

IN THE CIRCUIT COURT OF
THE EIGHTEENTH JUDICIAL
CIRCUIT IN AND FOR BREVARD
COUNTY

ADMINISTRATIVE ORDER NO:
10-07-B
SUPERSEDES 07-30-B

IN RE: BAIL SCHEDULE

Bail is an essential part of the criminal justice system, and a bail schedule is hereby promulgated so that law enforcement officers making warrantless arrests can set bail for those arrests. This schedule is for law enforcement officers setting bail prior to first appearance. It does not bind in any way judges conducting first appearance hearings or judges conducting bond hearings. The judges may set bail at any reasonable amount utilizing the factors set forth in Rule 3.131(b)(3) of the Florida Rules of Criminal Procedure and Section 903.046 Florida Statutes. **However, judges must be mindful that bail cannot be set at "None" for a new substantive offense unless it is punishable by death or life imprisonment and the proof of guilt is evident or the presumption great.**

In this bail schedule, special provisions setting a bail amount for specific offenses control over general provisions that might also be applicable to the specific offense. A separate and specific bail amount must be set for each offense charged.

Bail will have a condition on it in every case that the defendant will have no direct or indirect contact with the alleged victim; and that the defendant shall refrain from criminal activity of any kind.

I. OFFENSES FOR WHICH NO BAIL IS TO BE GRANTED THE DEFENDANT
PENDING THE INITIAL APPEARANCE PROCEEDING BEFORE A JUDGE

1. Capital Felony
2. Life Felony
3. First Degree Felony Punishable by Life
4. First Degree Felony (Violent)
5. Second Degree Felony (Violent-with at least one prior violent felony conviction)
6. Attempt/Solicitation/Conspiracy to Commit First Degree Murder
7. Persons who are arrested for a felony while released on bail for a separate felony
8. Armed Robbery (Firearm or Dangerous Weapon)
9. Armed Burglary (Firearm or Dangerous Weapon)
10. Carjacking
11. Armed Home Invasion (Firearm or Dangerous Weapon)
12. Kidnapping
13. Drug Trafficking and Conspiracy to traffic in drugs
14. Sale or Delivery of a Controlled Substance (3rd Offense or more)
15. Manufacture of Methamphetamine
16. RICO Act Violations (F.S.895.03)
17. Escape from DOC or Rehabilitation Reentry Program or other correctional facility
18. Attempt/Solicitation/Conspiracy to Commit Second Degree Murder
19. Aggravated Stalking
20. Domestic Violence (Any Felony or misdemeanor offense defined in F.S.741.28(1))
21. Violations of Domestic Violence Injunctions, Repeat Violence Injunctions, Dating Violence Injunctions or Sexual Violence Injunctions, regardless of the nature of the alleged violation.
22. Violation of any Condition of Release where the underlying offense is one of Domestic Violence
23. Burglary with an Assault or Battery
24. Violations of Felony Probation or Community Control, unless
 - a. There is a violation of probation warrant, which, on its face, provides that the probationer does not meet the qualifications for a "danger to public" hearing as defined in Florida Statute 948.06(4)(as amended by the "Jessica Lunsford Act"), and
 - b. Such violation of probation warrant sets a bond amount.
25. Any criminal offense if the defendant is currently on felony probation or community control.

26. Persons who are arrested for a felony who, because of their prior criminal record, qualify for sentencing on the arrested felony as a "Habitual Violent Felony Offender"; "Three-time Violent Felony Offender"; "Violent Career Criminal" or "Prison Releasee Reoffender".
27. Persons who are arrested for Possession of a Firearm by a Convicted Felon or any felony involving the use or threatened use of a firearm.
28. DUI Manslaughter
29. DUI 4th Offense or More.

NOTE TO INITIAL APPEARANCE JUDGES: "Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained." Rule 3.131(a), Fla. R. Crim. Pro.

ADDITIONAL NOTE TO INITIAL APPEARANCE JUDGES:

The Jessica Lunsford Act requires a judge to make a finding that a probationer or an offender in community control who is arrested for violating his/her probation or community control is not a "danger to public" prior to his/her release with or without bail where the probationer or offender in community control is:

1. A registered sexual predator, or
2. A registered sexual offender, or
3. Under supervision for any criminal offense prescribed in Chapter 794 (Sexual Battery); Section 800.04(4) (Lewd or Lascivious Battery); Section 800.04(5) (Lewd or Lascivious Molestation); Section 800.04(6) (Lewd or Lascivious Conduct); Section 827.071 (Sexual Performance by a Child), or Section 847.0145 (Selling or Buying of Minors), or
4. Under supervision for a criminal offense for which he/she would meet the registration criteria in Section 775.21, Section 943.0435, or Section 944.607 but for the effective date of those sections;

