Misdemeanor Motor Vehicle homicide (28-306).....\$50000
- Resisting Arrest (28-904).....\$10000
- Carrying Concealed Weapon (28-1202).....\$10000
- Minor in Possession of a Handgun (28-1204).....\$10000
- Violation of a Harassment Order (28-311.09).....\$10000
- OMVI less than .15, Third Offense (60-6,196).....\$10000

C. The amount of the appearance bond for persons arrested for all violations of the City of Omaha Municipal Code, **EXCEPT AS SPECIFIED BELOW** shall be \$2500:

Bond Schedule District 4



- Resisting Arrest (20-22).....\$5000
- Carrying Concealed Weapon (20-192).....\$5000
- Possession Concealable Firearm by Minor (20-204).....\$5000
- Assault and Battery (20-61).....\$5000
- Chapter 36 Violations, except 36-115 and 36-116.....ROR
- Chapter 55 Violations.....ROR

D. The amount of the appearance bond for persons arrested for violating any Ralston, Valley, Waterloo, Bennington, or Boystown municipal ordinances, shall be ROR.

E. The amount of the appearance bond for persons arrested for a Violation of Probation is as follows:

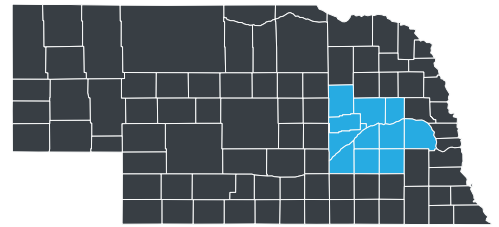
- Persons arrested for violating terms of a felony probation: no bond
- Persons arrested for violating terms of a misdemeanor probation: \$5000

IV. GOVERNANCE RULES

- A. Persons arrested for an offense listed in Sections II and III may be released from custody by depositing ten percent (10%) of the indicated amount of the bond.
- B. The bond form/bond receipt for money deposited shall designate the address of the court and the date and time the defendant is to appear.
- C. If a person is arrested on multiple offenses, a separate bond is required for each offense.
- D. The bond schedule listed above shall not be interpreted to prevent the setting of bail in a different amount, or the imposition of other terms and conditions of release other than stated herein upon the appearance of the person before a judge, or as otherwise directed by a judge.

March 2016

Bond Schedule District 5



IN THE COUNTY COURTS OF THE FIFTH JUDICIAL DISTRICT 2016 BOND SCHEDULE

I. MISDEMEANORS

Class I Misdemeanors	10,000.00
Class II Misdemeanors	5,000.00
Class III Misdemeanors	2,500.00
Refusal to sign citation	2,500.00
Class W (DUI, Refusal)	
1 st Offense	5,000.00
2 nd Offense	10,000.00
3 rd Offense less than .15	20,000.00

(Note 3rd Offense DUI over .15 and 3rd Offense Refusal are felonies)

DUS Class III Misdemeanor	2,500.00 Personal Recognizance
Minor In Possession or Consumption	2,500.00 Personal Recognizance

All other offenses carrying Possible jail sentence	2,500.00
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Class IV and V Misdemeanors Infractions, Traffic Infractions, City and village ordinance violations Where no jail provided:	500.00 Personal Recognizance
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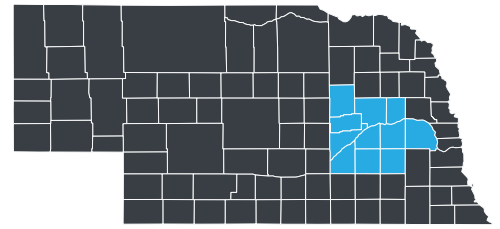
Please note that section 29-422 of the Nebraska Revised Statutes states as follows:

“It is hereby declared to be the policy of the State of Nebraska to issue citations in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and the protection of the public. In furtherance of that policy, except as provided in sections 42-928 and 42-929, any peace officer shall be authorized to issue a citation in lieu of arrest or continued custody for any offense which is a traffic infraction, any other infraction, or a misdemeanor and for any violation of a city or village ordinance. Such authorization shall be carried out in the manner specified in sections 29-422 to 29-429 and 60-684 to 60-686.”

II. FELONIES

No bail on felonies until court appearance unless bond is otherwise set by the Judge.

Bond Schedule District 5



III. NO BAIL UNTIL COURT APPEARANCE UNLESS BOND IS OTHERWISE SET BY A JUDGE FOR THE FOLLOWING OFFENSES:

1. Violation of Protection Order;
2. Assault Cases of any type;
3. Cases involving violence or threatening behavior of any kind;
4. Failure to Appear; and,
5. Persons with an immigration hold.

IV. CONDITIONS FOR ASSAULTS AND VIOLENT CRIMES

ALL Appearance Bonds on all assaults or matters involving violence shall include as conditions of bond the following conditions:

Defendant shall have no contact with the victim(s) in this matter:_____. This means that the defendant shall not enter or be at the residence of the victim(s), shall not contact the victim(s) by phone, text, computer, or electronic means of any kind, shall not mail or send flowers or gifts to the victim(s), shall not contact the victim(s) through a third party, and/or shall not contact the victim(s) by any other means. The defendant may not contact the victim(s) even if the victim(s) invite(s) such contact. **THIS NO CONTACT CONDITION SHALL REMAIN IN EFFECT UNTIL IT IS REMOVED BY WRITTEN ORDER OF THIS COURT.**

Any and all other conditions as set by the Court.

