



Bail Policy and Guidelines

Initial Date – 9/2010

Revised Date – 1/2022

I. BACKGROUND

The state constitution prohibits holding a defendant in custody without setting bail. The legislature can establish or amend substantive rights and regulations including maximum or minimum bail amounts for certain offenses or notification requirements for alleged victims. The judicial branch determines procedural rules including when bail hearings are held and what factors individual judges must consider in setting bail.

A person arrested without a warrant and held in custody must have a hearing within 48 hours of the arrest. At that hearing, a judge determines the conditions of release. Conditions, including bail, are generally intended to assure a person's appearance at future court hearings. Court rules direct judges to release individuals without specific conditions unless a judge determines that such a release "will endanger the public safety or will not reasonably assure the defendant's appearance."

Hennepin County uses a research-based scale to predict risk categories for defendants. The risk levels are used to decide whether to release defendants and how to apply appropriate pretrial conditions upon release. Judges are given discretion on how to apply the risk levels identified by the risk assessment in making bail decisions.

A judge can (1) order a defendant's release without any conditions, (2) set an amount of bail that the defendant must post to be released, or (3) authorize release with specific conditions including supervision or other restrictions on the person's actions. If the judge authorizes release with conditions, the state constitution requires the judge to also set a bail-only amount as an alternative option. When establishing conditions, relevant court rules say that a judge may:

1. place the person under supervision of a person or organization;
2. restrict travel, association, or residence;
3. require an appearance bond, cash deposit, or other security; or
4. impose other conditions the judge finds necessary to assure the person's appearance.

The Hennepin County Attorney's Office has implemented a book and release policy for low level non-violent adult felony offenses. In these cases, when a person charged with a crime is taken into custody, law enforcement records the individual's personal information

(photograph and fingerprints taken) and a court date is scheduled without the individual actually being admitted to jail.

In certain cases, instead of issuing a complaint by warrant the Hennepin County Attorney's Office issues a summons, which provides a court date for a defendant charged with certain felonies. This reduces the likelihood of individuals being brought to the jail and held in custody in advance of their first court appearance.

II. BAIL GUIDELINES OVERVIEW

The Hennepin County Attorney's Office Bail Guidelines provide prosecutors with a standard bail amount for each particular crime to ensure consistency in bail recommendations. The bail amount in the guidelines is applicable unless there are aggravating or mitigating factors in a particular case. If an attorney is seeking higher or lower than standard bail, they are required to state the reason in ProCase so the PSF attorney can cite the reason. Bail amounts are based on the seriousness of the offense. Crimes ranked similarly on the sentencing guidelines were given comparable bail amounts.

For first-time offenders, bail will not be routinely requested for offenses listed in section IV, *unless* there is evidence to believe that the defendant (1) poses a threat to public safety; (2) is likely to reoffend if released; or (3) is unlikely to return to court when ordered.

Factors considered by the prosecutor when deciding whether a defendant poses a threat to public safety include:

- Current offense involves guns, domestic violence, or physical or sexual harm.
- Prior record involving guns, domestic violence, or physical or sexual violence.
- Defendant made threats to harm someone if released.
- Defendant tried to intimidate or coerce witnesses.

Factors considered by the prosecutor when deciding if a defendant is likely to reoffend if released include:

- A prior record, especially one involving similar offenses.
- The current offense involves a crime "spree" or is characterized by repetition.
- The defendant's record or the crime itself suggests that the person is a "professional".
- A history of probation violations.
- A history of conditional release violations.

Factors considered by the prosecutor when deciding whether a defendant is unlikely to return to court when ordered include:

- A history of non-appearance bench warrants.
- A history of probation or parole violation warrants.
- A history of conditional release warrants.
- A record for obstructing or fleeing.
- A prior bench warrant issued in the case.

