

BAIL ACT
CHAPTER 4:60

Act
18 of 1994
Amended by
19 of 2005
12 of 2012

Current Authorised Pages

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LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF THE ATTORNEY GENERAL AND LEGAL AFFAIRS

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Chap. 4:60

Bail

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Section 20

The Third Schedule has been omitted from this edition as the amendments listed therein have been incorporated into the respective Acts.

For the Third Schedule *See* Act No. 18 of 1994.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

CHAPTER 4:60

BAIL ACT

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FIRST SCHEDULE.

SECOND SCHEDULE.

CHAPTER 4:60

BAIL ACT

18 of 1994. **An Act to amend the law relating to release from custody of accused persons in criminal proceedings and to make provision for legal aid for persons kept in custody and for connected purposes.**

Commencement. [15TH SEPTEMBER 1994]

Preamble. WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect notwithstanding sections 4 and 5 of the Constitution:

Short title. **1.** This Act may be cited as the Bail Act.

Act inconsistent with sections 4 and 5 of the Constitution. Ch. 1:01. **2.** This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation. **3.** (1) In this Act—
“bail in criminal proceedings” means—
(a) bail grantable in or in connection with proceedings for an offence to a person who is accused or convicted of the offence; or
(b) bail grantable to a person who is under arrest or for whose arrest a warrant endorsed with a direction for bail is issued;

“child” means a person under the age of fourteen years;

“conviction” includes—

- (a) a finding of guilt;
- (b) a finding that a person is not guilty by reason of insanity; and
- (c) a finding under section 66A(1) of the Summary Courts Act that the person in question did the act or made the omission charged; Ch. 4:20.

“Court” includes a Judge, a Magistrate, a Justice of the Peace or a Coroner and, in the case of a specified Court, includes a Judge or Magistrate or, as the case may be, the Justice having power to act in connection with proceedings before that Court;

“proceedings against a fugitive offender” means proceedings under section 12 of the Extradition (Commonwealth and Foreign Territories) Act; Ch. 12:04.

“surrender to custody” means in relation to a person released on bail, surrendering himself into the custody of the Court or of a police officer, in accordance with the conditions under which bail was granted, at the time and place appointed for him to do so;

“vary”, in relation to bail, means imposing further conditions after bail is granted, or altering or rescinding conditions;

“young person” means a person who has attained the age of fourteen and is under the age of sixteen.

(2) Where a written law which relates to bail in criminal proceedings refers to the person bailed appearing before a Court, it is to be construed, unless the context otherwise requires, as referring to his surrendering himself into the custody of the Court.

4. This Act applies—

- (a) to an offence committed in Trinidad and Tobago or elsewhere; and
- (b) to an extraditable offence under the Extradition (Commonwealth and Foreign Territories) Act. Application of Act.
Ch. 12:04.

Eligibility for bail.

Part I.
First Schedule.

Part II.
First Schedule.

5. (1) Subject to subsection (2), a Court may grant bail to any person charged with any offence other than an offence listed in Part I of the First Schedule.

(2) A Court shall not grant bail to a person who is charged with an offence listed in Part II of the First Schedule and has been convicted on three occasions arising out of separate transactions—

- (a) of any offence; or
- (b) of any combination of offences,

listed in that Part, unless on application to a Judge he can show sufficient cause why his remand in custody is not justified.

(3) In calculating the three prior convictions referred to in subsection (2), only those convictions recorded within the last ten years shall be taken into account.

Circumstances in which bail may be denied. [19 of 2005 [12 of 2012].
Ch. 13:51.

Ch. 46:01.

6. (1) In this section—

- (a) “default”, in relation to the defendant, means a default for which he is to be dealt with under section 10 of the Probation of Offenders Act;
- (b) references to previous grants to bail in criminal proceedings include a reference to bail granted before the coming into operation of this Act;
- (c) references to a defendant’s being kept in custody or being in custody include, where a defendant is a child or young person, his being kept in a place of detention provided under Part X of the Children Act;
- (d) the question whether an offence is one which is punishable with imprisonment shall be determined without regard to any enactment prohibiting or restricting the imprisonment of young offenders or first offenders.