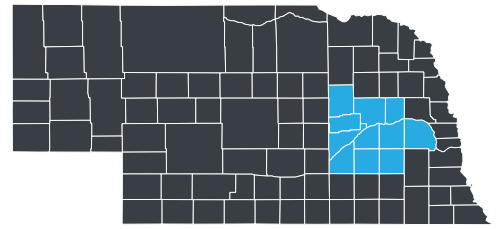
V. BOND OPTIONS

IN CASES WHICH THE BOND IS ESTABLISHED BY THIS SCHEDULE, THE DEFENDANT SHALL HAVE THE FOLLOWING OPTIONS FOR POSTING BOND:

1. 10% BAIL BOND: Defendant, personally, shall post 10% of the total amount of the bond. Defendant shall be informed that 90% of the amount posted will be returned to the Defendant at the conclusion of the case or by order of the court. (i.e. Bond of 2,500.00, 225.00 to be returned and 25.00 is held as bond fee).
2. 100% BAIL BOND: Defendant shall post 100% of the bond. Defendant shall be informed that the entire amount will be returned to the Defendant at the conclusion of the case or by order of the Court.
3. CORPORATE BAIL BONDSPERSON: Bail bondsperson shall be permitted to post bond on behalf of the defendant. Only Corporate Bail Bondspersons who are or have been approved in writing by the Court may post bond and all bonds shall be for the full amount. (i.e. if bond is 2,500 then the Corporate Bail Bondsperson must be liable for 2,500.00 the Corporate Bail Bondsperson is not allowed to post the 10% amount).
4. AUTO CLUB CARD: Under section 60-686 of the Nebraska Revised Statutes, a person may be allowed to deposit their auto club membership card as surety for

Bond Schedule

District 5



bond. NOTE: Auto Clubs have different restrictions on the amount of bail allowable and the types of arrest for which they may be used. See terms of statute below: 60-686. Posting of bond; forfeiture of bonds; exceptions.

“(1) When any person is required to post bond under any provision of the Nebraska Rules of the Road, such bond may consist of an unexpired guaranteed arrest bond certificate or a similar written instrument by its terms of current force and effect signed by such person and issued to him or her by an automobile club or a similar association or insurance company or a corporation, organized under the laws of this state, not for profit, which has been exempted from the payment of federal income taxes, as provided by section 501(c)(4), (6), or (8) of the Internal Revenue Code, jointly and severally with a corporate surety duly authorized to transact fidelity or surety insurance business in this state or with an insurance company duly authorized to transact both automobile liability and fidelity and surety insurance business in this state to guarantee the appearance of such person at any hearing upon any arrest or apprehension or any violation or, in default of any such appearance, the prompt payment by or on behalf of such person of any fine or forfeiture imposed for such default not in excess of two hundred dollars.

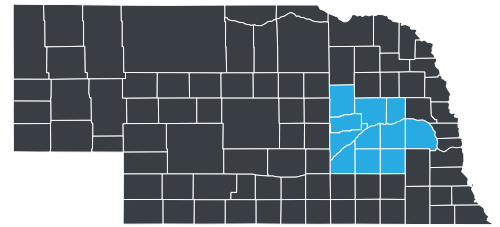
(2) The provisions of subsection (1) of this section shall not apply to any person who is charged with a felony.”

VI. PROVISIONS APPLICABLE TO ALL BONDS

1. Bonds shall require appearance on the second (2nd) regular arraignment session after arrest unless earlier arraignment on the next court day is requested by the arrested person.
2. For multiple offenses, bond shall be set for the highest amount of any single offense charged.
3. Bond shall be satisfied in cash only, except where auto club cards and approved bondspersons are used.
4. Bonding procedure must be utilized with the understanding that the least amount of restraint necessary to return offenders to court will be used.
5. This bond schedule supersedes all prior bond schedules used in the Fifth Judicial District.
6. JAILERS shall contact a Judge if they believe a bond seems inappropriate in any given case.
7. Each defendant must sign a bond form at the time the bond is posted. All bond money is to be received by the County Sheriff or Deputy Sheriff only. City officers are not to accept bond money or contact the Judge to set a bond. The defendant must be brought to the County Sheriff and the Sheriff's office must contact the Judge if necessary.
8. On an arrest without a warrant issued on probable cause the arresting officer shall execute an affidavit as to probable cause to detain the defendant and the detaining authorities shall contact a Judge to obtain a detention determination from a Judge as soon as practicable but in no event shall a probable cause determination be made more than 48 hours after arrest.

Bond Schedule

District 5



VII. JUVENILES UNDER EIGHTEEN

The following is meant to serve as a general guideline regarding taking juveniles into custody, if you have questions regarding a specific situation please contact your County Attorney. **KEEP IN MIND THAT YOU SHOULD ALWAYS SELECT THE PLACEMENT OPTION WHICH IS LEAST RESTRICTIVE TO THE JUVENILE'S FREEDOM SO LONG AS THE PLACEMENT IS COMPATIBLE WITH THE BEST INTERESTS OF THE JUVENILE AND THE SAFETY OF THE COMMUNITY.**

LAW VIOLATORS OR RUNAWAYS

Take reasonable measures to notify the juvenile's parent, guardian or custodian. If you believe detention is unnecessary you should (1) release the juvenile and refer the matter and reports to the county attorney OR (2) issue a written notice to appear in court as provided in section 43-250 (1)(b) of the Nebraska Revised Statutes.

If you believe detention may be necessary, contact the on call probation officer who will screen the juvenile for detention. If the probation officer determines detention is necessary you **SHALL** implement the probation officer's decision to release or to detain and place the juvenile. (This may include transportation)

PROBATION VIOLATIONS

If a probation officer has reasonable cause to believe a juvenile is in violation of his/her probation **AND** believes the juvenile will attempt to leave the jurisdiction or place lives or property in danger, you should take reasonable measures to notify the parent, guardian, or custodian and deliver the juvenile to probation for screening regarding detention. If probation determines that detention is necessary you **SHALL** implement the probation officer's decision to release or to detain and place the juvenile.

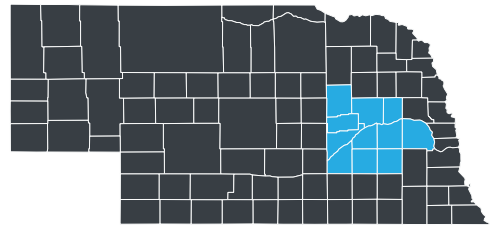
ARREST WARRANTS/PICK UP ORDERS

If you arrest a juvenile on an outstanding warrant/pick up order, you must deliver the juvenile to the on call probation officer for screening regarding detention. Again, if probation determines that detention is necessary you **SHALL** implement the probation officer's decision to release or to detain and place the juvenile. If detention is not determined to be necessary by the probation officer, the juvenile may be released without bond with a notification to appear in court on a certain date and time. The court that issued the warrant shall be notified that the juvenile was taken into custody and released.

