

UNIVERSAL TEXAS DWI BOND CONDITION SCHEMATIC

Created and Promulgated by the Texas Justice Court Training Center

SECTION I: AMOUNT OF BAIL

Every Magistrate must take the following into account when fixing the amount of bail:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense and the community shall be considered.

These five factors must be carefully considered in every case.

Offense	Class
DUI Minor (1 st offense)	C
DUI Minor (2 or more previous final DUI-M dispositions & Def. 17 or Older)	B
DWI (1 st offense)	B
BWI (1 st offense)	B
FWI (1 st offense)	B
DWI with BAC > 0.15	A
DWI (1 previous Ch. 49 conviction)	A
BWI (1 previous Ch. 49 conviction)	A
FWI (1 previous Ch. 49 conviction)	A
DWI with Child Passenger	SJF
DWI (2 or more previous Ch. 49 convictions)	F3
BWI (2 or more previous Ch. 49 convictions)	F3
FWI (2 or more previous Ch. 49 convictions)	F3
DWI with 1 or more intoxication manslaughter convictions	F3
Intoxication Assault	F3
Intoxication Assault on peace officer, firefighter, EMS	F2
Intoxication Manslaughter	F2
Intoxication Manslaughter causing death of peace officer, firefighter, EMS	F1

SECTION II: BOND CONDITION CHECKLIST

Section A: Ignition Interlock

1. The defendant shall have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator. The defendant shall have the device installed on the appropriate motor vehicle, at the defendant's expense, before the 30th day after the date the defendant is released on bond. The defendant shall abstain from the use of alcohol.

Condition 1 **shall** be imposed if all of the following conditions apply:

- The defendant is charged with any of the following offenses: a subsequent offense under Section 49.04, Penal Code (Driving While Intoxicated), a subsequent offense under Section 49.05, Penal Code (Flying While Intoxicated), a subsequent offense under Section 49.06, Penal Code (Boating While Intoxicated), an offense under Section 49.07, Penal Code (Intoxication Assault), or an offense under Section 49.08, Penal Code (Intoxication Manslaughter); AND
- The magistrate does not find that to require the device would not be in the best interest of justice.

Condition 1 **may** be imposed if all of the following conditions apply:

- The defendant is charged with any of the following offenses: any of the following offenses: an offense under Section 49.04, Penal Code (Driving While Intoxicated), an offense under Section 49.05, Penal Code (Flying While Intoxicated), an offense under Section 49.06, Penal Code (Boating While Intoxicated), or an offense under Section 49.045, Penal Code (DWI with child passenger); AND
- The magistrate determines that requiring the defendant to install an interlock ignition device is a reasonable condition of bond related to the safety of a victim or the community.

2. The defendant shall not operate any motor vehicle unless the vehicle is equipped with an ignition interlock device.

Condition 2 **shall** be imposed if the condition listed below applies:

- The defendant is charged with any of the following offenses: a subsequent offense under Section 49.04, Penal Code (Driving While Intoxicated), a subsequent offense under Section 49.05, Penal Code

(Flying While Intoxicated), a subsequent offense under Section 49.06, Penal Code (Boating While Intoxicated), an offense under Section 49.07, Penal Code (Intoxication Assault), or an offense under Section 49.08, Penal Code (Intoxication Manslaughter)

Condition 2 **may** be imposed if all of the following conditions apply:

- The defendant is charged with any offense, including an offense under Section 49.04, Penal Code (Driving While Intoxicated), an offense under Section 49.05, Penal Code (Flying While Intoxicated), an offense under Section 49.06, Penal Code (Boating While Intoxicated), or an offense under Section 49.045, Penal Code (DWI with child passenger); AND
- The magistrate determines that requiring the defendant to refrain from driving any vehicle not equipped with an interlock ignition device is a reasonable condition of bond related to the safety of a victim or the community.

3. _____ *[fill in any appropriate agency] is designated as the agency assigned to verify the installation of the ignition interlock device and to monitor the device. The defendant shall pay an initial fee to the monitoring agency at the time the agency verifies the installation of the ignition interlock device. Additionally, in every subsequent month for which the agency provides a monitoring service, the defendant shall pay a fee on the first occasion in that month that the agency provides a monitoring service. The amount of the initial fee and the subsequent monitoring fee shall be: _____ [fill in an amount not to exceed \$10 as determined by the county auditor, or by the commissioners court of the county if the county does not have a county auditor, to be sufficient to cover the cost incurred by the designated agency in conducting the verification or providing the monitoring service].*

Condition 3 **may** be imposed if the magistrate has ordered the defendant to install an ignition interlock device as a condition of bond.

Section B: Monitoring and Controlled Substance Testing

4. *The defendant shall submit to home curfew under the supervision of _____ [fill in an appropriate monitoring agency]. The defendant shall be at home between the hours of _____ every day, without exception.*

Condition 4 **may** be imposed in any case if the magistrate considers it to be an appropriate condition.