(2) Where the offence or one of the offences of which the defendant is accused in the proceedings is punishable with

imprisonment, it shall be within the discretion of the Court to deny bail to the defendant in the following circumstances:

- (a) where the Court is satisfied that there are substantial grounds for believing that the defendant, if released on bail would—
 - (i) fail to surrender to custody;
 - (ii) commit an offence while on bail; or
 - (iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- (b) where the Court is satisfied that the defendant should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- (c) where he is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act;
- (d) where the Court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this section for want of time since the institution of the proceedings against him;
- (e) where, having been released on bail in or in connection with the proceedings for the offence, he is arrested in pursuance of section 13;
- (f) where he is charged with an offence alleged to have been committed while he was released on bail; or
- (g) where his case is adjourned for inquiries or a report and it appears to the Court that it would be impracticable to complete the inquiries or make the report without keeping him in custody.

Ch. 14:01.

(3) In the exercise of its discretion under subsection (2)(a) the Court may consider the following:

- (a) the nature and seriousness of the offence or default and the probable method of dealing with the defendant for it;

- (b) the character, antecedents, associations and social ties of the defendant;
- (c) the defendant's record with respect to the fulfilment of his obligations under previous grants of bail in criminal proceedings;
- (d) except in the case of a defendant whose case is adjourned for inquiries or a report; the strength of the evidence of his having committed the offence or having failed to surrender to custody; and
- (e) any other factor which appears to be relevant.

(4) Where any offence of which the defendant is accused or convicted in the proceedings is one which is not punishable with imprisonment, it shall be within the discretion of the Court to deny bail in the following circumstances:

- (a) where it appears to the Court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail and the Court believes, in view of that failure, that the defendant, if released on bail, would fail to surrender to custody;
- (b) where the Court is satisfied that he should be kept in custody for his own protection or, where he is a child or young person, for his own welfare;
- (c) where he is in custody in pursuance of a sentence of a Court or any authority acting under the Defence Act;
- (d) where, having been released on bail in or in connection with the proceedings for the offence, he is arrested in pursuance of section 14.

Ch. 14:01.

Appeals.
[19 of 2005].

6A. (1) Where a person—

- (a) is convicted by a Magistrates' Court for an offence punishable with imprisonment;
- (b) appeals; and
- (c) is refused or granted bail by the High Court,

that person or the prosecution, as the case may be, may appeal the decision of the High Court to the Court of Appeal.

(2) Where an appellant seeks bail under subsection (1), the Court of Appeal may—

- (a) grant bail; or
- (b) deny bail if the Court is satisfied that there are no special circumstances to justify the granting of bail,

to the appellant.

(3) Where the prosecution appeals a decision of the High Court to grant bail under subsection (1), the Court of Appeal may—

- (a) dismiss the appeal and uphold the decision of the High Court;
- (b) allow the appeal, revoke the grant of bail and order that the person be arrested; or
- (c) vary the conditions of the bail.

7. (1) Subject to subsection (3), where the defendant is granted bail, the conditions mentioned in subsections (3) to (6) of section 12 shall not be imposed unless it appears to the Court that it is necessary to do so—

Restrictions on conditions of bail.

- (a) for the purpose of preventing the occurrence of any of the events referred to in section 6;
- (b) to enable enquiries or a report to be made into the defendant's physical or mental condition.

(2) Subsection (1) also applies to any application to the Court to vary the conditions of bail or to impose conditions in respect of bail which has been granted unconditionally.

(3) Nothing in this section shall restrict the Magistrate's power under section 66A of the Summary Courts Act to remand the defendant.

Ch. 4:20.