A JUVENILE WHO IS SERIOUSLY ENDANGERED IN HIS OR HER SURROUNDINGS AND IMMEDIATE REMOVAL APPEARS TO BE NECESSARY FOR THE PROTECTION OF THE JUVENILE OR A JUVENILE IMMUNE FROM PROSECUTION FOR PROSTITUTION UNDER SECTION 28-801(5).

If a juvenile is seriously endangered in his or her surroundings and immediate removal is necessary you should remove the child and deliver custody to the Nebraska Department of Health and Human Services (NDHHS). You shall then make a full written report to the county attorney within 24 hours of taking the juvenile into custody. A court order of

Bond Schedule District 5



custody **MUST** be signed within 48 hours of taking the juvenile into custody or the juvenile shall be returned to his/her parent, guardian, custodian, or relative.

MENTALLY ILL AND DANGEROUS

If you believe a juvenile is mentally ill and dangerous as defined in section 71-908 of the Nebraska Revised Statutes and that harm may occur before proceedings may be invoked in juvenile court you may place the juvenile at a mental health facility for evaluation and treatment, or deliver the juvenile to the NDHHS for such placement. In either event, you need to prepare a written certificate as required by section 43-250 (3) of the Nebraska Revised Statutes and forward a copy of the certificate to the county attorney. The evaluation must take place within 36 hours and the adjudication within seven days. Therefore it is **imperative** that you contact your county attorney promptly upon such placements to ensure that you are in compliance with the statutes and the time limits outlined in the statutes. Again, a copy of the certificate shall be forwarded to the county attorney, not the court. The officer shall notify the juvenile's parents, guardian, custodian, or relative of the juvenile's placement.

TRUANTS

If you have reasonable grounds to believe a juvenile is truant you may take him or her into your temporary custody and then you shall deliver the juvenile to the enrolled school of such juvenile.

The on call numbers for probation are as follows:

Area One – Juv. Intake Phone (402) 910-3879 (Boone, Colfax, Nance, Platte)

Area Two – Juv. Intake Phone (402) 641-8870 (Butler, Hamilton, Merrick, Polk, Saunders, Seward, York)


[Neb. Rev. Stat. 43-248 and Neb. Rev. Stat. 43-250]

This bond schedule shall supersede all prior bond schedules.

IT IS SO ORDERED.

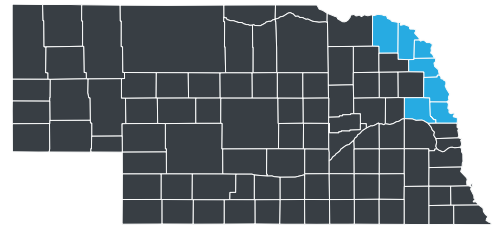
DATED this 29th day of March, 2016.

BY THE COUNTY JUDGES OF THE 5th DISTRICT:


Stephen R. W. Twiss
Presiding Judge



Bond Schedule District 6



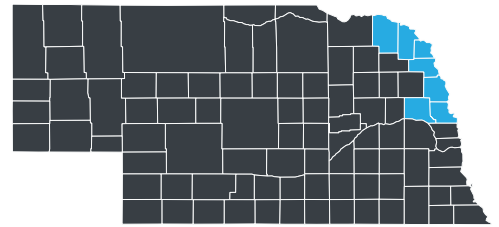
EFFECTIVE 12/5/13

DODGE COUNTY BOND SCHEDULE

Judge will set bond on all Felonies, any assaults, protection order violations, child abuse, or other violent crimes against persons.

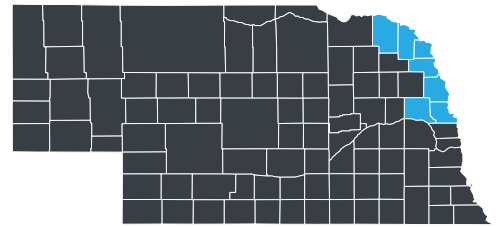
TRAFFIC OFFENSES	BOND AMT
DUI ALCOHOL/DRUGS	
1 st Offense (regular)	\$200
1 st Offense (over .15)	\$250
2 nd Offense (regular)	\$400
2 nd Offense (over .15)	\$500
3 rd Offense or more	Set by Judge
Refuse Chemical Test	\$250
Refuse Preliminary Test	\$50
Driving Under Suspension	\$50
Leaving the Scene of a Property Accident	\$150
Leaving the Scene of a Personal Injury Accident	Set by Judge
Reckless Driving	\$100
Willful Reckless Driving	\$200
Unauthorized use of a Vehicle	\$100
No Insurance	\$75
No Operator's License	\$50
Fail to Obey Signal of Approaching Train	\$50
Driving During Revocation	\$150
DRUGS	
Possession of Marijuana over One Ounce Less than One Pound	\$200
All other Drugs – Felony	Set by Judge
PROPERTY CRIMES	
Theft/Shoplifting \$200 or less Class II Misd	\$100
Theft/Shoplifting \$200 or less 2 nd Offense Class I Misd	\$300
Theft/Shoplifting over \$200 less than \$500	\$200
Theft/Shoplifting over \$200 less than \$500 2 nd offense or higher - Felony	Set by Judge
Theft/Shoplifting \$500 or more – Felony	Set by Judge
Criminal Mischief less than \$200	\$100
Criminal Mischief over \$200 less than \$500	\$200
Criminal Mischief over \$500 less than \$1,500	\$300
Criminal Trespass – First Degree	\$200
Criminal Trespass – Second Degree Class II Misd	\$100
Criminal Trespass – Second Degree Class III Misd	\$100
Littering	\$50

