

**IN THE CIRCUIT COURT OF FLORIDA, SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER AND VOLUSIA COUNTIES**

**RE: BAIL SCHEDULE FOR FLAGLER &
VOLUSIA COUNTIES**

**REF: W-2007- 215
(Rescinds R-2001-045)**

WHEREAS, the right to reasonable bail in certain circumstances is an essential part of the criminal justice system, and

WHEREAS, a bail schedule enables bail to be set in a uniform manner before First Appearance for certain alleged offenders arrested without a warrant, and

WHEREAS, a bail schedule is necessary to ensure uniformity and equality of treatment to alleged offenders who may be entitled to release prior to First Appearance before a judge,

NOW THEREFORE, I, J. DAVID WALSH, Chief Judge of the Seventh Judicial Circuit of Florida, hereby order as follows:

ADOPTION OF BAIL SCHEDULE: Except in cases where bail has previously been set or denied (as, in a warrant), the Bail Schedule set forth in this order and by attachment incorporated by reference is established with respect to release of alleged offenders prior to First Appearance and thereafter unless modified in accordance with the Florida Rules of Criminal Procedure on a case-by-case basis, or in accordance with exceptions specifically set forth in this order.

This bail schedule is for use in setting bail in Flagler and Volusia counties before First Appearance, and is not intended to and does not in any manner bind judges conducting First Appearance hearings or bond hearings. Judges setting bail as a condition of release may set such bail in any reasonable amount in accordance with the factors set forth in the Florida Rules of Criminal Procedure and Florida Statutes.

WARRANTS: Bail prior to first appearance for persons arrested on a violation of probation warrant, a failure to appear warrant, or an arrest warrant, shall be as provided for in the warrant, but if the warrant is silent as to bail amount, the bail shall be as provided in this order.

EXTRADITION CASES: The first appearance clerk shall identify extradition cases on the first appearance docket. Judges conducting first appearance hearings shall not set bail in extradition cases, except in conformity with §§ 941.15 and 941.16, Florida Statutes.

SPECIAL CONDITION OF RELEASE – PROBATION/COMMUNITY CONTROL: Any person arrested in Flagler or Volusia counties who is, on the date of arrest, on probation or community control with supervision by the Department of Corrections, Probation and Parole Services, shall, as an additional condition of release, report to the Department of Corrections, Probation and Parole Services, before the close of business on the first business day following release, and comply with all terms and conditions of such person's probation/community control order. Any such arrested person shall not be released until instructed of this special condition by a booking officer/jail official.

SPECIAL CONDITION OF RELEASE – VIOLENT OFFENDERS AND SEXUAL OFFENDERS: Any person who is arrested for an offense involving an allegation of violence to another person or for any sexual offense shall, as an additional condition of release, be prohibited from having direct or indirect contact with any alleged victim named in the arrest report, unless such prohibition is determined by a judge not to be necessary. Any such arrested person shall not be released until instructed of this special condition by a booking officer/jail official.

TEMPORARY DETENTION: If, in the opinion of the arresting officer or booking officer, further violence or additional violations of law are likely to imminently result if an arrested person is released in accordance with the bail schedule herein adopted, so that no release on bail can reasonably protect the community from risk of physical harm to person, or assure the presence of the arrested person at trial, an Assistant State Attorney may be notified, and said Assistant State Attorney may contact a judge for authority to maintain and hold the alleged offender in custody until First Appearance.

BAIL BEFORE CONVICTION; CONDITION OF UNDERTAKING: If a person is admitted to bail for appearance for a preliminary hearing, or on a charge that a judge is empowered to try, the condition of the undertaking shall be that the person will appear for such hearing, or to answer the charge, and will submit to the orders and process of the judge trying the same, and will not depart without leave.

If a person is admitted to bail after being held to answer by a judge, or after an indictment or information on which the person is to be tried has been filed, the condition of the undertaking shall be that the person will appear to answer the charges before the court in which he or she may be prosecuted and submit to the orders and process of the court, and will not depart without leave.

EFFECT OF FILING NOTICE OF NO INFORMATION OR NOLLE PROSEQUI: If a person arrested for any offense(s) occurring within Flagler or Volusia counties is admitted to bail but has not yet been released from custody, and the State Attorney files a notice of No Information or Nolle Prosequi with respect to all charges arising out of a single arrest, jail officials shall, without further order of Court, release the person from custody as to the charges named.

