

Did you know?

Revised
July 2013

BAIL

What is bail?

Bail, also known as Judicial Interim Release, is a pledge or guarantee to the court that a person who has been arrested and charged with a criminal offence will appear in court when required to do so and will obey any conditions set by the police or the court. In Canada, anyone charged with a crime has the right to be freed on bail pending trial, although not an absolute right. Police may either release a person after arrest without a bail hearing or keep them in custody until their bail hearing (which must occur within 24 hours, unless there are special circumstances). A judge may issue a bail release order and may ask for one of several types of bail.

What are the types of bail orders?

Undertaking to Appear: If the accused has either no record, or only a minor record, this is a commonly used form of bail. The accused will be asked to sign a form called an Undertaking To Appear. Often the judge will attach conditions to this form of release. These can require that the accused:

- report to a bail supervisor
- live at a certain address
- not have contact with another person

Recognizance: This is an agreement to pay a set amount of money if the accused person does not appear in court as directed.

The accused can be released on his or her own recognizance, in which case the judge will set an amount of money to be paid if he or she fails to appear.

Recognizance with Surety: This is when a person in addition to the accused (the surety) agrees to be held responsible if the accused fails to appear in court. Bail is as much a moral as a financial obligation. The idea is for the accused to provide the court with the personal assurance of another individual that he or she, the accused, will appear in court as directed. The judge or justice of the peace may interview the surety.

Cash Deposit: This is the most severe type of bail. The judge might order this if the accused lives outside the jurisdiction of the court or has no fixed address. An amount of money must be deposited with the court before the accused can be released. Then if the accused fails to attend court when required, the money might not be returned.

For More Information

Lawyer Referral Service: **604-687-3221**
30 min consultation with a lawyer for \$25.

Duty Counsel: Defense lawyer at courthouse who will give information on rights and may assist on summary criminal matters.

Law Students' Legal Advice Program:

604-822-5791