8. (1) Subject to subsection (2), where—

Record of decision as to bail.

- (a) a Court or a police officer grants bail in criminal proceedings;
- (b) a Court refuses bail in criminal proceedings to an accused person;

- (c) a Court or a police officer appoints a time or place or a Court appoints a different time or place for a person granted bail in criminal proceedings to surrender to custody; or
- (d) a Court varies any condition of bail or imposes conditions in respect of bail in criminal proceedings,

that Court or police officer shall make a record of the decision and, where requested to do so by the person in relation to whom the decision was taken, shall cause a copy of the record of the decision as soon as practicable after the record is made, to be given to him.

(2) Where bail in criminal proceedings is granted by endorsing a warrant of arrest, the police officer who releases on bail the person arrested shall make the record required by subsection (1) instead of the Judge or Magistrate who issued the warrant.

Court to give reasons for granting or refusing bail.

9. (1) Where a Magistrate's Court—

- (a) grants bail in criminal proceedings over an objection to bail by or on behalf of the police;
- (b) refuses bail in criminal proceedings;
- (c) imposes conditions in granting bail in criminal proceedings; or
- (d) varies any conditions of bail,

in relation to an accused person, then the Magistrate shall, in order to enable the accused person and the police to consider making an application in the matter to the High Court, give reasons for granting or refusing bail or for imposing or varying the conditions.

(2) A Court, which is by virtue of subsection (1) required to give reasons for its decisions, shall include a note of those reasons in the record of its decision and shall give a copy of that note to the police and to the accused person in relation to whom the decision is taken.

Accused to be informed of his right to apply to High Court for bail.

10. Where a Magistrate's Court inquiring into or trying an offence alleged to have been committed by a person refuses bail, it shall inform him that he may apply to the High Court to be granted bail.

11. (1) Where a Magistrate's Court grants or refuses bail in criminal proceedings or imposes conditions in granting bail in criminal proceedings, the High Court may, on application by an accused person or the prosecution, grant or refuse bail or vary the conditions.

Power of High Court to grant, refuse or vary conditions of bail. [19 of 2005].

(2) Where the High Court grants bail to an accused person under subsection (1), it may direct him to appear at a time and place which the Magistrate's Court could have directed and the recognisance of any surety shall be conditioned accordingly.

(3) Where the High Court refuses an accused person bail under subsection (1) and the accused is not then in custody, the Court shall issue a warrant for the arrest of the accused, and the accused shall be brought before a Magistrate's Court and shall be remanded in custody.

(4) The powers of the High Court under this section are without prejudice to the jurisdiction vested in the High Court under any other law.

11A. (1) Where an application is made to the High Court under section 11(1) and the High Court refuses or grants the application or varies the conditions, the accused person or the prosecution, as the case may be, may appeal that decision to the Court of Appeal.

Right of appeal. [19 of 2005].

(2) Where the Court of Appeal hears an appeal under subsection (1), the Court of Appeal may make any order as it thinks just.

(3) No appeal shall lie from an order of the Court of Appeal made under subsection (2).

12. (1) A person granted bail in criminal proceedings shall surrender to custody.

General provisions relating to bail.

(2) A Court may require any person applying for bail to provide, as a condition for bail before his release, a surety to secure his surrender to custody.

(3) A Court may further require any person applying for bail to—

- (a) surrender his passport to the Court;
- (b) inform the Court if he intends to leave the State;
- (c) report at specified times to any police station,

and comply with any requirements as appear to the Court to be necessary to ensure that—

- (i) he surrenders to custody;
- (ii) he does not commit an offence while on bail;
- (iii) he does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person; and
- (iv) he makes himself available for the purpose of enabling inquiries or a report or any medical examination, to be made to assist the Court in dealing with him for the offence.

(4) Where it appears that the applicant for bail is unlikely to remain in Trinidad and Tobago until the time appointed for him to surrender to custody, he may be required, before being released on bail, to give security for his surrender to custody and the security may be given by him or on his behalf.