III. BAIL GUIDELINES

A. HOMICIDE

1. MURDER

1 ST Degree	\$2,000,000
2 ND Degree (Intentional)	\$1,000,000
2 ND Degree (Unintentional)	\$500,000
3 RD Degree	\$500,000

2. MANSLAUGHTER

1 ST Degree	\$250,000
2 ND Degree	\$150,000

3. RIOT CAUSING DEATH

Riot Causing Death	\$150,000
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B. DRIVING OFFENSES

1. CRIMINAL VEHICULAR HOMICIDE/OPERATION

Resulting in Death	\$150,000
Resulting in Great Bodily Harm	\$75,000
Resulting in Substantial Bodily Harm	\$50,000
Resulting in Death to Unborn Child	\$150,000

2. DUI

1 ST Degree	\$50,000
1 ST Degree with Prior Felony DUIs	\$60,000
Gross Misdemeanor 2 ND Degree	\$12,000

3. FLEEING

Resulting in Death	\$500,000
Resulting in Great Bodily Harm	\$75,000

	Resulting in Substantial Bodily Harm	\$50,000
	Fleeing	\$20,000
	Fleeing with misdemeanor DUI	\$25,000
4.	HIT & RUN	
	Resulting in Death	\$150,000
	Resulting in Great Bodily Harm	\$50,000
C.	CRIMES AGAINST THE PERSON	
1.	ASSAULT/THREATS	
	1 ST Degree	\$150,000
	2 ND Degree (with gun)	\$100,000
	2 ND Degree (weapon other than gun)	\$50,000
	3 RD Degree	\$40,000
	4 TH Degree	\$20,000
	Terroristic Threats	\$30,000
2.	DOMESTIC ASSAULT	
	Domestic Assault by Strangulation	\$40,000
	Felony 5 TH Degree Assault	\$40,000
	Felony Violation of an Order for Protection	\$30,000
	Felony Violation of a Domestic No Contact Order	\$30,000
	Stalking/Harassment	\$30,000
3.	ROBBERY	
	Aggravated 1 ST Degree	\$100,000
	Aggravated 2 ND Degree	\$50,000
	Simple	\$40,000
4.	KIDNAPPING	
	Harm/Weapon/No Safe Release	\$100,000
	Unharmful and Safe Release	\$50,000
5.	FALSE IMPRISONMENT	
	Intentional Restraint	\$20,000
	Unreasonable Restraint of a Child	\$10,000
	Child with Harm	\$40,000
D.	SEX CRIMES	
1.	PROSTITUTION	
	Under 16	\$100,000

Over 16	\$75,000
Solicitation of a Child for Sexual Conduct	\$75,000
Solicitation of a Child Using Internet or Computer	\$75,000
Use of Minor in Sexual Performance	\$100,000
Possession of Pornographic Work	\$50,000

2. CRIMINAL SEXUAL CONDUCT

Life Sentence Cases – without possibility of parole	\$2,000,000
Life Sentence Cases – with possibility of parole	\$1,000,000
1 ST Degree (Guidelines Level A)	\$500,000
2 ND Degree (Guidelines Level B)	\$250,000
3 RD Degree (Guidelines Level C)	\$100,000
2 ND and 3 RD Degree (Guidelines Level D)	\$75,000
3 RD Degree (Statutory – 609.344, subd. 1(e) – Guidelines Level D)	\$75,000
4 TH Degree (Guidelines Level E and F)	\$30,000
5 TH Degree (Felony) (Guidelines Level G)	\$10,000
5 TH Degree (Gross Misdemeanor)	\$6,000
Failure to Register Sexual Predator (Guidelines Level H)	\$25,000
Indecent Exposure (Felony)	\$10,000

E. CRIMES AGAINST THE FAMILY

Malicious Punishment – Felony	\$40,000
Malicious Punishment – Gross Misdemeanor (629.471)	\$18,000
Gross Misdemeanor Child Neglect/Endangerment (629.471)	\$6,000
Deprivation of Parental Rights	\$20,000

F. CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

1. TAMPERING WITH A WITNESS

Aggravated 1 ST Degree	\$100,000
1 ST Degree	\$50,000

2. OBSTRUCTION LEGAL PROCESS

Obstructing Legal Process (Felony)	\$10,000
Coercion	\$50,000
Escape (without violence)	\$50,000
Failure to Appear	\$20,000

G. DAMAGE OR TRESPASS TO PROPERTY

1. ARSON

1 ST Degree	\$100,000
2 ND Degree	\$40,000

3 RD Degree	\$20,000
Negligent Fires with Great Bodily Harm	\$50,000
Negligent Fires with Damage over \$10,000	\$10,000

2. BURGLARY

1 ST Degree w/ Assault/Weapon	\$100,000
1 ST Degree	\$60,000
2 ND Degree	\$40,000
3 RD Degree	\$20,000
4 TH Degree	\$5,000
Possession of Burglary/Theft Tools	\$3,000

