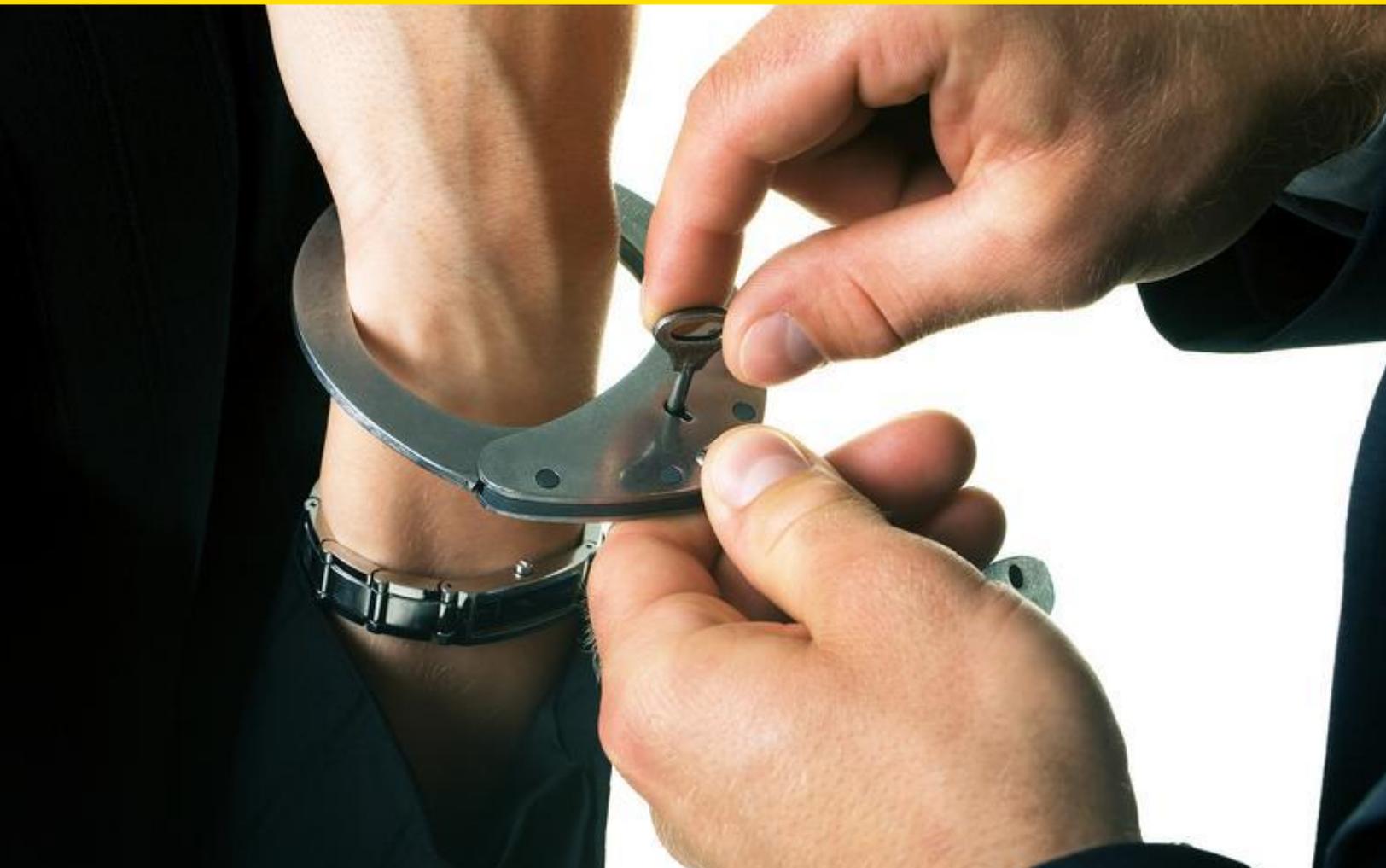


Because Each Criminal Prosecution Is Unique You Should Discuss the Issue of Bond in Your Particular Case With Your Defense Attorney; However, Some General Information About Bond in Florida May Be Helpful in the Meantime

BONDING OUT IN FLORIDA

What You Need to Know



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For most people, being arrested and charged with a criminal offense is a traumatic experience. Understandably, the first concern for most arrestees is getting out of jail. Thankfully, the American system of justice does require bond to be set in most circumstances when an individual is charged with a crime. The amount and type of bond that is set in a case will depend on a variety of factors. Because each criminal prosecution is unique you should discuss the issue of bond in your particular case with your defense attorney; however, some general information about bond in Florida may be helpful in the meantime.