(5) Where a parent or guardian of a child or young person consents to be a surety for the child or young person for the purposes of this section, the parent or guardian may be required to ensure that the child or young person complies with any condition imposed on him by virtue of subsection (3), except that—

- (a) no condition shall be imposed on the parent or the guardian of a young person by virtue of this subsection where it appears that the young person will attain the age of sixteen before the time to be appointed for him to surrender to custody; and
- (b) the parent or guardian shall not be required to secure compliance with any condition to which

his consent does not extend and shall not in respect of those conditions to which his consent does extend, be bound in a sum greater than two thousand, five hundred dollars.

(6) Where a Court has granted bail in criminal proceedings, it may on application—

- (a) by or on behalf of the person to whom it was granted; or
- (b) by the prosecutor or a police officer,

vary the conditions of bail or, in respect of bail which it has granted unconditionally, impose conditions.

(7) This section is subject to section 66A(3) of the Summary Courts Act.

Ch. 4:20.

13. (1) A person who has been released on bail in criminal proceedings and has failed to surrender to custody is guilty of an offence unless he has reasonable cause for his failure to surrender to custody.

Offence of absconding by person released on bail.

(2) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision shall not constitute a reasonable cause for that person's failure to surrender to custody.

(3) In any proceedings for an offence under subsection (1), a document purporting to be a copy of any part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody and duly certified by the appropriate officer of the Court to be a true copy of that part of the record shall be evidence of the time and place appointed for that person to surrender to custody.

(4) For the purposes of subsection (3)—

- (a) "prescribed record" means the record of the decision of the Court, or police officer made in pursuance of section 8(1);
- (b) "duly certified" means certified by the appropriate officer of the Court or, by the police officer who took the decision or the police officer in charge of the police station from

which the person to whom the record relates was released; and

- (c) “appropriate officer of the Court” means—
- (i) in the case of a Magistrate’s Court, the Clerk of the Peace or such other officer as may be authorised by a Magistrate to act for the purpose;
 - (ii) in the case of the Supreme Court of Judicature, the Registrar, the Deputy Registrar, an Assistant Registrar, or such other officer as may be authorised to act for the purpose.

Penalty for absconding.

14. (1) An offence under section 13(1) is punishable on summary conviction.

(2) A person who is convicted summarily of any offence under section 13(1) is liable to imprisonment for two years and to a fine of three thousand dollars.

Liability to arrest for absconding or breaking conditions of bail.
[12 of 2012].

15. (1) Where a person who has been released on bail in criminal proceedings and is under a duty to surrender into the custody of a Court fails to surrender to custody at the time appointed for him to do so, the Court may issue a warrant for his arrest.

(2) Where a person who has been released on bail (in criminal proceedings) absents himself from the Court without the leave of the Court, at any time after he has surrendered into the custody of the Court and before the Court is ready to begin or to resume the hearing of the proceedings, the Court may issue a warrant for his arrest.

(3) A person who has been released on bail in criminal proceedings may be arrested without warrant by a police officer where—

- (a) the police officer has reasonable grounds for believing that that person is not likely to surrender to custody;
- (b) the police officer has reasonable grounds for believing that that person has committed or is about to commit another offence while on bail;

- (c) the police officer has reasonable grounds for believing that that person is likely to break any of the conditions of his bail or has reasonable grounds for suspecting that that person has broken any of those conditions; or
 - (d) in the case where that person was released on bail with a surety, the surety notifies a police officer in writing that that person is unlikely to surrender to custody and that for that reason the surety wishes to be relieved of his obligations as a surety.
- (4) A person arrested in pursuance of subsection (3) shall be brought as soon as practicable, and in any event within twenty-four hours after his arrest or at the next sitting of the Court—
- (a) before a Magistrate for the district in which he is arrested; or
 - (b) where he is arrested within twenty-four hours of the time appointed for him to surrender to custody, before the Court at which he is to surrender to custody.
- (5) Where a Magistrate before whom a person is brought under subsection (4) is of the opinion that that person—
- (a) is not likely to surrender to custody;
 - (b) has committed or was about to commit another offence; or
 - (c) has broken or is likely to break any condition of his bail,