3. DAMAGE TO PROPERTY

Risk of Personal Injury	\$15,000
Value over \$2,500	\$5,000
Value \$500-\$2,500	\$3,000

H. WEAPONS – CRIMES AGAINST PUBLIC SAFETY

Prohibited Person in Possession of a Firearm	\$100,000
Drive-by Shooting	\$100,000
Possession of Machine Gun or Short-Barreled Shotgun	\$50,000
Carrying Weapon without a Permit with a Prior	\$20,000
Reckless Discharge of a Firearm	\$20,000
Dangerous Weapon in Courthouse	\$30,000
Removal of Serial Number from Firearm	\$20,000
Possession of a Weapon on School Property (Gun)	\$20,000
Possession of a Weapon on School Property (Other)	\$10,000

I. PUBLIC MISCONDUCT OR NUISANCE

Riot (not causing death)	\$20,000
Furnish Alcohol to Minor Resulting in Death or Great Bodily Harm	\$50,000
Interference with Transit Operator	\$20,000
Negligent Control of Regulated Animal	\$10,000

J. THEFT AND RELATED CRIMES

1. THEFT AND RECEIVING

Over \$35,000	\$35,000
Over \$2,500	\$10,000
\$500 to \$2,500	\$5,000
Enhanced to a Felony	\$3,000

Theft from Person	\$10,000
Theft of a Motor Vehicle	\$5,000
Theft of a Firearm	\$10,000
Possessing Shoplifting Gear	\$5,000
WOPA (Wrongfully obtaining public assistance)	
WOUB (Wrongfully obtaining unemployment benefits)	
Identity Theft	
Mail Theft	

K. FORGERY AND RELATED CRIMES

1. AGGRAVATED FORGERY

Over \$10,000	\$5,000
Under \$10,000	\$3,000

2. OFFERING A FORGED CHECK AND FINANCIAL TRANSACTION CARD FRAUD

Over \$35,000	\$10,000
Over \$2,500	\$5,000
Over \$200	\$3,000

3. LOTTERY FRAUD

Loss Over \$10,000	\$10,000
All Others	\$1,000

4. OTHER

- Counterfeiting of Currency
- Filing of Forged Instrument
- Financial Exploitation of Vulnerable Adult
- Fraudulent ID or DL
- Insurance Fraud
- Issue Dishonored Check
- Possession of Stolen or Counterfeit Checks

L. DRUGS

1 ST Degree Sale/Possession	\$50,000
1 ST Degree with Priors Sale/Possession	\$100,000
2 ND Degree Sale/Possession	\$30,000
2 ND Degree with Priors Sale/Possession	\$60,000
3 RD Degree Sale/Possession	\$5,000
3 RD Degree with Priors Sale/Possession	\$10,000
4 TH Degree Sale/Possession	\$3,000
4 TH Degree Sale/Possession §609.11	\$30,000
4 TH Degree with Priors Sale/Possession	\$7,000

4 TH Degree with Priors Sale/Possession §609.11	\$35,000
5 TH Degree Sale/Possession	\$3,000
5 TH Degree Sale/Possession §609.11	\$28,000
5 TH Degree with Priors Sale/Possession	\$5,000
5 TH Degree with Priors Sale/Possession §609.11	\$32,500
Sales of Simulated Controlled Substance	\$3,000
Sales of Simulated Controlled Substance §609.11	\$28,000

IV. CRIMES WHERE BAIL WILL NOT BE REQUESTED

For first-time offenders, bail will not be routinely requested for offenses listed in this section, *unless* there is evidence to believe that the defendant (1) poses a threat to public safety; (2) is likely to reoffend if released; or (3) is unlikely to return to court when ordered.

Please refer to section II for additional detail.

A. PRESUMPTIVE NO BAIL OFFENSE LIST

- Fifth-degree sale or possession of narcotics
- Forgery
- Damage to property
- Fraudulent identification or driver’s license
- Possession of burglary/theft tools
- Identity theft
- Mail theft
- Possession of stolen or counterfeit check
- Possession of shoplifting gear
- Dishonored check
- Insurance fraud
- Fourth-degree sale or possession of narcotics
- Counterfeiting currency
- Sales of simulated controlled substances
- Wrongfully obtaining public assistance
- Wrongfully obtaining unemployment benefits
- Lottery fraud