

IN THE TRIAL COURTS FOR THE STATE OF ALASKA

In the Matter of:

Establishing a Statewide Misdemeanor
Bail Schedule

This Statewide Misdemeanor Bail Schedule is issued pursuant to Criminal Rule 41(d) and Administrative Rule 46 and is adopted for use throughout all judicial districts of the State of Alaska. It supersedes all previously adopted bail schedules administratively ordered. The attached User Notes found at the end of the order are incorporated herein. Additionally, a summary reference sheet is attached as Appendix A, providing a synopsis of the order.

1. **Application.** This bail schedule applies to all arrests made on or after its effective date and is in effect until revoked.

2. **Offenses Not Covered.**

a. Felonies. This bail schedule does not apply to felonies. *See* Criminal Rule 41(e).

b. Domestic Violence. A defendant charged with a crime involving domestic violence (DV) as defined in AS 18.66.990(3), or with violating a condition of release (VCOR; AS 11.56.757) set in a case alleging a crime involving domestic violence, shall be held without bail until the defendant appears before a judicial officer within the time period set by applicable law per AS 12.30.027(e) and Criminal Rule 41(d)(3).

c. Stalking. A defendant charged with a crime of Stalking in the Second Degree (AS 11.41.270 or a comparable municipal ordinance with similar elements) shall be held per Criminal Rule 41(d)(3) until the defendant appears before a judicial officer within the

time period set by applicable law.

3. **Arrest and Bench Warrants.** If a defendant is arrested pursuant to an arrest or bench warrant, then the monetary bail set in the warrant shall control until the defendant appears before a judicial officer within the time period set by applicable law.

4. **Misdemeanor Offenses – Established Cash Performance Bail Amount.** A defendant charged with an offense listed below under state law or a comparable municipal ordinance with similar elements is subject to cash bail as follows:

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| a. | A second DUI or Refusal: | \$500 |
| b. | A third or subsequent non-felony DUI: | \$1000 |
| c. | A first non-DV Assault: | \$500 |
| d. | A second and subsequent non-DV Assault: | \$1000 |
| e. | Unlawful Evasion or Escape: | \$1000 |
| f. | VCOR on a non-DV A misdemeanor: | \$250 |
| g. | VCOR on a non-DV felony: | \$1000 |

A defendant who posts bail and is released from custody shall additionally be subject to the conditions of release listed in Section 5 and any conditions set under Sections 6 or 7 below.

5. **Misdemeanor Offenses – Release on Own Recognizance and Conditions.** All other defendants arrested without a warrant shall be released on their own recognizance and the following conditions of release:

- a. obey all court orders and all federal, state, and local laws;
- b. appear in court when ordered;

- c. if represented by a lawyer, maintain contact with the lawyer;
- d. if represented by a lawyer, notify their lawyer within 24 hours of changing their mailing address, telephone number, and email address (if any);
- e. if not represented by a lawyer, notify the prosecutor and the court within 24 hours of changing their mailing address, telephone number, and email address (if any); and
- f. do not contact, directly or indirectly, any alleged victim.

These conditions shall be set forth in the Order and Conditions – Release Per Schedule form (CR-766).¹ A copy of the form shall be given to the defendant, along with a next hearing date, prior to the defendant being released.

6. **Defendant under the Influence of Alcohol.** If the arresting law or pretrial enforcement division officer has a reasonable suspicion that the defendant, at the time of arrest, was under the influence of alcohol, then an additional condition of release prohibiting the defendant from possessing or consuming alcohol shall be imposed. The officer must check the related box on the Order and Conditions – Release Per Schedule form (CR-766) if the officer signs the form or, if the form is to be signed by a correctional officer (or someone other than the arresting officer), the arresting officer must inform the jail staff (or other office) of the need for this condition of release. The person signing the form must ensure the box on the form is checked. A copy of the form shall be given to the defendant prior to the defendant

¹ <https://public.courts.alaska.gov/web/forms/docs/cr-766.pdf>.

being released.

7. **Release of Intoxicated Defendants.** For any defendant released pursuant to this bail schedule, the correctional facility shall, at the time of release, conduct a chemical test of the breath of any defendant who has been arrested and who is intoxicated. (AS 12.30.011(e)). The correctional facility shall detain the defendant until the test result indicates that the defendant's breath has less than 0.08 grams of alcohol for each 210 liters of breath or, with the defendant's consent, may release the defendant to another person who is willing and able to provide care for the defendant.

8. **Officer or Defendant Request for Monetary Bail, Bail Modification, or Additional Conditions.** The arresting officer, a correctional officer, or a pretrial enforcement division officer making an arrest may apply to a judicial officer for modified or additional bail and/or modified or additional conditions of release set in any case that falls within the scope of Sections 4 or 5.

Additionally, a judicial officer, per Criminal Rule 41(d)(2), must also be contacted at the defendant's request if the defendant is immediately unable to post the scheduled bail amount. The judicial officer may modify the established bail set by this schedule if circumstances exist indicating that protection of the public and the defendant's appearance at subsequent proceedings can be reasonably assured by one of the following:

- a. release on personal recognizance;
- b. release on other appropriate conditions;
- c. the execution of an unsecured appearance bond in an amount equal to or less than the scheduled or set bail amount, and the deposit in cash or other security

of not more than 10 percent of the amount of the bond;

- d. the execution of a bail bond in an amount less than the scheduled bail amount, secured by case or other solvent sureties; or
- e. the execution of a performance bond.

