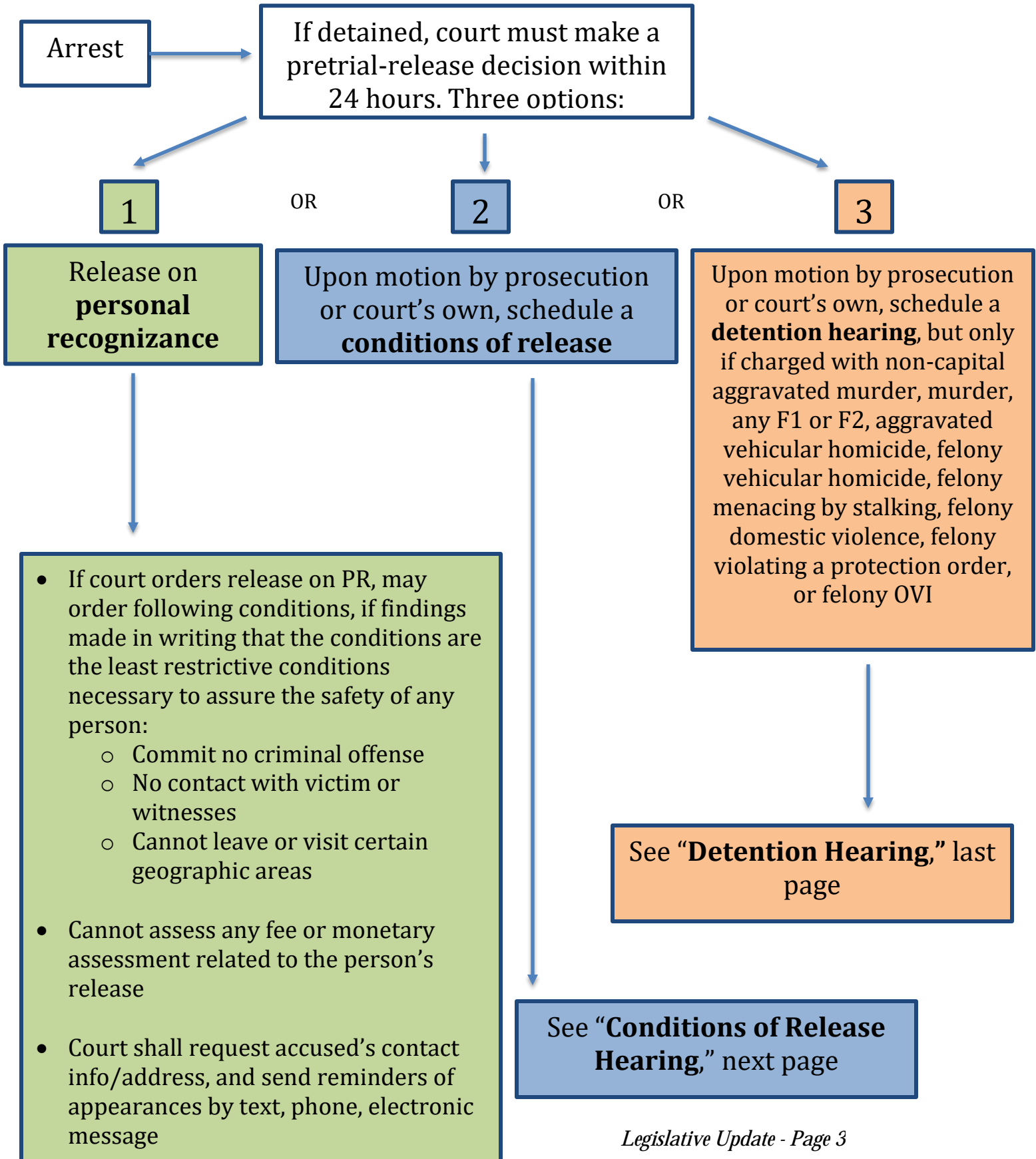


Summary of SB 182/HB 315 – Bail Reform
Prepared by Ohio Judicial Conference
As introduced



Conditions of Release Hearing

Upon motion for a Conditions of Release Hearing, court shall either:

- Deny the motion and release accused on personal recognizance (see previous page)
- Grant the motion and schedule a hearing:
 - Within 72 hours if the offense is misdemeanor DV
 - Within 48 hours for any all other offenses

Hearing can be continued:

- Up to three calendar days if prosecution requests
- Up to seven calendar days if the accused requests

At hearing:

- Accused has right to counsel (appointed if indigent), can testify, present witnesses, cross-examine, present information by proffer
- Court shall order pretrial release and set only conditions prescribed in the bill (see below) unless clear & convincing evidence that the conditions will not reasonably assure the safety of any person or will not assure the accused's future appearance
- Rebuttable presumption that release on PR will assure safety of any person and future appearance

Conditions of release

- In determining whether to impose additional conditions upon the accused's release, court may only consider:
 - Information related to the nature/circumstances of the offense charged
 - Information related to the danger any person/organization resulting from accused's release
 - Recommendations from pretrial services, if applicable
 - With regard to likelihood of future appearances, the accused's employment, community ties, family connections/obligations, past conduct, court appearance records
- If court finds by clear & convincing evidence that any less restrictive conditions would not reasonably assure safety or future appearance, court may impose only the conditions from this list that it determines are least restrictive means necessary:
 - Requirement not to commit an offense
 - Avoid contact with victim or witnesses
 - Reasonable travel & association restrictions
 - Maintain or actively seek employment
 - Commence or maintain education program
 - Reasonable curfew
 - Refrain from possessing firearm/weapons
 - Refrain from use /possession of non-prescribed drugs
 - Undergo medical/psych treatment/counseling for alcohol/drug dependency if charged with a drug-related offense or committed offense while under influence
 - Electronic monitor at no cost to accused
 - Periodic reporting to supervising authority
 - Execution of secured bond (**SEE FOLLOWING PAGE**)
 - Refrain from visiting certain locations
- If court imposes any of the above conditions, must do so via written statement including findings of fact/reason for imposition of each condition, and advise accused of penalties for violating
- Conditions can be altered upon motion by prosecution or accused, and court may grant with or without a hearing within 30 days of filing of motion

Conditions of Release: “Secured Bonds”

“Secured bond” defined: *a financial bond to be paid prior to the release of the accused in order to secure the accused’s pretrial release, and includes a monetary bond, percentage bond, property bond, and surety bond*

While a court may impose a secured bond following a condition of release hearing, there is a presumption that any condition the court imposes be **non-monetary**.

- The court may impose a secured bond only if there is clear and convincing evidence that the accused will not appear in the future
- The bond cannot be set based upon a predetermined bond schedule
- The bond cannot be set in an amount the accused cannot afford (*see “Amount of bond” below*)
- In order setting a secured bond, the court shall issue written findings regarding:
 - The clear and convincing evidence that the accused will not appear at a future date and time
 - Why monetary conditions of release will reasonably assure the accused’s appearance
 - Why the bond amount set is the lowest amount necessary to reasonably assure the accused’s appearance

Amount of bond

- If the court intends to set a secured bond, court must first make an ability-to-pay inquiry by requesting the accused complete an affidavit of financial hardship, which the court must review to determine the maximum secured bond amount that the accused can pay.
- The affidavit shall request the following information:
 - The accused’s (and spouse’s) monthly income after taxes
 - Other sources of income include public assistance
 - Monthly expenses (rent, mortgage, utilities, health care, loan payments, credit card payments, educational expenses, transportation expenses, child care, child and spousal support, fines, court costs, restitution)
- Court can then only set bond in an amount the accused can afford, not to exceed 25% of the total amount left after expenses are deducted from income
- The amount set must be based on the accused’s ability to pay within 24 hours of setting the bond amount

Detention Hearing

- Available only upon motion of the prosecution or the court's own motion, and if accused is charged with non-capital aggravated murder, murder, any F1 or F2, aggravated vehicular homicide, felony vehicular homicide, felony menacing by stalking, felony domestic violence, felony violating a protection order, or felony OVI
- Court to hold hearing to determine whether the accused shall be denied bail or assigned conditions of release
 - Judge may order the accused b
- Process currently exists in R.C. 2937.222, and bills change little from existing law
- The accused may appeal an order denying bail
 - Court of appeals must enter its judgment affirming or denying the order denying bail within fifteen calendar days