

<p>EIGHTEENTH JUDICIAL DISTRICT: ARAPAHOE, DOUGLAS, ELBERT and LINCOLN COUNTIES, COLORADO</p> <p>Arapahoe County Justice Center 7325 South Potomac Street Centennial, Colorado 80112</p> <p>Arapahoe County Courthouse—Littleton 1790 West Littleton Boulevard Littleton, Colorado 80120</p> <p>Douglas County Courthouse 4000 Justice Way, #2009 Castle Rock, Colorado 80104</p> <p>Elbert County Courthouse PO Box 232, 751 Ute Street Kiowa, Colorado 80117</p> <p>Lincoln County Courthouse PO Box 128, 103 Third Avenue Hugo, Colorado 80821</p>	<p style="text-align: center;">•COURT USE ONLY •</p> <p style="text-align: center;">CJO 22-05</p> <hr/> <p style="text-align: center;">Division 201</p>
<p>CHIEF JUDGE ORDER 22-05 SETTING FORTH BOND GUIDELINES</p>	

The following bond guidelines are intended to assist judicial officers determine the type of bond and conditions of release at the first appearance of a person in custody who is accused of a criminal offense in the Eighteenth Judicial District (Arapahoe, Douglas, Elbert, and Lincoln Counties, Colorado).¹ If the type of bond and conditions of release have been fixed upon return of the indictment or filing of the information or complaint, the judicial officer shall review the propriety of the type of bond and conditions of release upon first appearance of a person in custody.

A. General Guidelines

- Objectives.** The type of bond and conditions of release shall be sufficient to reasonably ensure the appearance of the person as required and to protect the safety of any person or the community, taking into consideration the individual characteristics of each person in custody, including the person’s financial condition. § 16-4-103(3)(a), C.R.S. (2021).

¹ These bond guidelines may also be used by law enforcement in the Eighteenth Judicial District when applicable and necessary, except where specifically prohibited as outlined in this Chief Judge Order. See § 16-4-103, C.R.S. (2021); § 16-2-111, C.R.S. (2021).

- ***Presumption of Eligibility for Release, Reasonableness of Monetary Condition, Individualized Determination, and Prevention of Unnecessary Detention.*** In determining the type of bond and conditions of release, the judicial officers shall: (a) presume that all persons in custody are eligible for release on bond with the appropriate and least-restrictive conditions consistent with the preceding paragraph unless a person is otherwise ineligible for release under Colorado law; (b) be mindful that a monetary condition of release must be reasonable, and any other condition of conduct not mandated by statute must be tailored to address a specific concern; (c) incorporate into their determination conditions of release and factors that consider the individualized risk and circumstances of a person in custody and all other relevant criteria, and not solely the level of offense; and (d) consider all methods of bond and conditions of release (to avoid unnecessary pretrial incarceration) and levels of community-based supervision as conditions of pretrial release. § 16-4-103(4).

- ***Risk Assessment Instrument.*** In deciding on the type of bond and conditions of release, judicial officers shall use an empirically developed risk assessment instrument, if one is available, designed to improve pretrial release decisions by providing information that classifies a person in custody based upon predicted level of risk of pretrial failure. § 16-4-103(3)(b).

- ***Other Criteria.*** Judicial officers may also consider the following criteria, listed in § 16-4-103(5), as appropriate and relevant in making a determination of the type of bond and conditions of release:
 - (a) The employment status and history of the person in custody;
 - (b) The nature and extent of family relationships of the person in custody;
 - (c) Past and present residences of the person in custody;
 - (d) The character and reputation of the person in custody;
 - (e) Identity of persons who agree to assist the person in custody in attending court at the proper time;
 - (f) The likely sentence, considering the nature and the offense presently charged;
 - (g) The prior criminal record, if any, of the person in custody and any prior failures to appear for court;
 - (h) Any facts indicating the possibility of violations of the law if the person in custody is released without certain conditions of release;
 - (i) Any facts indicating that the defendant is likely to intimidate or harass possible witnesses; and

- (j) Any other facts tending to indicate that the person in custody has strong ties to the community and is not likely to flee the jurisdiction.
- ***Unsecured Personal Recognizance (“PR”) Bonds under § 16-4-104(2), (3), C.R.S. (2021):***
 - Unless the district attorney consents or unless the court imposes certain additional individualized conditions of release as described in § 16-4-105, C.R.S. (2021), a person must not be released on an unsecured PR bond under the following circumstances:
 - The person is presently free on another bond of any kind in another criminal action involving a felony or a class 1 misdemeanor;
 - The person has a record of conviction of a class 1 misdemeanor within two years or a felony within five years, prior to the bail hearing; or
 - The person has willfully failed to appear on bond in any case involving a felony or a class 1 misdemeanor charge in the preceding five years.
 - A person may not be released on an unsecured PR bond if, at the time of such application, the person is presently on release under a surety bond for felony or class 1 misdemeanor charges unless the surety thereon is notified and afforded an opportunity to surrender the person into custody on such terms as the court deems just under the provisions of § 16-4-108, C.R.S. (2021).
- ***Offenses Punishable by Fine Only.*** When a person is charged with an offense punishable by fine only, any monetary condition of release shall not exceed the amount of the maximum fine penalty. § 16-4-103(6).

