

**KENTUCKY BAR ASSOCIATION
KENTUCKY RULES OF CRIMINAL PROCEDURE**

BAIL

RCr 4.42 Change of conditions of release; bond forfeiture

(1) If at any time following the release of the defendant and before the defendant is required to appear for trial the court is advised of a material change in the defendant's circumstances or that the defendant has not complied with all conditions imposed upon his or her release, the court having jurisdiction may order the defendant's arrest and require the defendant or the defendant's surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of release be changed, or both.

(2) A copy of said order shall be served on the defendant and the defendant's surety or sureties. The court shall order the arrest of the defendant only when it has good cause to believe the defendant will not appear voluntarily upon notice to appear.

(3) Where the court is acting on advice that the defendant has not complied with all conditions imposed upon his or her release, the court shall not change the conditions of release or order forfeiture of the bail bond unless it finds by clear and convincing evidence that the defendant has wilfully violated one of the conditions of his or her release or that there is a substantial risk of nonappearance.

(4) Where the court is acting on advice of a material change in the defendant's circumstances, it shall not change the conditions of release or order forfeiture of the bail bonds unless it finds by clear and convincing evidence that a material change in circumstances exists and that there is a substantial risk of nonappearance.

(5) Before the court may make the findings required for change of conditions or forfeiture of bail under this rule, the defendant and the defendant's surety or sureties shall be granted an adversary hearing comporting with the requirements of due process. Whenever the court changes conditions of release (except upon motion of the defendant) or orders forfeiture of bail, it must furnish the defendant and the defendant's surety or sureties with written reasons for so doing.

HISTORY: Amended by Order 98-3, eff. 3-1-99; prior amendments eff. 11-1-95 (Order 95-1), 7-8-83, 9-1-81 (Order 81-5); adopted eff. 6-19-76