WHAT IS BOND?

Bond, also referred to as bail, is used as an alternative to remaining in custody during the pendency of a criminal prosecution. The concept behind bond is that the defendant (or a relative in some cases) is allowed to put

up something of value as a way to ensure that the defendant will return for all court appearances until the case is resolved.

TYPES OF BOND

There are two basic types of bond – cash and surety. A cash bond, as the name implies, is paid entirely in cash to the court clerk or the jail. If you post a cash bond and appear for all required hearings you will receive the entire amount of the bond back, minus any court costs or fines, when the case terminates. A surety bond allows you to pay a percentage of the bond amount to a bondsman who will then post the bond with the court. The bondsman is then responsible for making sure that the defendant appears for all court appearances. A surety bond typically requires you to pay the bondsman 10 percent of the total bond. The amount you pay the bondsman will not be returned to you when the case concludes. Instead, that is the bondman's fee for securing your release. Furthermore, a bondsman is under no obligation to bond out anyone. The bondsman is free to pick and choose which defendants the bondsman thinks are worth the risk.

RELEASE ON OWN RECOGNIZANCE

In some cases a defendant is released on his or her own recognizance, or ROR. This simply means that a cash or surety bond is not required to secure the release of the defendant. Instead, the defendant is released based only on his or her promise to return to court when required. A defendant will usually only be granted a ROR if the current charges are a

non-violent misdemeanor or low level felony and the defendant does not have a significant previous criminal history.

HOW IS A BOND AMOUNT SET?



A bond schedule or bond matrix is initially used by the booking officer to set the amount of bond when an individual is arrested. The bond schedule bases the bond amount on the current charges the defendant is facing and provides a

low and high bond amount. The booking officer may deviate from the bond schedule but only with good cause. In Pasco and Pinellas Counties, for example, the bond schedule indicates that for a third degree felony a supervised ROR is at the low end of the scale while a \$10,000 bond is at the high end with a recommended bond amount of between \$2,000 and \$5,000.

The initial bond set by the booking officer allows the defendant to post bond and be released within hours if the defendant can post the bond. If the bond amount is too high and the defendant wants to try and reduce the amount, a bond reduction hearing can be requested.

FACTORS CONSIDERED WHEN A JUDGE SETS A BOND

Many defendants are unable to pay the initial bond amount set by the booking officer. When this is the case, the defendant has the right to

request a bond reduction hearing in front of a judge or magistrate. The bond amount set by the booking officer is arrived at more or less objectively; however, a bond set by a judge is a bit more subjective. While there are factors that a judge is allowed to consider when deciding on a bond amount, the weight a judge places on each factor can vary from one judge to the next. This is where having a criminal defense attorney who is familiar with the judges in your county comes in handy. Two judges faced with the exact same set of circumstances could set wildly different bond amounts. An attorney's familiarity with a court and the judge who presides in the court can help a defendant better prepare for a bond hearing. The following are factors that a judge may take into account when setting a bond:

- **The nature of the crime** -- Felony bonds are typically higher than misdemeanor bonds due to the fact that by their very nature, felonies are more serious crimes than misdemeanors. In addition, violent crimes typically are assigned higher bonds than non-violent crimes. For example, if you are accused of shoplifting, your bond amount is going to be a fraction of what it will be if you are accused of rape.
- **Flight risk** -- Because of the difficulty in locating someone who has fled the area and the cost of extradition and retrieval once the person is found, judges tend to set higher bonds for those who are considered flight risks. Factors that may label you a flight risk include not having any family or a job in the area, having the financial means to escape the country, or having failed to appear in the past. In some cases, the judge may set additional conditions of your bond such as

turning your passport over to the court or daily in-person reporting to a supervisory probation office.

