

# Procedures for Bail—Appeals and Writs of Habeas Corpus

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## Article 44.04: Appellate Bonds

- Governs eligibility for bonds in misdemeanor and felony cases
  - Post conviction; and
  - Post reversal of that conviction by a higher court.
- Eligible means that a defendant is eligible to be considered for bond pending appeal.

- 44.04 gives the trial court discretion to
  - Allow the defendant to remain at large on pretrial bail;
  - Grant bail pending appeal and set the amount and conditions of that bail;
  - Deny bail in limited circumstances; or
  - Revoke bail pending appeal.

## **Article 44.04(a): Misdemeanor Cases**

- Defendants are eligible for bond pending determination of an appeal in ALL misdemeanors.
- Defendant is eligible for a bond pending determination of a—
  - a motion for new trial; or
  - an appeal.

## Article 44.04(b): Felony Cases

- Defendant is *ineligible* for an appellate bond where—
  - Sentence imposed is equal to or exceeds 10 years actual physical confinement; and/or
  - Has been convicted of an offense under Article 42A.054(a) of the CCP. [the 3(g) offenses]

## Community Supervision

- A defendant who receives probation *is eligible for, but not required to seek*, an appellate bond.
- In lieu of an appellate bond, the trial court can allow the defendant to remain at liberty on a pretrial bond.
- But, the conditions of the defendant's community supervision do not commence until the mandate issues.

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