

Rec: \$0.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

SUPERIOR COURT OF CHEROKEE COUNTY, STATE OF GEORGIA

**TO: ALL SHERIFFS, JAILERS, CUSTODIANS OF PRE-TRIAL
DETENTION, OTHER PRE-TRIAL OFFICERS, MAGISTRATES,
DISTRICT ATTORNEYS AND THE DIRECTOR OF INDIGENT
DEFENSE SERVICES.**

RE: SCHEDULE OF BAIL O.C.G.A. 17-6-1 AND 17-6-1.1

ORDER ON FELONY BAIL PROCEDURES

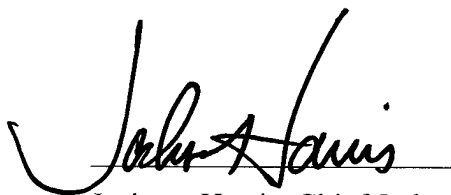
In order to promote uniformity and fairness and to facilitate early setting of bail, the BOND SCHEDULE ORDER entered by this Court on July 1, 2008 is superseded by the within Order. Upon entry of this Order, bail for persons charged with felony offense(s) will be as described in O. C. G. A. 17-6-1 and, where applicable, O. C. G. A. 17-6-1.1 as shown in attachments hereto or as later amended.

It is anticipated by this Court that the Magistrate will provide a schedule whereby persons arrested without a warrant in allowable circumstances may be released from custody prior to appearance in Court.¹ At and after a defendant's first appearance, the amount of bail, if any is allowed, shall lie with the sound discretion of the judicial officer before whom the defendant appeared, and may be greater or less than the amount set forth in any bail schedule now or later entered.

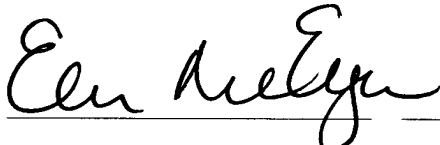
When a person is charged with two or more offenses, this Court will consider a single amount based upon the most serious offense unless the offenses are alleged to have been committed against separate victims or on separate dates.

When an amount for bail is set, the statutory bond add-ons should be computed and added to the amount.

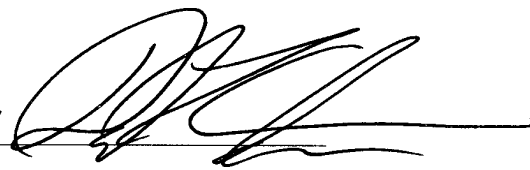
SO ORDERED this 8 day of August, 2017.



Jackson Harris, Chief Judge



Ellen McElyea, Judge



David Cannon, Jr., Judge

Statutes attached.

¹ Unless otherwise ordered by a judicial officer having jurisdiction over the matter.

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§ 17-6-1. Before whom offenses are bailable; when person..., GA ST § 17-6-1

West's Code of Georgia Annotated

Title 17. Criminal Procedure (Refs & Annos)

Chapter 6. Bonds and Recognizances (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

Ga. Code Ann., § 17-6-1

§ 17-6-1. Before whom offenses are bailable; when person charged with misdemeanor may be bailed

Effective: July 1, 2017

Currentness

(a) The following offenses are bailable only before a judge of the superior court:

(1) Treason;

(2) Murder;

(3) Rape;

(4) Aggravated sodomy;

(5) Armed robbery;

(5.1) Home invasion in the first degree;

(6) Aircraft hijacking and hijacking a motor vehicle in the first degree;

(7) Aggravated child molestation;

(8) Aggravated sexual battery;

(9) Manufacturing, distributing, delivering, dispensing, administering, or selling any controlled substance classified under Code Section 16-13-25 as Schedule I or under Code Section 16-13-26 as Schedule II;

(10) Violating Code Section 16-13-31 or Code Section 16-13-31.1;

(11) Kidnapping, arson, aggravated assault, or burglary in any degree if the person, at the time of the alleged kidnapping, arson, aggravated assault, or burglary in any degree, had previously been convicted of, was on probation

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or parole with respect to, or was on bail for kidnapping, arson, aggravated assault, burglary in any degree, or one or more of the offenses listed in paragraphs (1) through (10) of this subsection;

(12) Aggravated stalking; and

(13) Violations of Chapter 15 of Title 16.