the Magistrate may, subject to subsection (6), remand him in custody or commit him to custody, as the case may require or, alternatively, grant him bail subject to the same or different conditions, save that where the Magistrate is not of any such opinion, the Magistrate shall grant him bail subject to the same conditions, if any, as were originally imposed.

(6) Where the person brought before the Magistrate under subsection (4) is a child or young person and the Magistrate does not grant him bail, subsection (5) shall have effect subject to section 52 of the Children Act.

Ch. 46:01.

Bail with surety.

16. (1) This section applies where a person is granted bail in criminal proceedings on condition that he provides a surety for the purpose of securing his surrender to custody.

(2) In considering the suitability of a proposed surety referred to in subsection (1), the Court shall—

(a) have regard, amongst other things, to—

- (i) the surety's profession, occupation, trade or business;
- (ii) his character and his previous convictions, if any; and
- (iii) his proximity, whether of kinship, place or residence or otherwise, to the person for whom he is to be a surety; and

(b) require the surety to make a statutory declaration in the form set out in the Second Schedule.

Second
Schedule.

(3) Where a Court grants a person bail in criminal proceedings under subsection (1), but is unable to release him because no surety or no suitable surety is available, the Court shall fix the amount in which the surety is to be bound and subsections (4) and (5) shall apply for the purpose of enabling the recognisance of the surety to be entered into subsequently.

(4) A recognisance of the surety under subsection (3) may be entered into before such of the persons or descriptions of persons as the Court may by order specify or, if it makes no such order, before any of the following persons:

- (a) where the decision is taken by a Magistrate's Court, before any Magistrate or Clerk of the Peace;
- (b) where the decision is taken by the High Court or the Court of Appeal, before any of the persons specified in paragraph (a) or, where the Rules of the Supreme Court so provide, by a person of such other description as is specified in the Rules.

(5) Where a surety seeks to enter into his recognisance before any person in accordance with subsection (4), but that

person declines to take his recognisance because he is not satisfied with the surety's suitability, the surety may apply to—

- (a) the Court which fixed the amount of the recognisance in which the surety was to be bound; or
- (b) a Magistrate's Court for the district in which he resides,

for that Court to take his recognisance and that Court shall, if satisfied of his suitability, take his recognisance.

(6) Where, in pursuance of subsection (4), a recognisance is entered into otherwise than before the Court that fixed the amount of the recognisance, the recognisance shall have the full force and effect as if it had been entered into before that Court.

17. (1) Where a person has given security in pursuance of section 12(4), and the Court is satisfied that he failed to surrender to custody, then, unless it appears that he had reasonable cause for his failure, the Court may order the forfeiture of the security.

Forfeiture of security or recognisance.

(2) Where a Court orders the forfeiture of security under subsection (1), the Court may declare that the forfeiture extends to such amount less than the full value of the security as it thinks fit to order.

(3) Security which has been ordered to be forfeited under subsection (1) shall, to the extent of the forfeiture—

- (a) where it consists of money, be accounted for and paid in the same manner as a fine imposed by that Court would be;
- (b) where it does not consist of money, be enforced by such Magistrate's Court as may be specified in the order.

(4) This section shall be in addition to any other provision relating to enforcement of recognisances entered into in criminal proceedings under any other written law.

18. (1) Where a person agrees with another to indemnify that other against any liability which that other may incur as a surety to secure the surrender to custody of a person accused or convicted of or under arrest for an offence, he and that other person are guilty of an offence.

Offence of agreeing to indemnify surety in criminal proceedings.

