

# Pretrial Release

(From D.C. Code 2013)

As interpreted by Joseph Jorgens III (SCTLA VP and Chief Information Officer 202-547-1959)

## §23-1322(a) 5 (working) day hold (discretionary = a non-mandatory hold)

The judicial officer shall order the detention of a person charged with an offense and direct the gov. to notify the appropriate court, P.O. or law enforcement, **IF** the judicial officer finds:

(a)(1)(**A**): 5 (working) day hold  
(discretionary)

- 1) **probable cause** that defendant committed any crime
- 2) **AND** Defendant has a **PENDING CASE** (Fel or Misd)(any jurisdiction)
- 3) **AND** (from (a)(2)) that **D may flee or pose danger** to person/community **OR** when a hearing under 23 1329(b) is requested, is likely to violate a condition of release

(a)(1)(**B**): 5 (working) day hold  
(discretionary)

- 1) **probable cause** that defendant committed any crime
- 2) **AND is PENDING SENTENCE** (imposition, execution, completion)
- 3) **AND** (from (a)(2))that **D may flee or pose danger** to person/community **OR** when a hearing under 23 1329(b) is requested, is likely to violate a condition of release

(a)(1)(**C**): 5 (working) day hold  
(discretionary)

- 1) **probable cause** that defendant committed any crime
- 2) **AND is ON PROBATION OR PAROLE** for any offense (in any juris.)
- 3) **AND** (from (a)(2))that **D may flee or pose danger** to person/community **OR** when a hearing under 23 1329(b) is requested, is likely to violate a condition of release

(NOTE: If defendant is not a flight risk or a danger to others (even if meets other criteria), **CANNOT BE HELD.**)  
\*\*\*\*\*

## §23-1322(b) 3 (calendar) day hold (non-discretionary = Mandatory hold)

The judicial officer **SHALL** hold a hearing to determine whether any condition or combination of conditions will reasonably assure D's appearance and protect safety UPON ORAL MOTION OF GOV **IF** the judicial officer finds:

(b)(1)(**A**): 3 (calendar) day hold: (non-discretionary)

**probable cause** that defendant committed a **CRIME OF VIOLENCE** (§23-1331(4)), or a **DANGEROUS CRIME** (§23-1331(3)) **OR**

(b)(1)(**B**): 3 (calendar) day hold: (non-discretionary)

**probable cause** that defendant committed an offense under **THE THEFT AND WHITE COLLAR CRIMES ACT OF 1982.** **OR**

(b)(1)(**C**): 3 (calendar) day hold: (non-discretionary)

**probable cause** that defendant committed alleged crime **AND** there is a serious risk that defendant will obstruct or attempt to: **OBSTRUCT JUSTICE, OR THREATEN, INJURE, OR INTIMIDATE A PROSPECTIVE WITNESS OR JUROR.** **OR**

(b)(1)(**D**): 3 (calendar) day hold: (non-discretionary)

**probable cause** that defendant committed alleged crime **AND** there is a serious risk that **DEFENDANT WILL FLEE.**

\*\*\*\*\* (For (b) hold: **IF** probable cause is found that the defendant committed the crime alleged **and** any of the above are true - Judge **MUST** grant hold)

## § 23-1331(3) and (4): Definitions of “Dangerous Crime” and “Crime of Violence”

(From D.C. Criminal Law and Procedure - 2013)

### § 23-1331(3) The term "**dangerous crime**" means:

- (A) Any felony offense under Chapter 45 of Title 22 (Weapons) or Chapter 25 of Title 7 (Firearms Control);
- (B) Any felony offense under Chapter 27 of Title 22 (Prostitution, Pandering);
- (C) Any felony offense under Unit A of Chapter 9 of Title 48 (Controlled Substances);
- (D) Arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business;
- (E) Burglary or attempted burglary;
- (F) Cruelty to children;
- (G) Robbery or attempted robbery; or
- (H) Sexual abuse in the first degree, or assault with intent to commit first degree sexual abuse.
- (I) Any felony offense in the Prohibition Against Human Trafficking Amendment Act of 2010
- (J) Fleeing from an officer in a motor vehicle (Felony)

### § 23-1331(4) The term "**crime of violence**" means:

aggravated assault;  
act of terrorism;  
arson;  
assault on a police officer (felony);  
assault with a dangerous weapon;  
assault with intent to kill;  
assault with significant bodily injuries  
assault with intent to commit (most violent felony) offenses:  
burglary;  
carjacking - (armed or not);  
child sexual abuse;  
cruelty to children in the first degree;  
extortion or blackmail accompanied by threats of violence;  
gang recruitment, participation, or retention by the use or threatened use of force, coercion or intimidation;  
kidnapping;  
malicious disfigurement;  
manslaughter;  
manufacture or possession of a weapon of mass destruction;  
mayhem;  
murder;  
robbery;  
sexual abuse in the first, second, and third degrees and child;  
use, dissemination, or detonation of a weapon of mass destruction; or  
An **attempt, solicitation or conspiracy to commit** any of the foregoing offenses

## § 23-1329 Penalties for violation of conditions of release

- (a) A person who has been conditionally released pursuant to section 23-1321 and who has violated a condition of release shall be subject to revocation of release, an order of detention, and prosecution for contempt of court.
- (b)(1) Proceedings for revocation of release maybe initiated on motion of the United States Attorney or the court's own motion. . . No order of revocation and detention shall be entered unless, after a hearing, the judicial officer:
  - (A) Finds that there is —
    - (i) Probable cause to believe that the person has committed a federal, state, or local crime while on release; or
    - (ii) Clear and convincing evidence that the person has violated any other condition of his release; and
  - (B) Finds that:
    - (i) Based on the factors set out in § 23-1322(e), there is no condition or combination of conditions of release which will reasonably assure that the person will not flee or pose a danger to any other person or the community; or
    - (ii) The person is unlikely to abide by a condition or conditions of release.
- (2) If there is probable cause to believe that while on release, the person committed a dangerous or violent crime, as defined by § 23-1331, or a substantially similar offense under the laws of any other jurisdiction, a rebuttable presumption arises that no condition or combination of conditions will assure the safety of any other person or the community.