(b)(1) All offenses not included in subsection (a) of this Code section are bailable by a court of inquiry. Except as provided in subsection (g) of this Code section, at no time, either before a court of inquiry, when indicted or accused, after a motion for new trial is made, or while an appeal is pending, shall any person charged with a misdemeanor be refused bail.

(2) Except as otherwise provided in this chapter:

(A) A person charged with violating Code Section 40-6-391 whose alcohol concentration at the time of arrest, as determined by any method authorized by law, violates that provided in paragraph (5) of subsection (a) of Code Section 40-6-391 may be detained for a period of time up to six hours after booking and prior to being released on bail or on recognizance; and

(B) When an arrest is made by a law enforcement officer without a warrant upon an act of family violence or a violation of a criminal family violence order pursuant to Code Section 17-4-20, the person charged with the offense shall not be eligible for bail prior to the arresting officer or some other law enforcement officer taking the arrested person before a judicial officer pursuant to Code Section 17-4-21.

(3)(A) Notwithstanding any other provision of law, a judge of a court of inquiry may, as a condition of bail or other pretrial release of a person who is charged with violating Code Section 16-5-90 or 16-5-91, prohibit the defendant from entering or remaining present at the victim's school, place of employment, or other specified places at times when the victim is present or intentionally following such person.

(B) If the evidence shows that the defendant has previously violated the conditions of pretrial release or probation or parole which arose out of a violation of Code Section 16-5-90 or 16-5-91, the judge of a court of inquiry may impose such restrictions on the defendant which may be necessary to deter further stalking of the victim, including but not limited to denying bail or pretrial release.

(c)(1) In the event a person is detained in a facility other than a municipal jail for an offense which is bailable only before a judge of the superior court, as provided in subsection (a) of this Code section, and a hearing is held pursuant to Code Section 17-4-26 or 17-4-62, the presiding judicial officer shall notify the superior court in writing within 48 hours that the arrested person is being held without bail. If the detained person has not already petitioned for bail as provided in subsection (d) of this Code section, the superior court shall notify the district attorney and shall set a date for a hearing on the issue of bail within 30 days after receipt of such notice.

(2) In the event a person is detained in a municipal jail for an offense which is bailable only before a judge of the superior court as provided in subsection (a) of this Code section for a period of 30 days, the municipal court shall

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notify the superior court in writing within 48 hours that the arrested person has been held for such time without bail. If the detained person has not already petitioned for bail as provided in subsection (d) of this Code section, the superior court shall notify the district attorney and set a date for a hearing on the issue of bail within 30 days after receipt of such notice.

(3) Notice sent to the superior court pursuant to paragraph (1) or (2) of this subsection shall include any incident reports and criminal history reports relevant to the detention of such person.

(d) A person charged with any offense which is bailable only before a judge of the superior court as provided in subsection (a) of this Code section may petition the superior court requesting that such person be released on bail. The court shall notify the district attorney and set a date for a hearing within ten days after receipt of such petition.

(e) A court shall be authorized to release a person on bail if the court finds that the person:

(1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.

However, if the person is charged with a serious violent felony and has already been convicted of a serious violent felony, or of an offense under the laws of any other state or of the United States which offense if committed in this state would be a serious violent felony, there shall be a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the person as required or assure the safety of any other person or the community. As used in this subsection, the term "serious violent felony" means a serious violent felony as defined in Code Section 17-10-6.1.

(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided in this subsection, the judge of any court of inquiry may by written order establish a schedule of bails and unless otherwise ordered by the judge of any court, a person charged with committing any offense shall be released from custody upon posting bail as fixed in the schedule.

(2) For offenses involving an act of family violence, as defined in Code Section 19-13-1, the schedule of bails provided for in paragraph (1) of this subsection shall require increased bail and shall include a listing of specific conditions which shall include, but not be limited to, having no contact of any kind or character with the victim or any member of the victim's family or household, not physically abusing or threatening to physically abuse the victim, the immediate enrollment in and participation in domestic violence counseling, substance abuse therapy, or other therapeutic requirements.

