

**Trial Court Emergency Administrative Order 22-2**  
**Temporary Alternative Procedures for Bail Magistrates and Bail Commissioners Setting and Taking Bail**  
**after Court Hours during the COVID-19 Pandemic**

Due to the current increase in positive COVID-19 coronavirus cases in Massachusetts and the risk of person-to-person transmission of the virus, which has been declared a pandemic by the World Health Organization, and based on medical guidance, it is hereby ORDERED pursuant to my authority as set forth in G.L. c. 211B, § 9, that, effective as of the date of this Order, Bail Magistrates and Bail Commissioners may release individuals under arrest without the need to appear in-person at the place of detention subject to the following:

***I. Bail Magistrates***

Police departments, jails and houses of correction, programs operated by or for the Department of Youth Services (collectively, "holding authorities") in jurisdictions utilizing Bail Magistrates may provide Bail Magistrates with information concerning individuals under arrest, including but not limited to booking sheets, arrest reports, applications for criminal complaints and Court Activity Record Information (CARI) reports telephonically or via electronic mail, facsimile or other electronic means. The CARI report shall include the information from the Registry of Civil Restraining Orders, the Criminal Justice Information System as maintained by the Department of Criminal Justice Information Services and information provided by the Registry of Motor Vehicles. The Bail Magistrate shall review the documents and set personal recognizance, cash bail and/or terms of release and communicate same to the holding authority. The holding authority will complete and sign the Recognizance Form, when appropriate, according to the instructions of the Bail Magistrate. Any information provided to Bail Magistrates shall only be used for criminal justice purposes related to their official duties and responsibilities during the hours that courts are closed. The documents must be kept confidential and shall be destroyed unless such information is required to be maintained as a part of the case file.

***II. Bail Commissioners***

Jurisdictions utilizing Bail Commissioners may communicate telephonically with the scheduled Bail Commissioner and provide them with provide information concerning individuals under arrest, including but not limited to booking sheets, arrest reports, applications for criminal complaints and related documents. Court Activity Record Information (CARI) reports may be provided telephonically to Bail Commissioners, but any written CARI reports may only be provided to the State Bail Administrator via electronic mail, facsimile, or other electronic means. The State Bail Administrator will communicate with the Bail Commissioners to review and/or confirm the information contained in the CARI documents. The Bail Commissioner shall then set personal recognizance, cash bail and/or terms of release and communicate the same to the holding authority. The holding authority will complete and sign the Recognizance Form according to the instructions of the Bail Commissioner.

***III. Releases on Personal Recognizance***

The bail colloquy between Bail Magistrates or Bail Commissioners and the individual under arrest may be telephonically. The individual under arrest and any interpreter, if an interpreter is necessary, will be placed under oath by the Bail Magistrate or Bail Commissioner. The Bail Magistrate or Bail Commissioner will conduct the colloquy with the individual in custody. The holding authority will indicate where the individual under arrest is to sign the Recognizance Form and will provide the

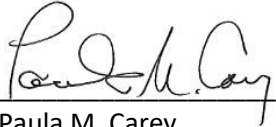
individual with the copy of the Recognizance form marked "Defendant Copy." The Bail Magistrate or Bail Commissioner will not be entitled to a fee pursuant to G.L. c. 262, § 24 if they conduct the release of an individual on personal recognizance remotely.

**IV. Releases on Cash Bail**

If the Bail Magistrate or Bail Commissioner sets a cash bail and the individual under arrest can post the bail, the Bail Magistrate or Bail Commissioner may conduct the release of the individual telephonically. The individual under arrest and any interpreter, if an interpreter is necessary, will be placed under oath by the Bail Magistrate or Bail Commissioner. The Bail Magistrate or Bail Commissioner will conduct the colloquy with the individual in custody. The holding authority will indicate where the individual under arrest is to sign the Recognizance Form and will provide the individual with the copy of the Recognizance form marked "Defendant Copy." The Bail Magistrate or Bail Commissioner may utilize financial applications such as PayPal, Cashapp, Zelle or Venmo to receive the bail from the individual under arrest or from a surety but only if the person posting the bail consents to paying money in that manner. If the person does not consent to paying bail through a financial application, the Bail Magistrate or Bail Commissioner shall go to the place of the holding authority and conduct the release in-person. The Bail Magistrate's or the Bail Commissioner's bail checking account must be linked to the financial application to receive the bail. If a surety is posting the bail, they must be given an oath and all statutory warnings as if the oath were being conducted in-person. At the conclusion of the release, the surety shall be given the copy of the Recognizance Form marked "Surety Copy." The Bail Magistrate or Bail Commissioner will not be entitled to a fee pursuant to G.L. c. 262, § 24 if they conduct the release of an individual on personal recognizance remotely.

Nothing in this order shall preclude a Bail Magistrate or Bail Commissioner from performing releases on personal recognizance or on bail in-person at police stations, houses of correction, jails, or programs operated by or for the Department of Youth Services and collecting a fee. This order shall remain in effect until further order of the Court.

Dated: January 18, 2022  
Effective: January 18, 2022

  
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Paula M. Carey  
Chief Justice of the Trial Court