Bond Schedule District 6



FRAUD	
Forgery Second Degree \$300 or less	\$200
Forgery Second Degree over \$300 – Felony	Set by Judge
GOVERNMENT OPERATION VIOLATIONS	
False Information/Reporting	\$250
Resisting Arrest – 1 st Offense	\$500
Resisting Arrest – 2 nd Offense – Felony	Set by Judge
Obstructing an Officer	\$300
Interfere with Fireman on Duty	\$500
Flight to Avoid Arrest – Misd	\$500
Flight to Avoid Arrest – Felony	Set by Judge
Carrying a Concealed Weapon	\$500
Loitering about the Jail	\$250
PUBLIC ORDER/DECENCY	
Cruelty to Animals	\$250
Unlawful Fireworks	\$100
Intimidation by Phone	\$250
Maintaining a Nuisance	\$100
Disturbing the Peace/Disorderly Conduct	\$100
Shooting from Highway	\$50
Contributing to a Delinquency of a Minor	\$500
Carrying a Concealed Weapon	\$500
Indecent Exposure	Set by Judge
LIQUOR OFFENSES	
Minor Misrepresenting Age to Buy	\$100
MIP	\$100
Procuring Alcohol for a Minor	\$500
Open Container in Public	\$50
MISCELLANEOUS OFFENSES	
Promote Gambling – 3 rd Degree	\$100
Unlawful Possession of a Revolver	\$200
Soliciting without a Permit	\$50
ANY CLASS I MISD NOT LISTED	\$500
ANY CLASS II MISD NOT LISTED	\$200
ANY CLASS III MISD NOT LISTED	\$100

Bond Schedule District 6



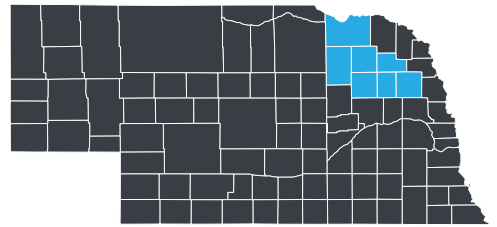
EFFECTIVE 12/5/13

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TRAFFIC OFFENSES	BOND AMT
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Refuse Preliminary Test	\$50
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Leaving the Scene of a Property Accident	\$150
Leaving the Scene of a Personal Injury Accident	Set by Judge
Reckless Driving	\$100
Willful Reckless Driving	\$200
Unauthorized use of a Vehicle	\$100
No Insurance	\$75
No Operator's License	\$50
Fail to Obey Signal of Approaching Train	\$50
Driving During Revocation	\$150
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All other Drugs – Felony	Set by Judge
PROPERTY CRIMES	
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Theft/Shoplifting over \$200 less than \$500	\$200
Theft/Shoplifting over \$200 less than \$500 2 nd offense or higher - Felony	Set by Judge
Theft/Shoplifting \$500 or more – Felony	Set by Judge
Criminal Mischief less than \$200	\$100
Criminal Mischief over \$200 less than \$500	\$200
Criminal Mischief over \$500 less than \$1,500	\$300
Criminal Trespass – First Degree	\$200
Criminal Trespass – Second Degree Class II Misd	\$100
Criminal Trespass – Second Degree Class III Misd	\$100
Littering	\$50

Bond Schedule District 7



APPEARANCE BOND SCHEDULE

The following bond schedule shall be followed by all law enforcement personnel until further notice.

All persons arrested and incarcerated in jail shall have a bond fixed and a date set for their appearance before the Court in which charges are to be filed within 24 hours of arrest. Persons who are unable to post bond shall be brought before a County Judge of the District on the next regular court day following the defendant's arrest.

Three types of bonds may be accepted: 1) Personal recognizance 2) Ten-percent, and 3) Cash. The bond form furnished covers all types and shall be used whenever a bond is posted. The proper blanks shall be filled in and the bond signed by the defendant, witnessed and a copy given to the defendant. The original bond, together with any cash, receipts or other items shall immediately be transmitted to the Court in which the charges are to be filed. No bond shall be issued without a specific date for the defendant's appearance before the Court.

Personal recognizance or Ten-percent bonds may be accepted by law enforcement agencies in the 7th Judicial District for the following classes of misdemeanors in the amounts set out opposite the respective classes. For more than one count, use the highest class to determine the bond amount.

Dec 1500⁰⁰ 10%

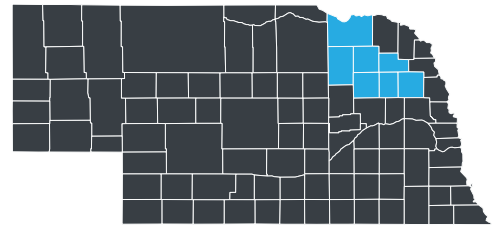
Class W (3rd offense).....	\$10,000.	10%
Class I.....	4,000.	10%
Class II & W (2nd off).....	3,000.	10%
Class III, IIIA, & W (1st off).....	1,500.	10%

Defendant's may elect to post a cash bond in the amount of the cash required for the ten-percent bond. Speeding, other infractions and ordinance violations mentioned above, Class IV and V misdemeanors, should be in the amount of not less than \$250 nor more than \$1,000 depending on the crime alleged to have been committed and the defendant's likelihood of appearing in court on schedule. Defendant's determined to be indigent and unable to post a bond for a non-jailable offense shall be entitled to post a personal recognize bond.

Personal recognizance bonds are encouraged when there is no concern for the defendant's appearance. Factors which should be considered are: residence in community, family ties to community, employment in the community, reputation in community and nature of crime charged. **Failure to Appear convictions:** If the defendant is being arrested on a Failure to appear warrant or has a conviction for failing to appear this person should post a ten percent or a cash bond.

*u/sup Prob - F&C not pd.
Do Not do warrant
Do Alleged v/o prob order*

Bond Schedule District 7



NO CONTACT ORDERS: On any offense where there is a concern for the safety of the victim a no contact order should be made a condition of the bond.

FELONIES. The amount of appearance bond for persons arrested for a felony or as a fugitive shall be set either orally or in writing by a District or County Judge, or in the absence of a County Judge, a Clerk Magistrate of the County where the arrest occurred. Clerk Magistrates are authorized to set appearance bonds in an amount not to exceed \$50,000.00. Bonds in excess of \$50,000.00 shall first be approved by a County or District Judge. A telephone call will suffice.

JUVENILES: In no event should a person age 18 or under be jailed overnight without first contacting the juvenile's parent, guardian or custodian. Juvenile's unable to post ten-percent bonds and desiring to be released prior to the next working day may be released to the custody of their parents, guardian or custodian, upon receipt of a personal recognizance bond duly signed by the juvenile. If there is concern that the juvenile is in danger or will not appear a County or District Judge should be contacted.