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(3) For offenses involving an act of family violence, the judge shall determine whether the schedule of bails and one or more of its specific conditions shall be used, except that any offense involving an act of family violence and serious injury to the victim shall be bailable only before a judge when the judge or the arresting officer is of the opinion that the danger of further violence to or harassment or intimidation of the victim is such as to make it desirable that the consideration of the imposition of additional conditions as authorized in this Code section should be made. Upon setting bail in any case involving family violence, the judge shall give particular consideration to the exigencies of the case at hand and shall impose any specific conditions as he or she may deem necessary. As used in this Code section, the term "serious injury" means bodily harm capable of being perceived by a person other than the victim and may include, but is not limited to, substantially blackened eyes, substantially swollen lips or other facial or body parts, substantial bruises to body parts, fractured bones, or permanent disfigurements and wounds inflicted by deadly weapons or any other objects which, when used offensively against a person, are capable of causing serious bodily injury.

(4) For violations of Code Section 16-15-4, the court shall require increased bail and shall include as a condition of bail or pretrial release that the defendant shall not have contact of any kind or character with any other member or associate of a criminal street gang and, in cases involving a victim, that the defendant shall not have contact of any kind or character with any such victim or any member of any such victim's family or household.

(5) For offenses involving violations of Code Section 40-6-393, bail or other release from custody shall be set by a judge on an individual basis and not a schedule of bails pursuant to this Code section.

(g) No appeal bond shall be granted to any person who has been convicted of murder, rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated child molestation, child molestation, kidnapping, trafficking in cocaine or marijuana, aggravated stalking, or aircraft hijacking and who has been sentenced to serve a period of incarceration of five years or more. The granting of an appeal bond to a person who has been convicted of any other felony offense or of any misdemeanor offense involving an act of family violence as defined in Code Section 19-13-1, or of any offense delineated as a high and aggravated misdemeanor or of any offense set forth in Code Section 40-6-391, shall be in the discretion of the convicting court. Appeal bonds shall terminate when the right of appeal terminates, and such bonds shall not be effective as to any petition or application for writ of certiorari unless the court in which the petition or application is filed so specifies.

(h) Except in cases in which life imprisonment or the death penalty may be imposed, a judge of the superior court by written order may delegate the authority provided for in this Code section to any judge of any court of inquiry within such superior court judge's circuit. However, such authority may not be exercised outside the county in which said judge of the court of inquiry was appointed or elected. The written order delegating such authority shall be valid for a period of one year, but may be revoked by the superior court judge issuing such order at any time prior to the end of that one-year period.

(i) As used in this Code section, the term "bail" shall include the releasing of a person on such person's own recognizance, except as limited by the provisions of Code Section 17-6-12.

(j) For all persons who have been authorized by law or the court to be released on bail, sheriffs and constables shall accept such bail; provided, however, that the sureties tendered and offered on the bond are approved by the sheriff of the county in which the offense was committed.

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§ 17-6-1. Before whom offenses are bailable; when person..., GA ST § 17-6-1

Credits

Laws 1922, p. 51, § 1; Laws 1973, p. 454, § 1; Laws 1980, p. 1359, § 1; Laws 1982, p. 910, § 1; Laws 1983, p. 3, § 14; Laws 1983, p. 358, § 1; Laws 1983, p. 452, § 1; Laws 1984, p. 22, § 17; Laws 1984, p. 679, § 1; Laws 1984, p. 760, § 1; Laws 1985, p. 416, § 1; Laws 1986, p. 166, §§ 1, 2; Laws 1988, p. 358, § 1; Laws 1989, p. 1714, § 1; Laws 1990, p. 8, § 17; Laws 1991, p. 416, § 1; Laws 1991, p. 1401, § 1; Laws 1992, p. 1150, § 1; Laws 1992, p. 2527, § 1; Laws 1993, p. 91, § 17; Laws 1993, p. 1534, § 2; Laws 1994, p. 532, § 1; Laws 1994, p. 1270, § .5; Laws 1994, p. 1625, § 5; Laws 1995, p. 379, §§ 1, 2; Laws 1995, p. 989, §§ 1, 2; Laws 1996, p. 1233, § 1; Laws 1996, p. 1624, § 1; Laws 1997, p. 143, § 17; Laws 1998, p. 270, § 9; Laws 1999, p. 391, § 3; Laws 2000, p. 1171, § 1; Laws 2006, Act 571, § 18, eff. July 1, 2006; Laws 2008, Act 717, § 1, eff. July 1, 2008; Laws 2010, Act 404, § 1, eff. July 1, 2010; Laws 2010, Act 406, §§ 8, 9, eff. July 1, 2010; Laws 2012, Act 709, § 8-8, eff. July 1, 2012; Laws 2013, Act 207, § 3, eff. May 6, 2013; Laws 2014, Act 574, § 9, eff. July 1, 2014; Laws 2017, Act 182, § 2-1, eff. July 1, 2017.