(2) An offence under subsection (1) is committed whether the agreement is made before or after the person to be indemnified becomes a surety, whether or not he becomes a surety and whether or not the agreement contemplates compensation in money's worth.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for two years and to a fine of three thousand dollars.

Offence to stand surety on consideration of property being used as security.

19. (1) It is an offence for a person to stand surety on the consideration of property which, at the time of standing such surety, is being used as security for the purpose of standing surety for any other person unless the approval of the Court is first obtained.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for two years and to a fine of three thousand dollars.

Amendments. Third Schedule.

***20.** The laws specified in the Third Schedule are amended in the manner specified therein.

Saving.

21. (1) The provisions of this Act are in addition to those provisions of any other written law relating to bail.

(2) Notwithstanding any written law bail granted before the appointed day is valid.

*See Note on section 20 on page 2.

FIRST SCHEDULE

Section 5.

EXCEPTIONS TO PERSONS ENTITLED TO BAIL

PART I

**CIRCUMSTANCES IN WHICH PERSONS
ARE NOT ENTITLED TO BAIL**

Where a person is charged with any of the following offences:

- (a) murder;
- (b) treason;
- (c) piracy or hijacking;
- (d) any offence for which death is the penalty fixed by law.

PART II

SPECIFIED OFFENCES

- (a) trafficking in narcotics or possession of narcotics for the purpose of trafficking;
- (b) possessing and use of firearms or ammunition with intent to injure;
- (c) possession of imitation firearms in pursuance of any criminal offence;
- (d) rape;
- (e) sexual intercourse with a female under fourteen;
- (f) buggery;
- (g) shooting or wounding with intent to do grievous bodily harm;
- (h) robbery, robbery with aggravation, armed robbery;
- (i) larceny of a motor vehicle;
- (j) burglary and housebreaking;
- (k) perverting or defeating the course of public justice;
- (l) arson;
- (m) an attempt to commit any offence listed in this Part or in Part I;
- (n) receiving stolen goods.

Section 16
(2)(b).

SECOND SCHEDULE

**STATUTORY DECLARATION TO BE MADE BY A
SURETY OR SURETIES**

REPUBLIC OF TRINIDAD AND TOBAGO

County of

I, the undersigned of
do solemnly and sincerely declare as follows:

*I/We have agreed to offer *myself/ourselves as surety for
...../defendant in the case State/Police vs.
.....

In this regard *I/we acknowledge to owe to the State the sum of
..... to be levied on *my/our several movable
and immovable property if the said
fails in the condition of the recognisance to be entered before
..... Magistrate/Justice of the Peace.

And for that purpose *I/we, the undersigned declare—

- (a) that *my/our movable and immovable property including other financial assets consist of the following:
 - (i) Particulars of immovable property—description of immovable property, date of the Deed and name and address of the parties to the Deed
 - (ii) Estimated value of immovable property
 - (iii) Bank balances—name of the bank, account number and amount
 - (iv) Any other movable property and its value
- (b) that the immovable property specified in subparagraph (a)(i) above is owned by *me/us free from any encumbrances; or
*that the immovable property specified in subparagraph (a)(i) under mortgage, hypothecated, etc., in consideration of
- (c) that *I/we have not stood *surety/sureties on the consideration of the aforesaid *immovable/movable property in the *case/cases noted below which *case/cases *has/have been determined;
- (d) that *I/we have not been convicted of any criminal offence. Further a criminal charge is pending against *me/us. /*No criminal charge is pending against *me/us.

Signed

.....
Declarant/Declarants

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

*I/We make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, and *I am/we are aware that if there is any statement in this declaration which is false in fact, which *I/we know or believe to be false or do not believe to be true, *I am/we are liable to fine and imprisonment.

Signed

.....
Declarant /Declarants

Declared before me this day of 20

Signed
Magistrate, Justice of the Peace, Registrar

*Strike whichever is inapplicable.