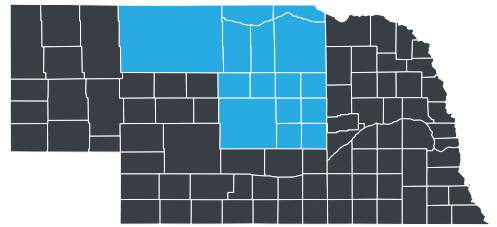
NOTICE:

If you post bond money for someone other than yourself, the Court will consider this bond to be the defendant's money.

At the conclusion of the case the bond money will be returned to the Defendant or applied to the defendant's court obligations.

PC: County Attorney
Norfolk City Attorney
Norfolk Police Department
Madison County Sheriff & Jail
Nebraska State Patrol

Bond Schedule District 8



COPY

BOND SCHEDULE FOR CUSTER, LOUP, GARFIELD, SHERMAN AND HOWARD COUNTY

Effective January 1, 2003, the following BOND SCHEDULE shall be followed by the County Sheriffs of Custer, Loup, Garfield, Sherman and Howard County, until further notice.

Three types of bonds may be accepted: (1) Personal Recognizance, (2) Cash, and (3) 10%. The bond form furnished covers all three types and shall be used whenever a bond is posted. The proper blanks shall be filled in AND THE BOND FORM SHALL BE SIGNED BY THE DEFENDANT and a witness, and a copy of the bond given to the Defendant. The original bond, together with any cash, receipts, or other items, shall be taken to the Court in which charges are to be filed on the next court date. The appearance date of a Defendant who posts bond should be set to allow the County Attorney sufficient time to review reports and file charges; in most cases approximately 10 days. NO BOND SHOULD BE ISSUED WITHOUT A SPECIFIC DATE FOR THE DEFENDANT'S APPEARANCE BEFORE THE COURT IN WHICH CHARGES ARE TO BE FILED.

ALL PERSONS ARRESTED AND INCARCERATED IN JAIL SHALL HAVE A BOND FIXED AND A DATE SET FOR THEIR APPEARANCE BEFORE THE COURT IN WHICH CHARGES ARE TO BE FILED WITHIN 24 HOURS OF THEIR ARREST. PERSONS WHO ARE UNABLE TO POST BOND SHALL BE BROUGHT BEFORE A COUNTY JUDGE OF THE DISTRICT AS SOON AS POSSIBLE BUT IN NO EVENT LATER THAN THE NEXT REGULAR COURT DAY FOLLOWING THE DATE OF THE DEFENDANT'S ARREST. The Clerk of the Court is to be notified of any person unable to post bond as soon as possible on the first day the court office is open for business. It is, however, the Sheriff's responsibility to make certain prisoners are brought before the County Judge in a timely manner. Anyone arrested without a warrant must have a probable cause hearing within 48 hours.

10% or Personal Recognizance bonds should be accepted by the Sheriff's Office for the following classes of misdemeanors in the amounts set out opposite their class. For more than one count, use the highest class of crime to be charged to determine bond amount. You do not need to contact a judge or magistrate to set bonds for these grades of offenses.

Class I & W (3rd Offense) misdemeanors (involving violence).	\$20,000 - 10%
Class I & W (3rd Offense) misdemeanors (not involving violence).	\$10,000 - 10%
Class II & W (2nd Offense) misdemeanors.	\$5,000 - 10%
Class III, IIIa & W (1st Offense) misdemeanors.	\$3,000 - 10%

Speeding, other traffic & non-traffic infractions not above mentioned. Class IV and V misdemeanors and all city ordinance violations: These offenses are non-jailable and persons should not be placed in jail. A uniform citation should be issued to the person unless there is some reason to believe that the person will fail to appear. In that case, a personal recognizance bond should be used in an amount of \$100. THE PURPOSE OF BOND IS TO ENSURE THE DEFENDANT'S APPEARANCE IN COURT--NOT TO PUNISH THE DEFENDANT.

PERSONAL RECOGNIZANCE BONDS ARE ENCOURAGED WHEN THERE IS NO CONCERN ABOUT THE DEFENDANT'S APPEARANCE TO ANSWER THE CRIME WITH WHICH HE/SHE IS CHARGED. Factors which should be considered are: residence in community, employment, family or financial ties, and reputation in the community.

FELONIES The amount of bond for persons arrested for a felony or as a fugitive shall be set either orally or in writing by a County Judge. If you are unable to contact a County Judge, you should contact the local Clerk Magistrate for direction. Clerk Magistrates are not authorized to set bond in felony cases. In case neither a County Judge nor Clerk Magistrate is available then a District Judge should be called.

JUVENILES In the event you should detain a person age 17 & under you must immediately contact the juvenile intake officer who will then deal with any further detention

RECEIVED

FEB 17 2016

MARSHA L. ANDERSON
CLERK MAGISTRATE
HOWARD CO. COURT

MLA

Copy To:

County Attorney

Sheriff

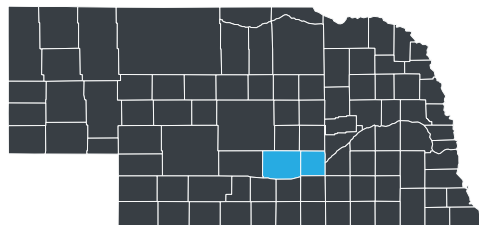
Police Department

RECEIVED

AUG 25 2006

MARSHA L. ANDERSON
CLERK MAGISTRATE
HOWARD CO. COURT

Bond Schedule District 9



HALL COUNTY COURT BOND SCHEDULE

MAR 09 2012

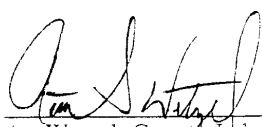
HEYNALDA A CARPENTER
CLERK MAGISTRATE
HALL CO COURT

1. Multiple Charges – bond is set on highest charge only.
2. All FELONIES – no bond – unless listed below. Hold for Appearance before a Judge
 - a) DUI 4th will be treated as a felony but bond will be \$15,000.00 (10%)
3. DOMESTIC offenses – no bond. Hold for appearance before a Judge.
4. FAILURE TO APPEAR FOR JAIL SENTENCE – no bond
5. Class I Misdemeanors \$5000.00 (10%) Unless Domestic or listed below, NO BOND
 - a) Resisting Arrest – no bond
 - b) Flight to Avoid Arrest – no bond
 - c) Aiding and Abetting a Felony – no bond
 - d) Perjury – no bond
 - e) Stalking – no bond
 - f) Violation of Protection Order – no bond
 - g) Criminal Attempt of a Felony – no bond
 - h) Probation violation - no bond
6. Class II Misdemeanors \$3500.00 (10%) Unless Domestic or listed above
7. Class III Misdemeanors \$2500.00 (10%) Unless Domestic or listed above
8. Class W Misdemeanors:
 - a) DUI/Refusal 1st Offense and DUI 1st Aggregated \$2500.00 (10%)
 - b) DUI/Refusal 2nd Offense and DUI 2nd Aggregated \$3000.00 (10%)
 - c) DUI/Refusal 3rd Offense and DUI 3rd Aggregated \$5000.00 (10%)
 - d) DUI/Refusal 4th Offense and DUI 4th Aggregated (2a) \$15,000.00 (10%)
 - e) DUI 5th – no bond