B. Guidelines for Cases Requiring a Mandatory Protection Order Before Bond is Set

- In the following cases, before bond is set or posted, the court must issue a mandatory protection order and must state the terms of the order on the record in the defendant’s presence, and the defendant must acknowledge on the record receipt of the order:
 - Cases involving domestic violence, as defined in § 18–6–800.3(1), C.R.S. (2021);
 - Cases involving stalking pursuant to § 18–3–602, C.R.S. (2021); and

- Cases involving unlawful sexual behavior pursuant to § 16–22–102(9), C.R.S. (2021).²
- In such cases, there shall be a **no-bond hold** until the aforementioned mandatory protection order requirements have been met. *See* § 16-4-105(4).

² Pursuant to § 16–22–102(9), “Unlawful sexual behavior” means any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

- (a)(I) Sexual assault, in violation of section 18-3-402, C.R.S.; or
- (II) Sexual assault in the first degree, in violation of section 18-3-402, C.R.S., as it existed prior to July 1, 2000;
- (b) Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., as it existed prior to July 1, 2000;
- (c)(I) Unlawful sexual contact, in violation of section 18-3-404, C.R.S.; or
- (II) Sexual assault in the third degree, in violation of section 18-3-404, C.R.S., as it existed prior to July 1, 2000;
- (d) Sexual assault on a child, in violation of section 18-3-405, C.R.S.;
- (e) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.;
- (f) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.;
- (g) Enticement of a child, in violation of section 18-3-305, C.R.S.;
- (h) Incest, in violation of section 18-6-301, C.R.S.;
- (i) Aggravated incest, in violation of section 18-6-302, C.R.S.;
- (j) Human trafficking of a minor for sexual servitude, as described in section 18-3-504(2), C.R.S.;
- (j.5) Human trafficking for sexual servitude, as described in section 18-3-504(1);
- (k) Sexual exploitation of children, in violation of section 18-6-403, C.R.S.;
- (l) Procurement of a child for sexual exploitation, in violation of section 18-6-404, C.R.S.;
- (m) Indecent exposure, in violation of section 18-7-302, C.R.S.;
- (n) Soliciting for child prostitution, in violation of section 18-7-402, C.R.S.;
- (o) Pandering of a child, in violation of section 18-7-403, C.R.S.;
- (p) Procurement of a child, in violation of section 18-7-403.5, C.R.S.;
- (q) Keeping a place of child prostitution, in violation of section 18-7-404, C.R.S.;
- (r) Pimping of a child, in violation of section 18-7-405, C.R.S.;
- (s) Inducement of child prostitution, in violation of section 18-7-405.5, C.R.S.;
- (t) Patronizing a prostituted child, in violation of section 18-7-406, C.R.S.;
- (u) Engaging in sexual conduct in a correctional institution, in violation of section 18-7-701, C.R.S.;
- (v) Wholesale promotion of obscenity to a minor, in violation of section 18-7-102(1.5), C.R.S.;
- (w) Promotion of obscenity to a minor, in violation of section 18-7-102(2.5), C.R.S.;
- (x) Class 4 felony internet luring of a child, in violation of section 18-3-306(3), C.R.S.;
- (y) Internet sexual exploitation of a child, in violation of section 18-3-405.4, C.R.S.;
- (z) Public indecency, committed in violation of section 18-7-301(2)(b), C.R.S., if a second offense is committed within five years of the previous offense or a third or subsequent offense is committed;
- (aa) Invasion of privacy for sexual gratification, in violation of section 18-3-405.6;
- (bb) Second degree kidnapping, if committed in violation of section 18-3-302(3)(a); or
- (cc) Unlawful electronic sexual communication, in violation of section 18-3-418.
- (dd) Unlawful sexual conduct by a peace officer, in violation of section 18-3-405.7.