As to the named charges and person, all bail undertaking, not defaulted, shall be canceled, all sureties on undefaulted bail shall be exonerated and all release on recognizance obligations shall be discharged without further order of Court. A bench warrant or capias which may be outstanding and is yet unserved upon a named individual for a specified charge shall also be canceled upon the filing of a No Information or Nolle Prosequi, without further order of Court.

IT IS FURTHER ORDERED that all previous administrative orders that provide for the setting of bail or bond before First Appearance in Flagler and/or Volusia counties are hereby rescinded.

TO BE RECORDED in Flagler and Volusia counties.

DONE AND ORDERED in Daytona Beach, Volusia County, Florida, this _____ day of October 2007.

J. DAVID WALSH
CHIEF JUDGE

cc: Circuit Judges (Flagler & Volusia)
County Judges (Flagler & Volusia)
Clerks of Court (Flagler & Volusia)
State Attorney
Public Defender

Sheriffs (Flagler & Volusia)
Volusia County Dept. of Corrections
Court Administration
Law Enforcement Agencies (Flagler & Volusia)

BAIL SCHEDULE – FLAGLER & VOLUSIA COUNTIES

OFFENSES FOR WHICH NO BAIL IS TO BE GRANTED AND NO RELEASE PERMITTED BEFORE FIRST APPEARANCE:

- Capital felony
- Life felony
- First degree felony which may be punishable by life imprisonment
- Escape – F.S. 944.40
- Domestic Violence – any offense defined in F.S. 741.28(2)
- Aggravated Stalking – F.S. 784.048(3)
- Burglary committed during declared state of emergency – F.S. 810.02
- Violation of domestic or repeat violence injunction when the alleged violation involves violence or attempt to commit violent act or stalking
- Any felony, if the person arrested is on pre-trial release (including, i.e., bail, ROR), pre-sentence release, or probation/community control, and is arrested on probable cause
- RICO Act violation – F.S. 895.03

OFFENSE

BAIL

Drug Trafficking

Min. mandatory 25 years	\$500,000
Min. mandatory 15 years	\$150,000
Min. mandatory 7 years	\$ 50,000
Min. mandatory 3 years	\$ 25,000

1st degree Felony:

Violent	\$20,000
Non-Violent	\$10,000

2nd degree Felony:

Violent	\$ 5,000
Non-Violent	\$ 2,500

3rd degree Felony:

Violent	\$ 2,000
Non-Violent	\$ 1,000

1st degree Misdemeanor

Violent	NTA/\$1,000
Non-Violent	NTA/\$500

2nd degree Misdemeanor

NTA/\$250

- Any felony offense not involving physical harm or actual threat of physical harm to another person is a “non-violent” offense. Any felony offense involving physical harm to another person, or having as one of its elements assault or threat of violence, or involving the use or threatened use of a deadly weapon, is a “violent” offense. However, any burglary of a dwelling shall be considered a “violent” offense.

OFFENSE

BAIL

DUI

1 st offense	NTA/\$500*
If prior DUI conviction(s) within 5 years, or , with bodily injury	\$2,000*

*Release must also comply with F.S. 316.193(9)

Fleeing/attempting to elude

Misdemeanor	NTA/\$500
Felony	\$2,500

Leaving scene of accident

Misdemeanor	NTA/\$250
Felony (injuries)	\$1,000
Felony (death)	\$2,500

Reckless Driving

No accident	NTA/\$250
Accident	NTA/\$500

Driving with suspended/revoked license

Driving with suspended/revoked license	NTA/\$250
1 prior conviction	NTA/\$500
2 or more prior convictions	\$1,000

Willful failure to comply with LEO/FD

NTA/\$250

Other criminal traffic violations (Ch. 320 & 322, F.S.)

NTA/\$100

Municipal ordinance violation

As suggested by municipality **or** NTA/\$50

- This bail schedule pertains to release of alleged offenders **prior to First Appearance**, when a judge has not previously established conditions of release (for example, in an arrest warrant). The First Appearance judge may increase or decrease/eliminate the amount of bail and set other conditions of release, pursuant to Rule 3.131(a), Fla.R.Crim.P., and other applicable rules and statutes.
- Rule 3.125(b) and (c), provides that arresting officers and booking officers may issue **notices to appear** under certain circumstances, where the arrest is for a misdemeanor of the first or second degree. Such notices to appear may be issued in accordance with the rule when “NTA” appears on this schedule.
- F.S. 903.046(2)(d) provides that a defendant who **failed to appear** shall not be eligible for release on recognizance, and shall be subject to a monetary undertaking of \$2,000 or twice the original bond, whichever is greater. However, this does not apply if the defendant proves circumstances beyond his or her control resulted in the failure to appear.