

**§1028. De novo determination of bail under section 1026**

**1. By defendant in custody.** Any defendant who is in custody as a result of a decision of a bail commissioner acting under section 1026 may file a petition with the Unified Criminal Docket for a de novo determination of bail. The bail commissioner making the decision shall advise the defendant of the right to obtain a de novo determination.

A. If the defendant chooses to have a de novo determination of bail, the defendant must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the court.

If no justice or judge will be available within 48 hours, excluding Saturdays, Sundays and holidays, arrangements must be made for a de novo determination of bail in the nearest county in which a justice or judge is then sitting. The defendant's custodian shall provide transportation to the court as required by this chapter without the issuance of any writ or other process.

If there is no justice or judge available, the defendant must be retained in custody until the petition can be considered. [PL 2015, c. 431, §12 (AMD).]

B. The petition and such other papers as may accompany it must be delivered to the clerk of the Unified Criminal Docket to which the defendant is transported and upon receipt the clerk shall notify the attorney for the State. The court shall review the petition de novo and set bail in any manner authorized by section 1026. [PL 2015, c. 431, §12 (AMD).]

C. Upon receipt of a pro se petition or upon oral or written request of the attorney for the defendant, the clerk shall set a time for hearing and provide oral or written notice to the attorney for the State. The hearing must be scheduled for a time not less than 24 hours nor more than 48 hours after the clerk notifies the attorney for the State. [PL 1997, c. 543, §11 (NEW).]

[PL 2015, c. 431, §12 (AMD).]

**2. By defendant not in custody.** Any defendant who is not in custody but who is aggrieved by a decision of a bail commissioner acting under section 1026 as to the amount or conditions of bail set may file a petition with the Unified Criminal Docket for a de novo determination of bail. A justice or judge shall review the petition de novo and set bail in any manner authorized by section 1026. The petition must be considered as scheduled by the clerk.

[PL 2015, c. 431, §12 (AMD).]

**3. No further relief.** The de novo determination by a justice or judge under this section is final and no further relief is available.

[PL 2015, c. 431, §12 (AMD).]

**SECTION HISTORY**

PL 1987, c. 758, §20 (NEW). PL 1997, c. 543, §§10,11 (AMD). PL 1997, c. 585, §4 (AMD). PL 1999, c. 731, §ZZZ10 (AMD). PL 1999, c. 731, §ZZZ42 (AFF). PL 2003, c. 66, §1 (AMD). PL 2015, c. 431, §12 (AMD).

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