

Understanding Immigration Bonds

What is an immigration bond?

A bond is an amount of money someone pays to the Department of Homeland Security to assure them that if you are released, you will come to court for all your future hearings (and ICE check-ins).

How much is a bond?

By law the lowest possible bond is \$1,500. There is no upper limit. In Minnesota, most bonds are \$5,000-\$15,000, but bonds can be much higher.

How do I ask for a bond?

- You can ask ICE for a bond. If they set a bond, you can pay it and be released. If ICE doesn't set a bond, or sets a bond that is too high, you can also ask for a bond hearing with an immigration judge. Asking for a bond in front of a judge, doesn't mean you will get a bond. You must prove your case.
- You may also ask the immigration judge to *lower* a bond set by ICE, but be aware that the judge could lower the bond, keep the same amount, raise the bond, or order you detained without bond.

Do I need a lawyer (attorney) to help me?

- You have a right to an attorney, but you are not required to have an attorney. The court will not provide an attorney for you. If you want an attorney, you will have to find one yourself. The judge can give you a list of free attorneys, but you will have to contact them yourself to see if they will take your case. They might not be able to take your case. Calls to those organizations should be free from jail. There are also a number of private attorneys that handle bond cases that are not on the court's list.
- People are usually more successful in their bond and deportation cases if they do have an attorney. It is helpful to speak to an attorney before deciding whether to hire them or to represent yourself. You are not required to speak to or hire an attorney.
- If you aren't sure if you need an attorney, or haven't been able to hire one yet, you can ask the judge for more time (a continuance). The judge will give you more time to talk to an attorney. If you ask for more time, the judge may tell you to make a new bond request when you are ready. Your immigration case will continue to move forward while you are detained and seeking an attorney—judges will not grant you unlimited time.

How does a judge decide about my bond?

The judge will decide three things before deciding if you will get a bond:

- That you are eligible for a bond. Some criminal convictions make you ineligible for a bond such as drug crimes and aggravated felonies. You are not eligible for a bond if you were detained entering the US, if you have been deported before, or if you have a final deportation order.
- That you are not a danger to the public. The judge decides this based on your criminal history. The judge will look at convictions, arrests, and open criminal cases, police reports, evidence that you have been rehabilitated and any other evidence provided. If the judge believes you are a danger, you can't get bond.
- That you are not a "flight risk". The judge considers things such as whether you have connections to your community, you are eligible for relief, and have appeared for other court cases. This will reassure them you will come to all future deportation hearings if you are released from detention.

How do I convince the judge to give me a bond?

- The judge will tell you that you have "the burden of proof". That means you must convince the judge that you are not a danger or a flight risk. The government will likely present evidence showing why they believe you should remain detained.

- The judge will want written evidence; giving your word is not enough. Helpful evidence may include copies of birth certificates or green cards for family members, pay stubs, a signed lease or letter showing where you live, support letters from family members, clergy, employers, or friends, and proof of rehabilitation (*You can ask for the handout about how to present appropriate evidence.*)
- All documents you give to the court for your case must be in English or include a certified translation.
- It is hard to gather this evidence while you are detained. Family members or an attorney can help you. An attorney can help determine what information and evidence will be best in your particular case. An attorney will also be able to help translate your bond documents.

What if the judge gives me a bond that is too much money?

- You don't have to pay the bond right away. You also don't have to pay the bond yourself—anyone with lawful US status can pay the bond. But, you won't get released until the bond is paid.
 - Note, if someone is threatening you or loved ones in exchange for the bond, you should contact an immigration attorney to report this—it is illegal for someone to force you or others to work or perform sexual acts to pay off your bond.
- The Minnesota Freedom Fund, a nonprofit community fund, may be able to pay your bond. Someone will need to request this for you by going to the following website: mnfreedomfund.org

What happens if the judge doesn't give me a bond?

- You only get one bond hearing. If you are denied bond you will stay in detention until your deportation case is done. Unless there is a significant change in your circumstance, like having criminal charges dropped or a conviction overturned, you will not get another bond hearing once a judge denies bond. This is why you need to be prepared for your one bond hearing.
- You can appeal the judge's decision. This means asking a higher court, the Board of Immigration Appeals (BIA), to review the case. The BIA can either reverse or support the judge's decision. If you want to file an appeal the judge will provide you the forms and instructions. You will stay in detention while the appeal is being decided.

Will I get the bond money back?

- If you go to all of your court hearings and follow all the orders set by the Immigration Judge or ICE, including leaving the country if required, the bond money is returned to whomever paid it, when your case is over. But ICE may keep the bond money if you do not go to court or follow **all** the orders.

Remember

- A bond hearing is separate from a deportation/removal hearing. If you want to have a bond hearing, you must request one. This can be done in writing or by asking the judge when you go to court.
- You only get one bond hearing, so be prepared with evidence.
- Not everyone will get a bond. Immigration law says some people are not allowed to get bond. The immigration judge may also decide you should not be released and will deny you a bond.
- No matter what happens with your bond request, your deportation case continues whether you are detained or released on bond.
- Your immigration case is separate from any criminal case you have now, in the future, or had in the past. It is a different court with different judges and different attorneys. Getting bail from criminal court does not mean you will get bond from immigration court. Any money paid for your criminal bond does not go toward your immigration bond.
- You don't have to have an attorney, but having an attorney will usually help you be more successful in your case.