



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MONTEREY

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# MEMORANDUM

**TO:** Monterey County District Attorney's Office  
Monterey County Public Defender's Office  
Monterey County Sheriff's Office  
Monterey County Chief Law Enforcement Officer's Organization  
Monterey County Bar Association

**FROM:** Presiding Judge Timothy P. Roberts 

**DATE:** May 15, 2012

**SUBJECT:** 2012 Bail Schedule - DUI Bail & Other "Zero" Bail Rules - Explanation

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The court has received inquiries about the meaning of the use of "zero" as the bail amount for felony violations of 23153(b). This memo is intended to clarify the use of zero as the bail amount for crimes wherever it appears in the bail amount column of the 2012 Bail Schedule.

## DUI Bail & Other "Zero" Bail Rules - Explanation

- Zero ("0") in the bail amount column means no additional bail is to be added. It does not make the charge a "No Bail" charge.
- Misdemeanors: Although bail is established for misdemeanor violations of both 23153(a) and (b), misdemeanor bails never stack.

## VOPs:

- If an individual is placed on probation for 23153(b) as a misdemeanor, and is freshly arrested for violation of probation under 1203.2, bail is set at double the misdemeanor bail amount. This is the reason that bail is established for 23153(b) as a misdemeanor.
- If an individual is placed on probation for 23153 as a felony, and is freshly arrested for violation of probation under 1203.2(a), the felony bail for a VOP is "No Bail" whether the conviction is for 23153(a) or 23153(b).

No additional bail is required for release of a person following a fresh arrest for violation of subdivision (b) of 23153, but bail must be posted for 23153(a). A person freshly arrested for 23153(b) is always also arrested for 23153(a). The converse is not true.

*The mission of the Court is to dispense justice in all matters within its jurisdiction in an impartial manner and in accordance with the law.*

The reason no bail is required following fresh arrest for violation of 23153(b) is to eliminate the unfair bail stacking when GBI is alleged. When GBI is alleged, both 23153(a) and (b) are strikes and bail must be stacked. If bail for each charge were the same in a situation involving GBI, the person who takes a chemical test is arrested for both 23153(a) and 23153(b) and would have to pay twice as much as the person who refuses to take a chemical test. The aggravating circumstance of refusal would be rewarded with a lower bail; the compliant individual's bail would be twice as high. Principles underlying PC § 654's ban of multiple punishment for the same conduct make bail stacking for 23153(a) and (b) unfair. By zeroing out bail for the felony violation of 23153(b), a person arrested for DUI with GBI is treated the same whether or not he or she takes a chemical test, unless the officer also books the subject for refusal to take a test.

Thank you.

cc: Judicial Officers