5. *The defendant shall remain at his or her place of residence at all times following his or her release from confinement. The defendant may leave his or her place of residence to attend a court setting, to comply with a condition of the defendant's bond, or with the written permission of the magistrate.*

Condition 5 **may** be imposed in any case if the magistrate considers it to be an appropriate condition.

6. *The defendant shall submit to electronic location monitoring to enforce home confinement or the curfew hours designated by the magistrate and have installed on the defendant's person a device that continuously monitors the defendant's location. The defendant shall have the device installed not later than the ____ day after the date the defendant is released on bond.*

Electronic monitoring shall be supervised by _____ [fill in an appropriate monitoring agency]. The costs of monitoring shall [choose one]:

- Be paid directly by the defendant as a condition of bond; OR*
- Be assessed as court costs.*

Condition 6 **may** be imposed in any case if the magistrate considers it to be an appropriate condition.

7. *The defendant shall report to _____ [fill in an appropriate monitoring or testing agency] and submit to testing on a [circle one] weekly/bi-weekly/monthly/other: _____ basis for the presence of a controlled substance in the defendant's body.*

In order to determine whether the defendant has used a controlled substance, the defendant shall provide the monitoring agency with a sample of his or her:

- Blood*
- Hair*
- Urine*
- Other: _____*

The costs of testing for controlled substances shall: [choose one]

- Be paid directly by the defendant as a condition of bond; OR*
- Be assessed as court costs.*

Condition 7 **may** be imposed in any case if the magistrate considers it to be an appropriate condition.

Section C: Conditions Related to the Safety of the Community

8. *The defendant shall refrain from consuming alcohol and obtain a portable alcohol monitoring device that monitors the defendant's blood alcohol concentration on a periodic basis. The defendant shall obtain and activate the device not later than the 30th day after the date the defendant is released on bond, and shall refrain from tampering with the device. Operation of the device shall be monitored by _____ [fill in an appropriate monitoring or testing agency].*

Condition 8 **may** be imposed in any case if the magistrate determines that requiring the defendant to obtain a portable alcohol monitoring device is a reasonable condition of bond related to the safety of a victim or the community.

9. *The defendant shall refrain from consuming alcohol and have installed on the defendant's person a device that continuously monitors the defendant's blood alcohol concentration. The defendant shall have the device installed and activated not later than the 30th day after the date the defendant is released on bond, and shall refrain from tampering with the device. Operation of the device shall be monitored by _____ [fill in an appropriate monitoring or testing agency]. The device:*

- Shall be programmed to electronically monitor the defendant's location; OR*
- Shall not be used to electronically monitor the defendant's location.*

Condition 9 **may** be imposed in any case if the magistrate determines that requiring the defendant to obtain a device that continuously monitors the defendant's alcohol consumption and/or physical location is a reasonable condition of bond related to the safety of a victim or the community.

10. *The defendant shall obtain a drug detection patch approved by the court and apply said patch to his or her person not later than the ____ day after the date the defendant is released on bond, refrain from tampering with the patch following its application, and report to _____ [fill in an appropriate monitoring or testing agency] on a [circle one] weekly/bi-weekly/monthly/other: _____ basis for testing of the drug detection patch.*

Condition 10 **may** be imposed in any case if the magistrate determines that requiring the defendant to obtain a drug detection patch is a reasonable condition of bond related to the safety of a victim or the community.

11. *The defendant shall avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang.*

Condition 11 **may** be imposed in any case if the magistrate determines that requiring the defendant to avoid disreputable persons is a reasonable condition of bond related to the safety of a victim or the community.

12. The defendant shall attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse.

Condition 12 **may** be imposed in any case if the magistrate determines that requiring the defendant to attend counseling sessions is a reasonable condition of bond related to the safety of a victim or the community.

13. The defendant shall not communicate directly with any victim of the alleged offense.

Condition 13 **may** be imposed in any case if the magistrate determines that prohibiting victim contact is a reasonable condition of bond related to the safety of a victim or the community.

14. The defendant shall abstain from the use of alcohol, any controlled substance, as that term is defined by Section 481.002, Health and Safety Code, or any drug for which the defendant does not hold a valid prescription.

Condition 14 **may** be imposed in any case if the magistrate determines that prohibiting further alcohol/drug use is a reasonable condition of bond related to the safety of a victim or the community.

Section D: Monitoring Agency

15. Any condition of bond for which a monitoring agency is not specifically designated shall be monitored by:

- The District Attorney's Office;*
- The County Attorney's Office;*
- The County Community Supervision and Corrections Department, and the defendant shall pay a monitoring fee of \$___ per month [fill in an amount between \$25.00 and \$60.00] to the Department;*
- The court or magistrate before whom the prosecution is pending; OR*
- Other:*

The defendant shall report to the monitoring agency designated above not later than the ___ day after the defendant is released on bond.

Condition 15 **may** be imposed in any case if the magistrate determines that submitting to monitoring of the bond conditions placed on the defendant is a reasonable condition of bond related to the safety of a victim or the community.

Section E: Other Conditions

16. _____

17. _____

The magistrate **may** impose any additional condition in any case if the magistrate determines the condition is a reasonable condition of bond related to the safety of a victim or the community.