9. **First Appearance.** The judicial officer presiding at the defendant's first court appearance may set and adjust bail and conditions of release even if this bail schedule does not apply or if bail was set in an arrest or bench warrant or by an on-call judicial officer. The setting of bail cannot be delegated to correctional officers, police officers, pretrial enforcement division officers, or any other person.

10. **Arraignment Date.** Upon release under this bail schedule, the defendant's next court appearance shall be the date set for arraignment at the first available time during the next business day or as provided by the local court.

Dated April 13, 2023.

s/ Amy Mead
Amy Mead
Presiding Judge First Judicial District

s/ Paul Roetman
Paul A. Roetman
Presiding Judge Second Judicial District

s/ Thomas Matthews
Thomas Matthews
Presiding Judge Third Judicial District

s/Terrence Haas
Terrence Haas
Presiding Judge Fourth Judicial District

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User Notes

1. **PJAO ¶ 2(a).** Criminal Rule 41(e) provides that: “No bail schedule shall be established for felonies.” The presiding judges construe that provision as exempting cases which include a felony charge from the scope of Criminal Rule 41(d)(2).
2. **PJAO ¶ 2(b).** AS 12.30.027(e) provides: “A person arrested for a crime involving domestic violence or for a violation of a condition of release in connection with a crime involving domestic violence may not be released from custody until the person has appeared in person before a judicial officer or telephonically for arraignment.” Criminal Rule 41(d)(3) provides that: “A misdemeanor bail schedule may not be set for crimes involving domestic violence as defined in AS 18.66.990 or for the crime of stalking under AS 11.41.270.

The presiding judges construe “crime involving domestic violence” in AS 12.30.207(e) to be the crimes listed at AS 18.66.990(3), and AS 12.30.027(e) as requiring that defendants arrested for a crime involving domestic violence or for violating a condition of release set in a case in which a crime involving domestic violence has been charged be held without bail until the defendant appears before a judicial officer within the time period set by applicable law.

The presiding judges construe AS 12.30.027(e) and Criminal Rule 41(d)(3) as exempting the offenses referenced therein from the scope of Criminal Rule 41(d)(2).

3. **PJAO ¶ 2(c).** Criminal Rule 41(d)(3) provides in part that a “misdemeanor bail schedule may not be set . . . for the crime of stalking under AS 11.41.270.” The presiding judges construe this prohibition to also apply to municipal ordinances with similar elements.

4. **PJAO ¶ 3.** Section 3 is intended to make clear that the bail schedule does not apply to defendants who are arrested on bench or arrest warrants. The bail established for such defendants is the bail amount stated in the warrant. A person unable to post the bail will appear before a judicial officer within the time period set by applicable law. At that time, the arraigning judicial officer has the authority to modify the bail amount and set conditions of release in accordance with applicable law. The presiding judges do not construe Criminal Rule 41(d)(2) as applying to this situation.

5. **PJAO ¶ 8.** Criminal Rule 41(d)(2) states, in part, that: “Any order adopting a misdemeanor bail schedule must provide that the arresting police agency may apply to a judicial officer for a different bail.” The presiding judges construe this provision as applying to all releases under this schedule. The presiding judges have also included in this section pretrial enforcement division officers making arrests on VCORs, and correctional officers due to the reasonable possibility that a correctional officer may become aware of circumstances that could warrant the imposition of bail under AS 12.30.011 after the arresting police or pretrial enforcement division officer has departed.

APPENDIX A

STATEWIDE BAIL SCHEDULE SUMMARY REFERENCE SHEET

This reference sheet is intended to provide a synopsis of the attached Presiding Judges' Administrative Order Establishing a Statewide Misdemeanor Bail Schedule and User Notes. Refer to the full order for more complete directions and explanations.

Always Hold Until Seen by a Judicial Officer

Defendants arrested for:

1. Any felony offense;
2. A crime involving domestic violence (DV);
3. Violating a condition of release (VCOR) if the condition was set in a case in which a DV crime is charged; and
4. Stalking.

Arrest and Bench Warrants

Defendants who are arrested on an arrest warrant or a bench warrant are subject to the bail stated in the warrant.

Established Cash Bail Amounts for Non-DV Misdemeanor Offenses

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|--|--------|
| a. A second DUI or Refusal: | \$500 |
| b. A third or subsequent non-felony DUI: | \$1000 |
| c. A first non-DV Assault: | \$500 |
| d. A second and subsequent non-DV Assault: | \$1000 |
| e. Unlawful Evasion or Escape: | \$1000 |
| f. VCOR on a non-DV A misdemeanor: | \$250 |
| g. VCOR on a non-DV felony: | \$1000 |

Misdemeanor and Violations Not Specified Above

Defendants arrested for misdemeanors or violations not specified above are to be released on their own recognizance (OR) subject to the conditions imposed by the Bail Schedule.

Contact Judicial Officer

An arresting law or pretrial enforcement division officer or correctional officer may contact a judicial officer to request that cash bail be set or the amount modified and/or that additional conditions of release be imposed. Additionally, the defendant may request that a judicial officer be contacted if the defendant cannot immediately post the bail amount listed above. The on-call judicial officer must be promptly contacted if such a request is made.