~~Formerly~~ Code 1863, § 4625; Code 1868, § 4649; Code 1873, § 4747; Code 1882, § 4747; Penal Code 1895, § 933; Penal Code 1910, § 958; Code 1933, § 27-901.

Ga. Code Ann., § 17-6-1, GA ST § 17-6-1

The statutes and Constitution are current with legislation passed during the 2017 Session of the Georgia General Assembly. The statutes are subject to changes by the Georgia Code Commission.

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§ 17-6-1.1. Electronic pretrial release and monitoring program, GA ST § 17-6-1.1

West's Code of Georgia Annotated

Title 17. Criminal Procedure (Refs & Annos)

Chapter 6. Bonds and Recognizances (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

Ga. Code Ann., § 17-6-1.1

§ 17-6-1.1. Electronic pretrial release and monitoring program

Effective: July 1, 2015

Currentness

(a) In addition to other methods of posting bail or as special condition of bond, a defendant may be released from custody pending the trial of his or her case on the condition that the defendant comply with the terms and conditions of an electronic pretrial release and monitoring program which is approved pursuant to subsection (j) of this Code section. The sheriff of a county may enter into agreements with such approved providers. A bonding company, bonding agent, or probation service provider may be a provider of such services.

(b) If it appears to the court that a defendant subject to its jurisdiction is a suitable candidate for electronic pretrial release and monitoring, the court may, in its sole discretion and subject to the eligibility requirements of this Code section, authorize the defendant to be released under the provisions of an electronic pretrial release and monitoring program. A judge may only authorize electronic pretrial release and monitoring if that judge has jurisdiction to set a bond for the offense charged and the defendant is otherwise eligible for bond under subsection (e) of Code Section 17-6-1. When a court of competent jurisdiction has already set bond for a defendant indicating that the defendant is otherwise eligible for release on bail pursuant to subsection (e) of Code Section 17-6-1, in addition to accepting cash in satisfaction of the bond set by a court, the court may instruct the sheriff that the defendant is to be released to an electronic pretrial release and monitoring program.

(c) The court, in its sole discretion, may revoke at any time the eligibility of any defendant to participate in the electronic pretrial release and monitoring program in which event the defendant shall be immediately returned to custody. If the defendant's case has not been assigned to a particular division of the court, the chief judge shall have such authority.

(d) A defendant may not be released to, or remain in, an electronic pretrial release and monitoring program if such defendant has any other outstanding warrants, accusations, indictments, holds, or incarceration orders from any other court, law enforcement agency, community supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42 that require the posting of bond or further adjudication.

(e) A defendant released pursuant to an electronic pretrial release and monitoring program shall abide by such conditions as the court may impose relating to such program, including, but not limited to, the following:

(1) Periods of home confinement;

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- (2) Compliance with all requirements and conditions of the electronic pretrial release and monitoring program provider;
- (3) Compliance with any court orders or special conditions of bond which may include an order directing that no contact, direct or indirect, be made with the victim or forbidding entry upon, about, or near certain premises;
- (4) An order directing that the accused provide support and maintenance for the person's dependents to the best of his or her ability;
- (5) Restrictions on the use of alcoholic beverages and controlled substances;
- (6) Curfews;
- (7) Limitations on work hours and employment;
- (8) An order directing the accused to submit to test of breath, blood, or urine from time to time;
- (9) Travel restrictions;
- (10) An order directing that electronic pretrial release and monitoring equipment be kept in good working condition;
- (11) An order directing that the person refrain from violating the criminal laws of any state, county, or municipality;
- (12) An order directing timely payment of all fees connected with the electronic pretrial release and monitoring program;
- (13) Payroll deductions to fund electronic pretrial release and monitoring fees;
- (14) Provisions to permit reasonable medical treatment;
- (15) Provisions for procuring reasonable necessities, such as grocery shopping;
- (16) Provisions for attendance in educational, rehabilitative, and treatment programs; and
- (17) Such other terms and conditions as the court may deem just and proper.

