
Standing Order re Pre-Appearance Release by Department of Community Corrections and Rehabilitation

Pursuant to the Standing Order issued by the Chief Judge Peter Cahill, dated February 16, 2016, Assistant Chief Judge Toddrick Barnette hereby makes the following order setting standards for pre-appearance release by the Department of Community Corrections and Rehabilitation (DOCCR). These standards are in addition to any conditions or restrictions for pre-appearance release listed in the Chief Judge Cahill's Standing Order.

I. General Release Authority

- a. DOCCR is authorized to release defendants without bail – with or without conditions – if:
 - i. The charged offense does not require judicial review, as identified by the Fourth Judicial District Current Offense Charge Points document; and,
 - ii. The defendant scores 25 or less on the pretrial risk assessment scale.
- b. DOCCR is without authority to release defendants without bail if:
 - i. The charged offense requires judicial review; *or*,
 - ii. The defendant scores 26 or more on the pretrial risk assessment scale.

II. Special Conditions Required for Statutory Detention DWI and Domestic Violence Offenses

- a. Statutory Detention DWI Offenses
 - i. The following are Statutory Detention DWI offenses:
 - 1. 2nd Degree DWI;
 - 2. 3rd Degree DWI if:
 - a. a) the defendant is less than 19 years old;
 - b. b) the defendant's AC .16 or more;
 - c. c) a child under age 16 was in the vehicle; *or*,
 - d. d) the defendant's license was cancelled as inimical to public safety;
 - 3. 4th Degree DWI if the defendant's license was cancelled as inimical to public safety.

- ii. When a defendant charged with a Statutory Detention DWI offense is to be released under this Order, DOCCR must require electronic alcohol monitoring as a condition of release or \$12,000 bail without conditions.
- b. Domestic Violence Offenses
 - i. This section applies to the following Domestic Violence offenses:
 1. Misdemeanor domestic assault (Minn. Stat. § 609.2242);
 2. Interference with an emergency call (Minn. Stat. § 609.78);
 3. Misdemeanor violation of an order for protection (Minn. Stat. § 518B.01);
 4. Misdemeanor violation of a domestic abuse no contact order (Minn. Stat. § 629.75; and,
 5. Misdemeanor violation of a harassment restraining order (Minn. Stat. § 609.748.
 - ii. When a defendant charged with a Domestic Violence offense is to be released under this Order, DOCCR must require no contact with the alleged victim as a condition of release.

III. Presumptions

- a. It is presumed that DOCCR will release defendants who are eligible for release pursuant to Paragraph I.a. of this Order.
- b. Notwithstanding a defendant's eligibility for release pursuant to Paragraph I.a. of this Order, it is presumed that DOCCR will not release such defendant if:
 - i. The defendant is charged with a Domestic Violence offense; and,
 1. The defendant has previously been convicted of a firearm offense;
 2. The victim expresses concern about the defendant's access to a firearm;
 3. The victim expresses concern for his/her safety;
 4. The victim expresses concern about the defendant's release;
 5. The defendant does not have a verifiable place to reside other than with the victim;
 6. The defendant has previously attempted suicide or expressed suicidal ideation; or,
 7. DOCCR determines that a DANCO is necessary;
 - ii. The defendant is on supervised release;
 - iii. The defendant is subject to a felony hold, probable cause hold, immigration hold; A & D hold, bench warrant for non-appearance in court (other than failure to appear in response to a summons or CR violation);

or, the defendant is a prisoner of the federal government, military, ICE, or in transit;

- iv. The defendant cannot be interviewed in a timely manner; or,
- v. The defendant prefers to remain in custody rather than comply with a conditional release.

IV. Overrides

- a. An override occurs when DOCCR fails to release a defendant who qualifies for presumptive release pursuant to Paragraph III.a.
- b. DOCCR need not release a defendant who qualifies for presumptive release (*i.e.*, DOCCR may override) if the pretrial release score does not adequately reflect the risk of danger to the victim, the public, the defendant, or flight. Examples include:
 - i. In non-domestic cases (domestics addressed in Paragraph III.b.i.), there is a heightened concern for victim safety;
 - ii. There is a heightened threat to public safety because the defendant's criminal conduct is likely to continue or the defendant is unlikely to comply with conditions of release;
 - iii. There is a heightened risk of non-appearance because of the defendant's statements or residency in another state;
 - iv. There is a heightened risk of harm to the defendant or pretrial failure because of the defendant's current mental health problems or current drug or alcohol abuse;
 - v. The defendant has another felony, gross misdemeanor or targeted misdemeanor charge pending;
 - vi. The defendant is on probation for a felony, gross misdemeanor, targeted misdemeanor conviction; or,
 - vii. The defendant provided false or conflicting information.
- c. DOCCR may release a defendant who qualifies for presumptive detention if the grounds for detention overstate the risk of danger to the victim, the public, the defendant, or flight.

BY THE COURT:

Dated: 11/21/2016


Toddrick Barnette
Assistant Chief Judge
Fourth Judicial District