- **Public safety** -- The judge must weigh your right to fight your case from outside jail with the public's right to safety. If you are accused of a violent crime you may be considered more of a danger to the public than had you been accused of a non-violent crime. Therefore, you should anticipate the possibility of a high bond amount.

NO BOND SITUATIONS

Although the United States Constitution guarantees your right to bond in most cases, there are exceptions to that general rule. In Florida, a defendant is initially held without bond if charged with the following:

- A capital crime
- Domestic violence as defined by §741.28, Florida Statutes,
- Non-domestic stalking (§784.048(2), Florida Statutes),
- Any violation of a domestic violence injunction (§741.30(9)(b), Florida Statutes),
- Any violation of an injunction for dating, repeat or sexual violence (§784.046, Florida Statutes),
- Any violation of pretrial release where the original arrest was for an act of domestic violence (§741.29(6), Florida Statutes),

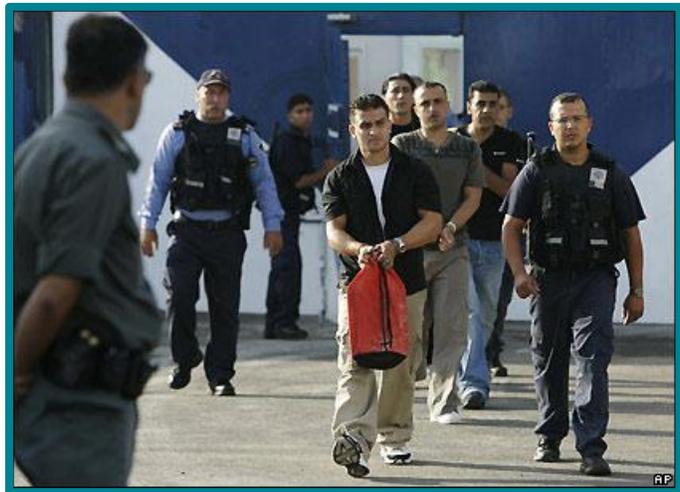
- Any arrest where the crime charged is a violation of chapter 874 or alleged to be subject to enhanced punishment under chapter 874, or
- Any arrest for burglary (§810.02, Florida Statutes) during a state of emergency in the county.

In all but capital cases the defendant will receive a bond review hearing in front of an actual judge not long after his or her arrest. In a capital case, your attorney can request what is referred to as an “Arthur Hearing”.

During this hearing the prosecutors are required to show the court that the presumption of your guilt is “great”. Following this hearing the judge determines whether to deny or allow a bond for you using the same three factors mentioned above.

RELEASE ON BOND

If you are released on bond it is imperative to remember that a violation of any of your conditions of release will likely result in a return to custody for the remainder of your case. This includes failing to appear for a scheduled hearing. If you posted a surety bond and you fail to



appear for court the bondsman will likely send out a bounty hunter to find you and return you to jail. If you are out on bond and you miss court or

violate any of your release conditions you should contact your attorney immediately to try and prevent a revocation of your bond.

Sixth Judicial Circuit, [Uniform Bond Schedule](#)

Polk County Sheriff, [Bond Information](#)

NOLO, [How Judges Set Bail](#)

YourLegalGuide.com, [Bail](#)

ABOUT THE AUTHORS



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Florida criminal defense lawyer, Amanda Powers Sellers, has aggressively defended thousands of Florida criminal cases. With over nine years of criminal jury trial experience, she has the necessary background to represent cases ranging from Driving under the Influence (DUI) to

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Amanda is a seasoned litigator and an aggressive negotiator. With a wealth of experience she has proven that her gentle, but aggressive style of criminal defense litigation consistently achieves results for her clients.



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Florida criminal defense attorney, Jenna Finkelstein, has over sixty (60) criminal jury trials to her credit. Her experience defending individuals charged with crimes in the state of Florida ranges from domestic battery to DUI Manslaughter, Sexual Battery, First Degree Murder and all

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She is passionate about the law and promises personal attention to all of her clients and their individual needs. Jenna is a seasoned trial attorney who knows the legal system and its players. Jenna and her team at the Law Offices of Powers Sellers & Finkelstein, PLC, are committed to fighting for you.

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