§ 17-6-1.1. Electronic pretrial release and monitoring program, GA ST § 17-6-1.1

(f) Under no circumstances shall electronic pretrial release and monitoring equipment be introduced internally or beneath the skin of any person.

(g) In the event that a court of competent jurisdiction finds probable cause, upon oath, affirmation, or sworn affidavit, that a defendant has violated the terms or conditions of his or her electronic pretrial release and monitoring program, other than terms regarding home confinement set forth in paragraph (1) of subsection (e) of this Code section, or finds that the defendant provided false or misleading information concerning his or her qualifications to participate in the electronic pretrial release and monitoring program, including, but not limited to, name, date of birth, address, or other personal identification information, then the defendant's ongoing participation in such program shall be terminated immediately and, upon arrest of the defendant for such violation by any law enforcement officer, the defendant shall be returned to confinement at the county jail or other facility from which the defendant was released.

(h)(1) As an additional condition of electronic pretrial release and monitoring, a defendant authorized to participate in such program by the court shall pay a reasonable, nonrefundable fee for program enrollment, equipment use, and monitoring to the provider of such program. If a bonding company, bonding agent, or probation service provider is the provider, the fees earned in the capacity of being such a provider shall be in addition to the fees allowed in Code Sections 17-6-30, 42-8-34, and 42-8-102.

(2) The fees connected with the electronic pretrial release and monitoring program shall be timely paid by a defendant as a condition of his or her ongoing participation in the electronic pretrial release and monitoring program in accordance with the terms for such programs as approved by the court. Failure to make timely payments shall constitute a violation of the terms of the electronic pretrial release and monitoring program and shall result in the defendant's immediate return to custody.

(3) Defendants who have an extraordinary medical condition requiring ongoing medical treatment or indigent persons, as defined by the court, and who are selected by the court following the indigency standards established by the court may have such electronic pretrial release and monitoring fees paid by the sheriff with the consent of the governing authority.

(i) No defendant released under an electronic pretrial release and monitoring program under this Code section shall be deemed to be an agent, employee, or involuntary servant of the county or the electronic pretrial release and monitoring provider while so released, working, or participating in training or going to and from the defendant's place of employment or training. Neither the electronic pretrial release and monitoring provider nor the sheriff shall be civilly liable for the criminal acts of a defendant released pursuant to this Code section.

(j) Any person or corporation approved by the chief judge of the court and the sheriff in their discretion who meets the following minimum requirements may be approved to provide electronic pretrial release and monitoring services:

(1) The provider shall comply with all applicable federal, state, and local laws and all rules and regulations established by the chief judge and the sheriff in counties where the provider provides electronic pretrial release and monitoring services;

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- (2) The provider shall provide the chief judge and the sheriff with the name of the provider, the name of an individual who shall serve as the contact person for the provider, and the telephone number of such contact person;
- (3) The provider shall promptly, not later than three business days after such change, notify the chief judge and sheriff of any changes in its address, ownership, or qualifications under this Code section;
- (4) The provider shall provide simultaneous access to all records regarding all monitoring information, GPS tracking, home confinement, and victim protection regarding each person placed on electronic pretrial release and monitoring; and
- (5) The provider shall act as surety for the bond.
- (k) The sheriff shall maintain a list of approved providers of electronic pretrial release and monitoring services. The sheriff, in his or her discretion, may temporarily or permanently remove any provider from the list of approved providers should the provider:
- (1) Fail to comply with the requirements of this Code section;
- (2) Fail to monitor properly any defendant that the provider was required to monitor;
- (3) Charge an excessive fee for use and monitoring of electronic monitoring equipment; or
- (4) Act or fail to act in such a manner that, in the discretion of the sheriff, constitutes good cause for removal.

Credits

Laws 2009, Act 139, § 2, eff. July 1, 2009; Laws 2015, Act 73, § 5-29, eff. July 1, 2015.

Ga. Code Ann., § 17-6-1.1, GA ST § 17-6-1.1

The statutes and Constitution are current with legislation passed during the 2017 Session of the Georgia General Assembly. The statutes are subject to changes by the Georgia Code Commission.

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