C. Bond Guidelines for General Non-Drug Felonies

<u>Felony Charge</u>	<u>Bond Amount</u>
Class 6	\$1,250 cash or surety
Class 5	\$2,500 cash or surety
Class 4	\$5,000 cash or surety
Class 3	\$10,000 cash or surety
Class 2	\$50,000 cash or surety
Class 1	No bond

D. Bond Guidelines for Drug Felonies

<u>Drug Felony Charge</u>	<u>Bond Amount</u>
Drug Felony 4	\$1,000 cash or surety
Drug Felony 3	\$5,000 cash or surety
Drug Felony 2	\$7,500 cash or surety
Drug Felony 1	\$15,000 cash or surety

E. Bond Guidelines for Specific Non-Drug Felonies

\$50,000 cash or surety for the following specific non-drug felonies:

- First degree burglary
- Second degree burglary of a dwelling
- First degree assault
- Felony arson
- Child abuse resulting in death or serious bodily injury
- Aggravated robbery
- Felony Escape
- Felony vehicular eluding (if D.U.I. is also charged in the same incident or if it is a class 3 felony)
- Vehicular homicide
- Vehicular assault
- Violation of bail bond conditions when the underlying offense involves an offense against a person
- Retaliation against a juror
- Retaliation against a victim or witness
- Retaliation against a judge or magistrate
- Second degree kidnapping that is a class 3 felony
- Unlawful sexual behavior pursuant to § 16-22-102(9) when the offense is a class 3 or class 4 felony
- Any felony listed under the \$25,000 cash or surety category below as to which a crime of violence sentence-enhancing count has been filed

\$25,000 cash or surety for the following specific non-drug felonies:

- Attempt or conspiracy to commit any offense listed under the \$50,000 cash or surety category above
- Unlawful sexual behavior pursuant to § 16-22-102(9) when the offense is a class 5 or class 6 felony
- Possession of a weapon by a previous offender
- Second degree burglary (if a dwelling is not involved and *excluding* § 18-4-203(c))
- Second degree assault
- Second degree kidnapping that is a class 4 felony
- Robbery
- Manslaughter
- Criminally negligent homicide
- Felony menacing (if the deadly weapon involved is a firearm)

F. No-Bond Hold Guidelines

- There shall be a no-bond hold for capital offenses when the proof is evident or the presumption is great that the defendant committed the crime charged. § 16-4-101(1)(a), C.R.S. (2021).
- Pursuant to § 16-4-101(1)(b), there shall be a no-bond hold when, after a hearing held within ninety-six hours of arrest and upon reasonable notice, the court finds that the proof is evident or the presumption is great as to the crime alleged to have been committed and finds that the public would be placed in significant peril if the accused were released on bail and such person is accused in any of the following cases:
 - The defendant is charged with a crime of violence while on probation or parole resulting from a conviction of a crime of violence
 - The defendant is charged with a crime of violence while on bail pending the disposition of a previous crime of violence charge for which probable cause has been found
 - The defendant is charged with a crime of violence after two previous felony convictions or one previous felony conviction for a crime of violence
 - The defendant is charged with possession of a weapon by a previous offender alleged to have been committed in violation of § 18-12-108 (2)(b), (2)(c), (4)(b), (4)(c), or (5), C.R.S. (2021)
 - The defendant is charged with sexual assault, as described in § 18-3-402, C.R.S. (2021); sexual assault in the first degree, as described in § 18-3-402 prior to July 1, 2000; sexual assault in the second degree, as described in § 18-3-403, C.R.S. (2021) prior to July 1, 2000; sexual assault on a child, as described in § 18-3-405, C.R.S. (2021); or sexual assault on a child by one in a position of trust, as described in § 18-3-405.3, C.R.S. (2021), in which the

victim is fourteen years of age or younger and seven or more years younger than the accused

G. General Guidelines for Traffic Offenses, Misdemeanors, Petty Offenses, and Other Offenses

- Pursuant to § 16-4-113, C.R.S. (2021),
 - (1) In exercising the discretion mentioned in section 16-4-104, the judge shall release the accused person upon personal recognizance if the charge is any unclassified offense for a violation of which the maximum penalty does not exceed six months' imprisonment, and he or she shall not be required to supply a surety bond, or give security of any kind for his or her appearance for trial other than his or her personal recognizance, unless one or more of the following facts are found to be present:
 - (a) The arrested person fails to sufficiently identify himself or herself; or
 - (b) The arrested person refuses to sign a personal recognizance; or
 - (c) The continued detention or posting of a surety bond is necessary to prevent imminent bodily harm to the accused or to another; or
 - (d) The arrested person has no ties to the jurisdiction of the court reasonably sufficient to assure his or her appearance, and there is substantial likelihood that he or she will fail to appear for trial if released upon his or her personal recognizance; or
 - (e) The arrested person has previously failed to appear for trial for an offense concerning which he or she had given his written promise to appear; or
 - (f) There is outstanding a warrant for his or her arrest on any other charge or there are pending proceedings against him or her for suspension or revocation of parole or probation.
 - (2)
 - (a) For a defendant charged with a traffic offense, a petty offense, or a comparable municipal offense, a court shall not impose a monetary condition of release. If the comparable municipal offense is a property crime and the factual basis reflects a value of less than fifty dollars and the offense would be a petty offense under state law, this subsection (2)(a) applies.
 - (b) For a defendant charged with a municipal offense for which there is no comparable state misdemeanor offense, the court shall not impose a monetary condition of release.
 - (c) After arrest, but prior to an individual consideration of bond by a judge, bonding commissioner, judicial officer, or judicial designee with the power to set conditions of release, this subsection (2) does not prohibit the release of a defendant pursuant to local pretrial release policies, including those that require payment of a monetary condition of release, if the defendant is first informed that the defendant is entitled to release on a personal recognizance bond.