II. SPECIFIC OFFENSES

| <u>OFFENSE</u> | <u>RESIDENCY</u> | | | |
|--|------------------|----------------|---------------------|-----------------------|
| | <u>LOCAL</u> | <u>FLORIDA</u> | <u>OUT-OF STATE</u> | <u>OUT-OF COUNTRY</u> |
| 1. Third Degree Murder | 15,000 | 20,000 | 25,000 | 35,000 |
| 2. Manslaughter | 15,000 | 20,000 | 25,000 | 35,000 |
| 3. Vehicular Homicide | 15,000 | 20,000 | 25,000 | 35,000 |
| 4. Leaving Scene of Accident Involving Death/P | | | 15,000 | |

| | | | | | |
|-----|---|--------|--------|--------|--------|
| | 20,000 | 25,000 | 35,000 | | |
| 5. | Burglary of an Occupied Dwelling | 15,000 | 20,000 | 25,000 | 35,000 |
| 6. | All other non-armed Burglaries | 5,000 | 8,000 | 10,000 | 15,000 |
| 7. | Sexual Offenses-First Degree Felony | 35,000 | 40,000 | 50,000 | 60,000 |
| 8. | Sexual Offenses- Second Degree Felony | 15,000 | 20,000 | 25,000 | 35,000 |
| 9. | Sexual Offenses - Third Degree Felony | 5,000 | 8,000 | 10,000 | 15,000 |
| 10. | DUI Involving Personal Injury | 15,000 | 20,000 | 25,000 | 35,000 |
| 11. | DUI -Third Offense | 5,000 | 8,000 | 10,000 | 15,000 |
| 12. | Aggravated Fleeing or Attempting to Elude | 15,000 | 20,000 | 25,000 | 35,000 |
| 13. | Fleeing or Attempting to Elude | 5,000 | 8,000 | 10,000 | 15,000 |
| 14. | Sale or Delivery of a Controlled Substance (Second Offense) | 35,000 | 40,000 | 50,000 | 60,000 |
| 15. | Sale or Delivery of a Controlled Substance (First Offense) | 15,000 | 20,000 | 25,000 | 35,000 |
| 16. | Possession of a Listed Chemical | 25,000 | 30,000 | 35,000 | 40,000 |
| 17. | Computer Crimes Involving Child Pornography or Soliciting Sexual Conduct by a Child | 35,000 | 40,000 | 50,000 | 60,000 |
| 18. | Failure to Register as a Sex Offender | 15,000 | 20,000 | 25,000 | 35,000 |

III. NON-SPECIFICALLY ENUMERATED FELONIES

| | | | | |
|--|--------|--------|--------|--------|
| 1. First Degree Felony (Non-Violent) | 15,000 | 20,000 | 25,000 | 35,000 |
| 2. Second Degree Felony (Violent) | 15,000 | 20,000 | 25,000 | 35,000 |
| 3. Second Degree Felony (Non-Violent) | 5,000 | 8,000 | 10,000 | 15,000 |
| 4. Third Degree Felony (Violent-with at least one prior violent felony conviction)) | 15,000 | 20,000 | 25,000 | 35,000 |
| 5. Third Degree Felony (Violent) | 5,000 | 8,000 | 10,000 | 15,000 |
| 6. Third Degree Felony (Non-Violent) | 2,000 | 3,000 | 5,000 | 8,000 |

IV. WARRANTS:

Bond for persons arrested on a violation of felony probation shall be set as provided for in the warrant itself, if and only if, the warrant provides that the probationer does not meet the qualifications for a "danger to public" hearing as defined in Florida Statute 948.06(4) (as amended by the "Jessica Lunsford Act"); otherwise, such person shall be held without bond pending the initial appearance proceedings before a judge.

Bond for persons arrested on a violation of misdemeanor probation warrant, a failure to appear warrant, or an arrest warrant shall be set as provided for in the warrant itself. If the warrant is silent as to a bond amount, the bail shall be set as otherwise provided in this Administrative Order.

V. MISDEMEANORS:

Rule 3.125(b) provides:

"If a person is arrested for an offense declared to be a misdemeanor of the first or second degree or for violation of a municipal or county ordinance triable in the county, and demand to be taken before a magistrate is not made, notice to appear may be issued by the arresting officer unless:

- (1) the accused fails or refuses to sufficiently identify himself or herself or supply the required information;
- (2) the accused refuses to sign the notice to appear;
- (3) the officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to the accused or others;
- (4) the accused has no ties with the jurisdiction reasonably sufficient to assure the accused's appearance or there is

substantial risk that the accused will refuse to respond to the notice;

- (5) the officer has any suspicion that the accused may be wanted in any jurisdiction; or
- (6) it appears that the accused has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program."

Rule 3.125(c) provides:

"If the arresting officer does not issue a notice to appear because of one of the exceptions listed in (b)(1) through (b)(6) and takes the accused to police headquarters, the booking officer may issue a notice to appear if the officer determines that there is a likelihood that the accused will appear as directed, based on a reasonable investigation of:

- (1) residence and length of residence in the community;
- (2) family ties in the community;
- (3) employment record;
- (4) character and mental condition;
- (5) past record of convictions; or
- (6) past history of appearance at court proceedings."