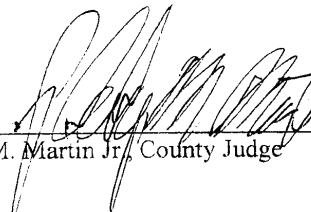
****PLEASE NOTE THAT SOMEONE POSTING BOND FOR DUI CAN ONLY BE RELEASED AFTER BEING IN CUSTODY 4 HOURS TO SOBER FAMILY MEMBER OR 8 HOURS ON THEIR OWN****

9. Traffic Infraction and No Operators License \$75.00 CASH bond

Approved 03-08-12

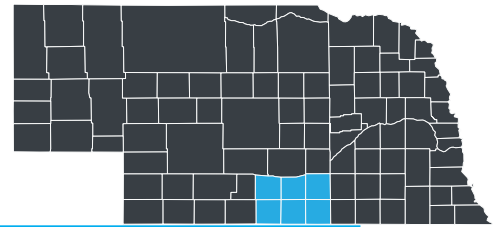

Art Wetzel, County Judge




Philip M. Martin Jr., County Judge



Bond Schedule District 10



IN THE COUNTY COURTS OF THE TENTH JUDICIAL DISTRICT ADAMS, CLAY, FILLMORE, FRANKLIN, HARLAN, KEARNEY, NUCKOLLS, PHELPS, AND WEBSTER, IN NEBRASKA

UNIFORM BAIL SCHEDULE, FOR RELEASE OF) ORDER PERSONS IN CUSTODY OF LAW ENFORCEMENT)

Any person arrested for an offense which does not include incarceration in jail as a part of the sentence, ie; speeding, parking, stop sign violation, class IV and V misdemeanors, infractions or violation of city ordinances, **SHALL** be released upon signing the citation agreeing to appear in a specific court on a specific date.

Any person who is A RESIDENT of the Tenth Judicial District SHOULD be released on his or her own recognizance in an amount set forth in the schedule below UNLESS, the arresting officer believes that a monetary bond is necessary to insure the person's appearance in court.

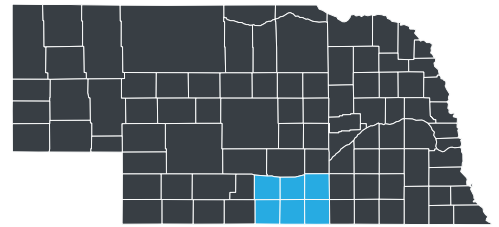
IF a law enforcement officer believed A MONETARY BOND IS NECESSARY for a defendant the following schedule is to be followed.

	Resident of Nebr For at least one year	Nonresident Probationer 1 Prior Bond 2
Class III	\$ 2,500.00	\$ 5,000.00
Class II	\$ 4,000.00	\$ 8,000.00
Class I	\$ 5,000.00	\$10,000.00
DUI 1 ST	\$ 2,500.00	\$ 5,000.00
DUI 2 ND	\$ 5,000.00	\$10,000.00
DUI 3 RD & 4 TH	\$10,000.00	\$20,000.00
All other jail-able offenses	\$ 2,500.00	\$ 5,000.00

1. Persons known to be on adult probation to the court of this state.
2. Persons known to be released on bond for another pending charge.

The foregoing bond figures set forth the amount which must be posted by the defendant to be released from custody. The amount may be posting either cash, corporate surety, or ten percent. Deviations from the foregoing amounts are permitted only in consultation with a Judge or Magistrate of the Tenth Judicial District.

Bond Schedule District 10



Persons arrested on more than one charge are to be released upon posting bond for the highest charge.

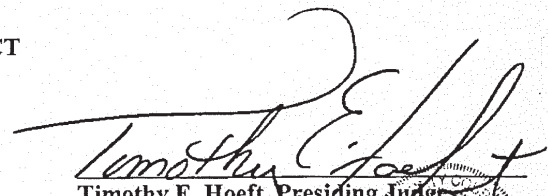
Any person arrested on a charge of Driving Under the Influence may not be released until such person's Blood Alcohol Content is less than .08 and shall have a special condition of release that they not consume alcoholic beverages to the extent their Blood Alcohol Level exceeds .08.

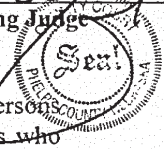
Any person arrested on an assault charge shall have a special condition of release that they have no contact with the victim or be within one block of the victim's residence.

INDIVIDUALS IN CUSTODY FOR THE FOLLOWING REASONS MUST BE BROUGHT BEFORE THE COURT ON THE NEXT REGULAR COURT DAY TO HAVE BOND SET UNLESS A JUDGE HAS SET A BOND FOR THEM VIA A 48 HOUR WARRANTLESS ARREST AFFIDAVIT.

1. Felony offenses,
2. Violation of domestic abuse protection order,
3. Third degree assault involving household members,
4. Bench warrant, for failure to appear, and
5. Persons unable to post bond as per this schedule.

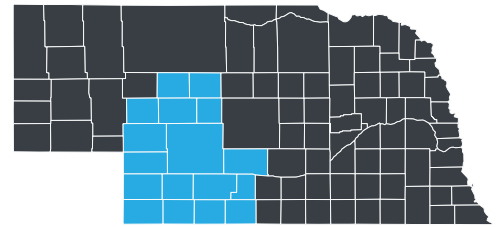
**APPROVED OCTOBER 16, 2015
COUNTY JUDGES TENTH JUDICIAL DISTRICT**


Timothy E. Hoeft, Presiding Judge



29-404.02 ..., household members shall include spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, and other persons related by consanguinity or affinity.

