

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

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This Order sets standards for pre-appearance release by the Department of Community Corrections and Rehabilitation (DOCCR). This Order replaces the Standing Order of the same name signed by the Honorable Toddrick Barnette dated 11/21/2016. These standards are in addition to any conditions or restrictions for pre-appearance release listed in the separate Standing Order re: Pre-appearance Release by the Public Safety Facility.

**I. General Release Authority**

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

**II. Statutory Detention DWI Offenses**

- A. Statutory Detention DWI offenses include:
  - 1. Felony DWI (First-Degree DWI); and
  - 2. DWI – Any Degree – While Inimical to Public Safety.
- B. DOCCR is not authorized to release a defendant charged with an offense in this section.<sup>1</sup>

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<sup>1</sup> Minn. Stat. § 169A.40, subd. 3(b).

### **III. Mandatory Condition DWI Offenses**

#### **A. Mandatory Condition DWI offenses include:**

1. 2nd Degree DWI; and
2. 3rd Degree DWI if any of the following circumstances exist:
  - i. the defendant is under 19 years old;
  - ii. the offender had a BAC of .16 or more; or
  - iii. a child was in the car and the child is under 16 and more than 36 months younger than the offender.

#### **B. When a defendant charged with an offense in this section is to be released under this Order, DOCCR must require electronic alcohol monitoring as a condition of release or \$12,000 bail without conditions. <sup>2</sup>**

### **IV. Special Conditions Required for Domestic Violence Offenses**

#### **A. Domestic Violence Offenses include:**

1. Domestic assault (Minn. Stat. § 609.2242);
2. Interference with an emergency call (Minn. Stat. § 609.78);
3. Violation of a domestic abuse no contact order (Minn. Stat. § 629.75);
4. Violation of an order for protection (Minn. Stat. § 518B.01); and
5. Violation of a harassment restraining order (Minn. Stat. § 609.748).

#### **B. When a defendant charged with an offense in this section is to be released under this Order, DOCCR must require no contact with the alleged victim as a condition of release.**

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<sup>2</sup> When the defendant is subject to mandatory conditions due to a drug-related DWI rather than an alcohol-related DWI, DOCCR is required to require random drug testing as a condition of release.

## V. Exceptions

- A. Even if a defendant is eligible for release pursuant to Paragraph I.A. of this Order, DOCCR must not release such defendant if:
1. The defendant is charged with a Domestic Violence offense; and,
    - i. the defendant has previously been convicted of a firearm offense;
    - ii. the victim expresses concern about the defendant's access to a firearm;
    - iii. the victim expresses concern for his/her safety;
    - iv. the victim expresses concern about the defendant's release;
    - v. the defendant does not have a verifiable place to reside other than with the victim;
    - vi. the defendant has previously attempted suicide or expressed suicidal ideation; or
    - vii. DOCCR believes a DANCO is necessary.
  2. The defendant is on supervised release;
  3. 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;
  4. The defendant cannot be interviewed in a timely manner; or
  5. The defendant prefers to remain in custody rather than comply with conditions of release.
- B. DOCCR must not release a defendant pursuant to Paragraph I.A. if the pretrial release score does not adequately reflect the risk of danger to the victim, the public, the defendant, or flight. Examples include:
1. In non-domestic cases (domestics addressed in Paragraph IV.B.1.) there is a heightened concern for victim safety;
  2. 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;
  3. There is a heightened risk of non-appearance because of the defendant's statements or residency in another state;
  4. There is a heightened risk of harm to the defendant or pretrial failure because the defendant's current mental health problems or current drug or alcohol abuse;

5. The defendant has another felony, gross misdemeanor, or targeted misdemeanor charge pending;
6. The defendant is on probation for a felony, gross misdemeanor, or targeted misdemeanor; or
7. The defendant provided false or conflicting information.

BY THE COURT:

Dated: June 18, 2024

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Kerry W. Meyer  
Chief Judge  
Fourth Judicial District Court