If a defendant is not released on a "Notice to Appear", pursuant to Rule 3.125, bond shall be set, pending first appearance, as follows:

DUI (Second Offense) 1,000

First Degree Misdemeanors/Criminal
Traffic Offenses/DUI (First Offense) 500

Second Degree Misdemeanor 250

Violations of Conditions of release where the underlying offense is not one of Domestic Violence 1,000

"As to all individuals arrested for the offense of DUI, any release must also comply with the criteria set forth in F.S.316.193(9)."

VI. DEFINITIONS:

The following definitions apply to this bond schedule:

- 1. Local Resident - A person qualifies as a local resident if his/her principal place of domicile is located in Brevard County, Florida and has been so for a period of three (3) months.
- 2. Florida Resident - A person qualifies as a Florida resident if his/her principal place of domicile is located in the State of Florida and has been so for a period of three (3) months.

3. Out of State Resident - A person qualifies as an out of state resident if his/her principal place of domicile is located outside the State of Florida but in another state within the United States and he/she is a United States citizen or he/she is a foreign national and his/her principal place of domicile is in another state within the United State and has been so for a period of six (6) months and he/she is in possession of such documents as permit a current domicile within the United States or such permit is otherwise corroborated.
4. Out of Country Resident - A person qualifies as an out of country resident if he/she is not domiciled in the United States or is not a United States citizen and his/her principal place of domicile is in the United States but has been so for less than six (6) months whether permitted or not.
5. Violent Offense - An offense qualifies as a violent offense if it involves physical harm or bodily injury or threat of same.
6. Non- Violent Offense - An offense qualifies as a non-violent offense if it involves no physical harm or bodily injury or threat of same.

VII. MISDEMEANOR WARRANT NOTIFICATION MAILER

Defendants, who have an active misdemeanor warrant or capias, may be released on their own recognizance by compliance with the "Misdemeanor Warrant Notification Mailer" process. Specifically, a Brevard County Sheriff's Deputy anywhere within the geographical boundaries of Brevard County is authorized to release the defendant when the defendant timely presents the Misdemeanor Warrant Mailer, and the defendant other qualifies for release under this provision. The process consists of mailing the defendant a "Brevard County Sheriff's Office Misdemeanor Warrant Notification Mailer". These Misdemeanor Warrant Notification Mailers will be sent by first class mail to the defendant's last known address. The defendant, who receives the Misdemeanor Warrant Notification Mailer, would be instructed to bring proper identification along with the Misdemeanor Warrant Notification Mailer to any deputy sheriff within Brevard County. The deputy upon receiving the Misdemeanor Warrant Notification Mailer would complete an arrest affidavit (923.01) to include the court date. The defendant would be released without having to post the bond amount that is listed on the warrant/capias. All defendant releases of the Misdemeanor Warrant Notification Mailers shall be for non-violent misdemeanor crimes only. No defendant shall be released under this process for warrants/capias that include any felony, crime of violence, failure to appear, pay or appears, violation of probation in which a cash or surety bond has been set, violation of probation where the defendant is a registered sexual offender

or registered sexual predator, or violations of probation where the defendant is also on felony probation or community control. In addition, under this program, no defendant will be released for any crime that involves domestic violence violations. The defendant will be required to respond to the Misdemeanor Warrant Notification Mailer within 20 days of United States Postal Service postmarking. Once the time period has expired, the bond amount originally listed on the warrant/capias will remain in effect. The Misdemeanor Warrant Notification Mailer is person specific and not warrant/capias specific.

VIII. SPECIAL CONDITIONS OF RELEASE - DUTY OF RELEASE OFFICER

1. Persons Arrested for Sexual Offenses or Child Abuse
Any person who is arrested for a sexual offense or for child abuse shall, as an additional condition of release, be prohibited from having direct or indirect contact with victim(s), victims(s)' family, or residence(s) of the victim(s).
2. Duty of Pretrial Release Officer
Persons arrested who have committed a sexual offense or child abuse shall not be released until they have been instructed of these special conditions by the pretrial release officer and have signed a written notice approved by the court.

IX. COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

Upon receipt of the person arrested by the Brevard County Sheriff, the booking officer shall review the 923.01 arrest form to ensure that the arresting officer has properly set the initial bond according to this administrative order. The booking officer is authorized to make changes to the bond amount reflected on the 923.01 arrest form to properly comply with this order but in considering changes the booking officer shall consider any information in the 923.01 arrest form that the arresting officer believed called for a higher bond and shall defer to that judgment. However, any bond set shall not exceed the amount of bail set forth in the bail schedule.

DONE AND ORDERED this 5th day of April, 2010.

J. PRESTON SILVERNAIL
J. PRESTON SILVERNAIL
CHIEF JUDGE

Distribution:

All Circuit and County Judges (Brevard County)
Court Administration (Brevard and Seminole Counties)
Clerk of Court (Brevard County)
State Attorney (Brevard County)
Public Defender (Brevard County)
Sheriff (Brevard County)
Bar Association (Brevard County)
Law Library (Brevard County)
All Brevard County Law Enforcement Agencies
Brevard County Jail - Pre-Trial Release