Bond Schedule District 11



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RED WILLOW CO COURT

PAGE 01/02

2. If defendant is unable to meet conditions of bond and remains in custody for more than 24 hours he/she has a right to a review of the conditions imposed on the bond.

11TH Judicial District Uniform Bond Schedule

This bond schedule has been adopted by the County Judges of the 11th Judicial District of the State of Nebraska, pursuant to § 29-901.05 and is effective immediately and will remain in effect until revised by the County Judges of the 11th Judicial District.

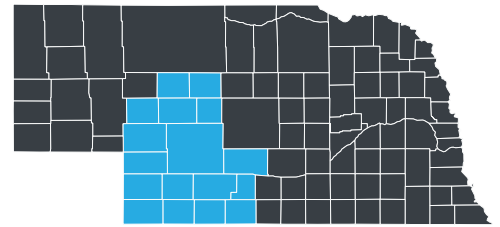
Bond for all felonies, and any misdemeanor that involves: sexual assault, motor vehicle homicide, domestic assault or child abuse shall be set by a judge.

Individuals arrested pursuant to § 42-928 for violating a protection order shall appear before the county court or the court which issued the protection order. At such time the court shall establish the conditions of such person's release from custody, including the determination of bond or recognizance, as the case may be.

Subject to the restrictions above, law enforcement officers may in the exercise of their discretion, release an defendant on personal recognizance, or to a reliable individual, when reasonably assured the defendant will appear, and the defendant is not likely to endanger themselves or others, or flee the jurisdiction of the court. Prior to being released the defendant shall sign a personal recognizance bond.

Any Class I misdemeanor not listed	\$5000
Any Class II misdemeanor not listed	\$2500
Any Class III misdemeanor not listed	\$1000
Any Class IV misdemeanor not listed	Citation
TRAFFIC OFFENSES	
DUI offenses	
1 st Offense	\$2500
1 st Offense over. 15	\$5000
2 nd Offense	\$5000
2 nd Offense over. 15	\$7500
3 rd Offense	\$7500
Refuse Chemical Test 1 st Offense	\$2500
Refuse Chemical Test 2 nd Offense	\$5000
Other traffic offenses	
Leaving the Scene of a Property Accident	\$5000
Driving Under Suspension	\$2500
Driving Under Revocation Not Impoundment	\$5000
OFFENSES INVOLVING DRUGS AND NARCOTICS	
Possession of Marijuana over 1 oz.- less than pound	\$2500
Legend Drug violation	\$1000
OFFENSES AGAINST PROPERTY	
Criminal Mischief less than \$200	\$2500
Criminal Mischief over \$200 less than \$500	\$5000
Criminal Mischief over \$500 less than \$1500	\$7500
Criminal Trespass - First Degree	\$7500

Bond Schedule District 11



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RED WILLOW CO COURT

PAGE 02/02

OFFENSES INVOLVING GOVERNMENT OPERATION	
Resisting Arrest	\$7500
Flight to Avoid Arrest	\$7500
OFFENSES INVOLVING FRAUD	
Insufficient funds check or no account check	\$2500
PUBLIC ORDER/DECENCY	
Intimidation by phone	\$2500
GAME AND FISH VIOLATIONS	
SIZE, WEIGHT AND LOAD VIOLATIONS - The bond shall be in the amount of the fine pursuant to the fine schedule provided by the Court, plus \$50.00	\$1000

Bond for an individual arrested on multiple offenses arising from a single incident shall be based upon the single most severe offense involved in the incident and shall not be determined by totaling the amounts set forth in this schedule for each separate offense.

All bonds shall be CASH with 10% of the amount allowed to be posted.

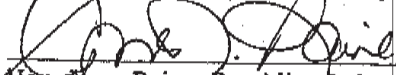
In cases of extenuating circumstances a judge is to be contacted.

The initial court appearance shall be set for the first available date the court will be in session, unless otherwise instructed by a judge.

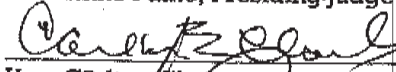
When a child under the age of 18 years is taken in to custody, the officer shall immediately notify the child's parents, guardian or custodian, and release the child on a summons to appear in the court unless evidence exists that the child may flee or endanger themselves or others.

Any law enforcement officer or agency which requires the services of a judge should feel free to contact one of the judges of the 11th judicial district.


So ordered this 3rd day of January, 2011.


Hon. Anne Paine, Presiding Judge


Hon. Edward D. Steenburg

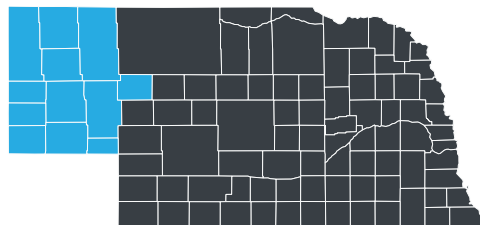

Hon. Carlton Clark


Hon. Kent D. Turnbull


Hon. Michael E. Piccolo



Bond Schedule District 12



COUNTY JUDGES' BOND SCHEDULE – EFFECTIVE AUGUST 2008

This schedule is intended only as a guide for use when a judge is unavailable. When Court is in session and a judge is available, the accused should be brought before the judge or the judge should set the bond. This guide should enable booking officers to determine appropriate bond in nearly all cases. **Remember, you must attempt to contact either Judge ~~Cramer~~ or Judge Worden. The Clerk Magistrate is only to be contacted when no county judge is available.**

UNDER NO CIRCUMSTANCES SHOULD THE DEFENDANT BE ALLOWED TO CALL THE JUDGE.

BONDS should never be considered as a penalty for wrong-doing. The only purpose for a BOND is to reasonably assure the appearance of the person in court as required. A judge must set the bond in any case involving death.

Where it is determined that an appearance bond of a specified amount is necessary to reasonably assure the appearance or appearances of a person in court, the following guidelines should be used.