(d) Nothing in this subsection (2) prohibits the issuance of a warrant with monetary conditions of bond for a defendant who fails to appear in court as required or who violates a condition of release. If a defendant is unable to post the monetary condition of bond prior to the next individualized consideration of bond, the judge, bonding commissioner, judicial officer, or judicial designee with the power to set conditions of release shall release the person on personal recognizance.

(e) The provisions of this subsection (2) **do not apply to:**

- (I) A traffic offense involving death or bodily injury or a municipal offense with substantially similar elements;
- (II) Eluding or attempting to elude a police officer as described in section 42-4-1413 or a municipal offense with substantially similar elements;
- (III) Operating a vehicle after circumventing an interlock device as described in section 42-2-132.5(10) or a municipal offense with substantially similar elements; and
- (IV) A municipal offense that has substantially similar elements to a state misdemeanor offense.

H. Specific Guidelines for Traffic Offenses, Misdemeanors, Petty Offenses, and Other Offenses

1. Specific Guidelines for Traffic Offenses (non-infractions)

- Class 1 traffic offenses \$250 PR **unless an exception in Section G applies**
- Class 2 traffic offenses \$150 PR **unless an exception in Section G applies**
- Unclassified traffic offenses \$50 PR **unless an exception in Section G applies**

2. Specific Guidelines for Misdemeanors

- Class 1 \$1000 cash or surety
- Class 1 domestic violence related \$3000 cash or surety
- Class 1 unlawful sexual behavior (§ 16-22-102) \$3000 cash or surety
- Class 2 \$500 cash or surety
- Class 2 domestic violence related \$1500 cash or surety
- Class 2 unlawful sexual behavior (§ 16-22-102) \$1500 cash or surety
- Class 3 (**offenses that occurred prior to March 1, 2022 only**) \$250 PR **unless an exception in Section G applies**

- Unclassified misdemeanors
 - Max. penalty does not exceed 6 months' imprisonment \$250 PR **unless an exception in Section G applies**
 - Max. penalty exceeds 6 months' imprisonment \$250 cash or surety
 - Drug misdemeanor 1 \$250 cash or surety
 - Drug misdemeanor 2 \$100 cash or surety
3. Specific Guidelines for Certain Non-Felony Offenses
- D.U.I./Excessive alcohol content \$1000 cash or surety³
 - D.W.A.I. \$1000 cash or surety⁴
 - D.U.R. (for offenses that occurred prior to March 1, 2022 only)
 - \$250 cash or surety
 - Alcohol-related \$500 cash or surety
 - Eluding \$1000 cash or surety
 - Leaving scene with injury involved (§ 42-4-1601, C.R.S. (2018); § 42-4-1603, C.R.S. (2018); § 42-4-1606, C.R.S. (2018)) \$500 cash or surety
 - Careless driving, class 1 (with injury or death involved) \$500 cash or surety
 - Habitual traffic offender \$500 cash or surety
 - Operating vehicle after circumventing interlock device \$500 cash or surety
4. Specific Guideline for Petty Offenses
- All petty offenses \$100 PR **unless an exception in Section G applies**

These guidelines are not schedules; they are simply guidelines. They shall replace all previously published bond guidelines and bond schedules in the Eighteenth Judicial District.

Effective this 2nd day of March, 2022.

BY THE COURT:

 Michelle A. Amico
 Chief Judge
 Eighteenth Judicial District

³ Pursuant to § 16-4-104(4), C.R.S. (2021), “[b]ecause of the danger posed to any person and the community, a person who is arrested for an offense under section 42-4-1301(1) or (2)(a), C.R.S., may not attend a bail hearing until the person is no longer intoxicated or under the influence of drugs. The person shall be held in custody until the person may safely attend such hearing.” D.U.I., D.W.A.I., and D.U.I. per se all fall within § 16-4-104(4).

⁴ See Footnote 4.