



# BAIL BONDS

ASSISTANT DISTRICT ATTORNEY JAVIN CRIPPS

15<sup>TH</sup> JUDICIAL DISTRICT

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# AGENDA

HISTORY OF BAIL BONDS

Non-Bail Offenses

WHERE TO START

- TO ROR OR TO NOT ROR

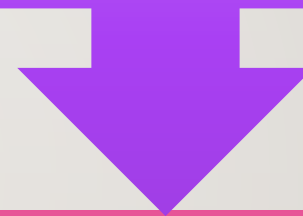
FACTORS TO CONSIDER

Driving offenses Bond

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# BONDING HISTORY

Bail is a basic component of the American judicial system and is predicated on the principle “that a person accused of [a] crime shall not, until ... finally adjudged guilty in the court of last resort, be absolutely compelled to undergo imprisonment or punishment.” Hudson v. Parker, 156 U.S. 277, 285, 15 S.Ct. 450, 39 L.Ed. 424 (1895).



The Eighth Amendment to the United States Constitution prohibits imposing “[e]xcessive bail” or “excessive fines” and inflicting “cruel and unusual punishments.” U.S. Const. amend.VIII. Although this provision does not create a right to bail, United States v. Salerno, 481 U.S. 739, 754–55, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987), it mandates that when pretrial bail is set for a criminal defendant, the amount shall not be excessive.

# HISTORY CONTINUED

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The Tennessee Constitution guarantees that “all prisoners shall beailable by sufficient sureties, unless for capital offenses, when the proof is evident, or the presumption great.” [Tenn. Const. art. I, § 15](#). This constitutional provision grants a defendant the right to pretrial release on bail pending adjudication of criminal charges.

- That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.



However there are certain situations that a Defendant is not entitled to bail. Most of these are addressed by the Judge of the Court.

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## NON-BAIL OFFENSES

Capital offenses (First Degree Murder,  
and Possibly Aggravated rape of a child)

Post-conviction

Failure to comply with conditions of a  
prior bail bond

- Take into consideration when setting new bond on charges

Conviction in another jurisdiction

Violation of Probations

# WHERE TO START

- TCA 40-11-115 ROR or unsecured bond factors to consider
- FIRST CONSIDERATION
  - ENSURING THE SAFETY OF THE COMMUNITY
  - ENSURING THE APPEARANCE OF THE PERSON
- Factors to consider
  - “Pretrial risk assessment” any jurisdiction operate with this?
  - [https://www.youtube.com/shorts/KO1DA2G3\\_0k](https://www.youtube.com/shorts/KO1DA2G3_0k)
  - <https://www.youtube.com/watch?v=s3QVJ0yVv-I>

# FACTORS AND CONDITIONS TO CONSIDER ROR

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Length of residence in Community

Employment Status

Prior criminal record, including prior releases on recognizance or bail

Was defendant on bond for another offense

Nature of offense – safety of the community

Substance use or mental health issues

Any other factors related to community or defendant's willful FTA

# WHAT OFFENSES CANNOT HAVE AN ROR

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- Class A felony
- Class B Felony
- Agg Assault
- Agg assault against a law enforcement or first responder
- Felony Domestic Assault
- Agg Assault or Domestic Assault that involves strangulation

# TCA 40-11-116 CONDITIONS OF RELEASE

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- If a magistrate determines that conditions of release are necessary, then the magistrate must impose the least onerous conditions reasonably likely to ensure the safety of the community and the Defendant's appearance in court.
- The magistrate may impose 1 or more conditions:
  - A supervisor of the defendant
  - Restrict the movements, activities, associations and/or residences of the Defendant
  - Any other reasonable restrictions for the safety of the community and D's Appearance

### CONDITIONS OF BOND

It is ORDERED that while on bond, you shall maintain good and lawful behavior and are restrained from the following:

- 1) Committing any crime anywhere;
- 2) Missing or being late to any court date;
- 3) Appearing in court while under the influence of drugs and/or alcohol;
- 4) Contacting the alleged victim in this case in any way, including indirectly through another person;
- 5) Threatening or harassing any witness in this case;
- 6) Ingesting, consuming or in any way using any banned substance including, but not limited to, marijuana, cocaine, methamphetamine, oxycodone or any medication which is not prescribed to you.

If you violate any of the conditions listed above, your bond may be revoked and you may be held in jail without bond.

It is so ORDERED.

TCA 40-11-116  
CRIMES THAT  
REQUIRE JUDGE  
APPROVAL  
BEFORE  
SUPERVISED  
RELEASE (B)(1)

- Class A Felony
- Class B Felony
- Agg Assault
- Agg assault against law enforcement or first responder
- Domestic Assault (Felony)
- If Magistrate imposes conditions on A, B, C, or D felony and pretrial services are available within the county, then the court SHALL require the D to participate in pretrial monitoring.

# TCA 40-11-117

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- If the magistrate determines that a release on Recognizance or with conditions will not reasonably **ensure the safety of the community and the appearance** of the D as required, the Magistrate **MUST** require bail to be given.

# TCA 40-11-118

## BAIL AMOUNT DETERMINATION

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- Bail must be set as low as the court determines is necessary to **ensure the safety of the community** and the **appearance** of the Defendant
- Considerations in bond: Bond Factors
- Length of residence in the community.
- Employment status, history and financial condition, but **ability to pay is not to be considered.**
- Defendant's reputation, character and mental condition
- Prior Criminal record

# TCA 40-11-118 FACTORS CONSIDERED

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- Failure to Appear's
- Evading arrests
- Nature of the offense and probability of conviction
  - Likely Sentence
- Prior criminal record and likelihood that defendant poses a risk of danger to the community
- Responsible community members that vouch for the Defendant
- Any other factors indicating the D's ties to the community or bearing on the risk of willful failure to appear
  - Including whether the D is lawfully present in the state

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# DUI CONDITIONS

DUI, Vehicular Assault, Aggravated Vehicular Assault,  
Vehicular Homicide or Agg vehicular homicide



SHALL require the Defendant to operate equipped  
with an ignition interlock if there was alcohol:

Collision involving property  
damage

Minor present

Suspended license for DUI

Prior conviction for

- |                        |          |
|------------------------|----------|
| • DUI                  | Reckless |
| • Driving endangerment | Reckless |
| • Vehicular Assault    | Agg VA   |
| • Vehicular Homicide   | Agg VH   |

# DUI CONDITIONS CONTINUED

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- If you find no ignition interlock, must make findings on why the requirement would not be in the best interest of justice and safety
- Vehicular Assault; Vehicular Homicide, Agg VH and has a prior alcohol related conviction, Transdermal monitoring device shall be a condition of the person's Bail
- 3<sup>rd</sup> or subsequent DUI and new one has Alcohol, transdermal device to be ordered.

# SCENARIO I

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- Defendant lives in Michigan, Stopped in your county and has several drugs, scales, and baggies. Appears to be fentanyl, meth, and heroin. Weight on the Fentanyl is 700 grams, meth is 350 grams, and heroin is 180 grams. No FTA's, but no ties to the community.
- Do you ask officers for a criminal history?
- Do you inquire of the D where he lives?
- Employment History? Risk to the community?

# SCENARIO 2

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- D travelling through county, arrested for DUI. On bond for prior DUI. Has a prior conviction for DUI in 2010.
- What questions do you ask?
- What restrictions?
- What conditions?
- What do you want to hear from the officer or the D?

# SCENARIO 3

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- 22 year old arrested for Violations of conditional release.
- He violated the condition by being around the victim of the domestic assault.
- He promises to not go around her again.
- Appropriate bond?
- Appropriate Questions to ask?