APPEARANCES AND BONDS ARE FOR THE FOLLOWING FRIDAYS

8:00 A.M. on all driving-related offenses

~~10:00~~ ~~9:00~~ A.M. on all other misdemeanors and felonies

DRUNK DRIVING

1 st offense	\$5,000
2 nd offense	\$7,000
3 rd offense	\$10,000

Drunk Driving Involving Injury Accident JUDGE MUST SET

REFUSE TEST

Same as above.

DRIVING UNDER SUSPENSION \$5,000

ALCOHOL OFFENSES

Drinking in Public	\$1,000
MIP	\$5,000 if 18 years or older
Procure Liquor for Minor	\$10,000
Open Container	\$1,000

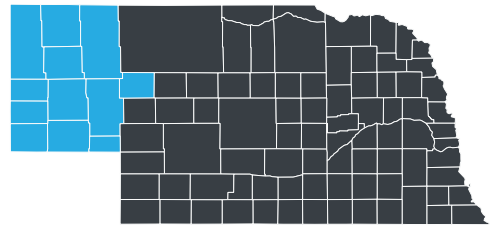
MISCELLANEOUS MISDEMEANORS

Trespassing	
Class I	\$5,000
Class II	\$3,000
Class III	\$1,000
Littering	\$1,000



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Bond Schedule District 12



Bond Schedule

Page 2

FRAUD

Forgery	
Class III Felony	\$10,000 - \$15,000
Second Degree	
Class III Felony-when face value or amount procured by use of instrument is \$300 or more.	\$8,000- \$10,000
Class IV Felony-when face value or amount of proceeds exceeds \$75, but is less than \$300	\$7,500
Class I Misd.-when face value or proceeds is \$75 or less	\$1,000 - \$5,000

Bad Check-No Account & Insufficient Fund
Same as Above

DOMESTIC RELATIONS

Incest	JUDGE MUST SET
Criminal Nonsupport	
IV Felony	\$10,000 - \$25,000
Class II Misd.	\$3,000 - \$5,000
Child Abuse	JUDGE MUST SET
Contributing to Delinquency	\$10,000

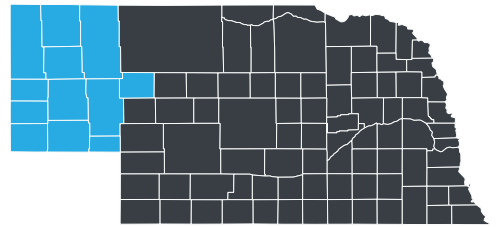
MORALS

Prostitution	
Class V Misdemeanor	\$1,000
Pandering Class IV Felony	\$10,000
Debauching a Minor	
Class I Misdemeanor	\$15,000
Public Indecency – Indecent Exposure	
Class II Misdemeanor	\$1,500 - \$5,000

GOVERNMENTAL OPERATIONS

Obstructing Government Operations	
Class I Misdemeanor	\$10,000
Refusing to Aid Peace Officer	\$10,000
Resisting Arrest 28-904	
Class IV Felony	\$20,000
Class I Misdemeanor	\$10,000
Operating Motor Vehicle to Avoid Arrest	\$10,000
Obstructing a Peace Officer	\$10,000
Escape	JUDGE MUST SET
Perjury, Bribery, Jury Tampering	\$10,000

Bond Schedule District 12

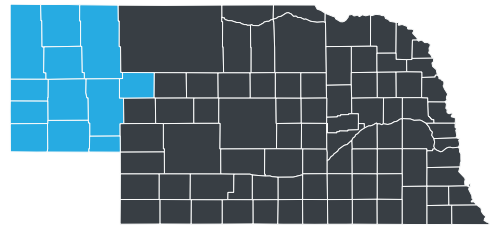


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Bond Schedule
Page 3

PEACE, ORDER, DECENCY	
Cruelty to Animals	\$10,000
GAMBLING	
Promoting Gambling – First Degree	\$25,000
Second Degree	\$1,000 - \$5,000
HEALTH & SAFETY	
Carrying a Concealed Weapon	
Class I Misdemeanor	\$10,000
Second or Subsequent conviction	
Class IV Felony	\$15,000
Any Other Acts of Use of Firearm	
Class III, IV Felonies	\$15,000 - \$20,000
MISCELLANEOUS	
Urinating in Public	\$500
Terroristic Threats	\$15,000
Stalking	JUDGE MUST SET
PERSON	
Murder, Manslaughter	JUDGE MUST SET
Motor Vehicle Homicide	
Class IV Felony	JUDGE MUST SET
Class I Misdemeanor	JUDGE MUST SET
Assault	
First Degree	\$25,000 - \$35,000
Second Degree	\$20,000
Third Degree	
Class I Misd.	\$3,000 - \$10,000
Class II Misd.	\$3,000 - \$5,000
City Ordinance	\$3,000
Kidnapping	JUDGE MUST SET
First Degree Forcible Sexual Assault	JUDGE MUST SET
Sexual Assault on Child	JUDGE MUST SET
Second Degree Sexual Assault – Felony	JUDGE MUST SET
Third Degree Sexual Assault	
Non-injury	\$15,000 - \$20,000
Robbery Class II Felony	JUDGE MUST SET

Bond Schedule District 12



Bond Schedule
Page 4

DRUGS & NARCOTICS

Controlled Substances	\$10,000 - \$25,000
Distribution – Felony	\$45,000 - \$75,000
Possession of Controlled Substance	\$10,000
Possession of Marijuana	\$1,000 - \$5,000
More than One Pound	\$10,000 - \$15,000

PROPERTY

Burglary – Felony	\$25,000 – Up
Theft (Unlawful Taking or Disposition)	\$25,000
IV Felony	\$10,000
Class I Misdemeanor	\$5,000
Class II - \$100 or less	\$3,000

DOMESTIC VIOLENCE

Protection Orders	JUDGE MUST SET
Assaults involving Domestic Violence	JUDGE MUST SET

Domestic Violence Bonds must have the following conditions: **“No Contact with Alleged Victim.”**

All bonds should also have as a condition DO NOT LEAVE THE STATE OF NEB. OR CHANGE YOUR PLACE OF ABODE WITHOUT PERMISSION OF THE COURT; DO NOT BREAK ANY LAWS WHILE OUT ON BOND

See appendix regarding

UNEQUAL JUSTICE

