

PRIMARY BOND CONSIDERATIONS

The Official Code of Georgia outlines four factors to consider to determine whether a defendant qualifies for a bond:

“A court shall be authorized to release a person on bail if the court finds that the person:

(1) Poses no significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required;

(2) Poses no significant threat or danger to any person, to the community, or to any property in the community;

(3) Poses no significant risk of committing any felony pending trial; and

(4) Poses no significant risk of intimidating witnesses or otherwise obstructing the administration of justice.”

O.C.G.A. § 17-6-1(e).

OTHER BOND CONSIDERATIONS

The Judge may also take into consideration the ties that the accused person has to the community. This includes how long they have lived in the Fulton County area, the employment history of the accused, and significant family connections to Fulton County.

GENERAL INFORMATION

Persons accused of crimes have the **right to remain silent**. If you are in court to support someone accused of a crime, the right to remain silent applies to you as well. Statements made in court by the accused person or family members may be noted and later used against the accused by the prosecutor.

The First Appearance hearing is NOT the hearing to determine whether the accused is guilty, but only to review the arrest warrant for probable cause, issue a bond (if the accused qualifies), and to alert the accused of the next court date.

There are some offenses under law, for which a person is not eligible for bond at First Appearance. The presiding Judge will inform each accused person whether they are charged with an offense for which no bond may be set.

The accused person must provide a current mailing address. Notices and letters about Court will be sent by mail to the address provided. Failure to receive a court notice because the mailing address is out of date is not a defense for failing to appear. If the accused fails to appear for a court date, a bench warrant will be issued for their arrest.



FULTON COUNTY MAGISTRATE COURT

FIRST APPEARANCE PAMPHLET



**Chief Magistrate
Judge Cassandra Kirk**

**Justice Center Tower
185 Central Avenue S.W.
Atlanta, GA 30303**

**HOURS OF OPERATION
Monday – Friday
8:30am – 5:00pm**

**CONTACT
Telephone: 404-613-5360**

www.magistratefulton.org

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Our Community***

DISCLAIMER: The information in this pamphlet is not legal advice. It is intended to give a general overview of the procedures used in the Magistrate Court of Fulton County. Consult an attorney with specific questions about your case.

This pamphlet provides information about what to expect at a **First Appearance** hearing.

THE BASICS

The First Appearance hearing is a criminal proceeding, brought by the State of Georgia, either through the Solicitor General (misdemeanor prosecutor) or the District Attorney (felony prosecutor). The individual who has been arrested is referred to as the Accused or the Defendant. These criminal prosecutions are carried out on behalf of the State of Georgia.

This hearing occurs 24-72 hours after an arrest. The purpose of the hearing is to notify the defendant of the charges against them and confirm that probable cause exists to hold the accused person. The court may also issue a bond, if the defendant qualifies for one.

The office of the prosecutor, pre-trial services, probation, if appropriate, and the attorney for the defendant will provide information to the Court in order for the Judge to consider whether bond is appropriate in each case. Fulton County typically issues two types of bonds.

BOND TYPES

1. **Signature Bond:** Commonly referred to as an “own recognizance” bond. This bond type requires only a signature promising to pay the set bond amount if the defendant misses the next court date. The date is set during the hearing.
2. **Good Bond:** Commonly referred to as a “surety” bond; this bond requires payment of the full bond by the defendant, a private party on behalf of the defendant, or a bail-bondsman in order to be released before the next court date.

RULES & PROCEDURE

The defendant is brought into the courtroom before the presiding Magistrate Judge. While the public may attend the First Appearance hearing, the defendant is not permitted to speak with those people attending in the proceedings for support.

The presiding Magistrate Judge gives an opening announcement giving each individual an explanation of:

- their rights during this proceeding,
- what to expect during the hearing, and
- what factors the judge will consider in determining whether to set bond and at what amount.

The Judge receives information in real time as each case is called from the following sources: a) pre-trial services and or probation officer (provides the criminal history), b) the prosecutor (provides the victim input), c) and the attorney for the defendant. This information may not be accurate and the accused person must alert the defense attorney immediately if an incorrect criminal history is shared with the Judge.

Step One

The Accused will stand when his or her name is called by the Judge and remain standing until their matter is concluded. They may sit down or exit the courtroom, as directed by the Sheriff.

Step Two

The Judge will advise the accused person of the charge(s) against them. The Judge will review the arrest warrant to ensure that probable cause exists for the arrest of the defendant.

Step Three

The Judge hears the criminal history of the accused person.

Step Four

The Attorney for the Accused (either a private attorney hired by the defendant or a public defender provided by the State of Georgia) provides information about the defendant to the court. The defense attorney may ask the court to grant a bond on behalf of the Defendant.

Step Five

The Prosecutor will provide the Judge with a recommendation on whether the defendant should get a bond and, if so, in what amount

Step Six

Based on all the information that has been provided, the presiding Judge will determine whether a bond is appropriate. If a bond is appropriate, the Judge will provide the type and amount of bond based upon the state guidelines for consideration.

The accused person will receive paperwork in court which states the bond amount(s), type, and any conditions. If the bond is through pretrial, the accused must meet with pretrial upon release. Bond conditions will remain in place until the matter is concluded or the conditions have been modified by the Court.

NOTE: The steps listed may not occur in the order above. All parties to the first appearance hearing will have the opportunity for input.