

### The accused has appeared in court, so when will they be released?

Be prepared to spend the entire day at court. The release process is long and includes preparing, verifying and signing bail papers. Always read the bail papers to verify they match what you heard in court before signing, and notify the Justice of the Peace of any errors. Before being released from the cells the accused must receive their property from police, and if ordered by the court have a DNA test at court. They may not be out until 5 pm or after.

### What if the accused is not released on bail or on the Bail Program?

If the accused is not released they will remain in custody (jail) until their next court appearance at one of the Detention Centres listed below. Family and friends may visit, but call the Detention Centre before you visit to verify times and any conditions of the visit. Ask The Salvation Army for the information on “**Detention Centres**”.

#### Detention Centres

**Toronto South Detention Centre** - Tel: 416-354-4030 - 160 Horner Ave., Toronto, M8Z 4X8

**East Detention Centre** - 416-750-3513 - 55 Civic Rd. Scarborough, M1L 2K9

**Ontario Corrections Institute** - 905-457-7050 - 109 McLaughlin Rd. S. Brampton, L6Y 2C8

**Vanier Centre for Women (at Maplehurst)** 905-876-8300  
PO Box 1040 - 655 Martin St. Milton L9T-3E6

*This information provided by The Salvation Army is a simple outline of legal information and process. It is not intended to give legal advice or substitute for legal counsel in any way.*

#### **Metro North Court Chaplain**

1000 Finch Ave. West, North York, M3J 2V5 - 416-314-4230

#### **The Salvation Army Correctional & Justice Services**

77 River Street, Toronto, M5A 3P1 - 416-304-1974

[www.salvationarmy.ca](http://www.salvationarmy.ca)



Giving Hope Today

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# What is Bail? & What is a “Surety”?

## What is Bail?

Bail is a temporary release from jail. If the court is not certain that the accused will appear in court or abide by all the conditions of being released they may be held in custody, or released with some type of supervision. It can also be referred to as a “show cause” hearing because the onus is generally on the Crown to show cause why the accused should not be released.

### Normally there are two ways for an accused person to be released:

1. **On their own recognizance (supervise themselves) with a promise of money and conditions placed on their release (for example a curfew, or restrictions on where the accused can go or who they can have contact with).**
  - Recognizance release conditions may also include participation in the Bail Program with weekly visits to a Bail Program Supervisor at a court near their home. Apply for the Bail Program through your lawyer or Duty Counsel. Bail Program can be requested only when no surety is available.
2. **Supervised by a Surety (family or friend approved by the court) with conditions and bail money required.**

## What is a “Surety”?

A Surety is someone who knows the accused well and is approved by the court to supervise an accused person on “bail” (*a temporary release from jail*) to ensure they do not break any conditions of their release on bail until the case is completely finished.

### The Surety ensures that the accused does the following:

1. Attends all court appearances.
2. Obeys ALL rules that the court orders. The rules or conditions are listed on the bail papers signed by the Surety.

Some examples of bail conditions include:

- Obey a curfew (be in their house by a certain time)
  - Live at a specific address (may be the address of the Surety)
  - Boundary restrictions (not be in a certain area or specific location)
  - Report to police
  - Restricted contact or communication with the complainant or witnesses. (Surety not permitted to make contact on behalf of the accused.)
  - Receive treatment, counseling or help mandated by the court
  - Refrain from consuming alcohol or drugs
3. Does not commit any further criminal offences.

**Changing Bail Conditions (Variance)** - Bail conditions can only be changed in court by a Justice of the Peace. No one can give permission to an accused to change or ignore a condition of bail: neither you nor the complainant has the power to do this. To change bail conditions go to Duty Counsel who will consult with the Crown. The matter will go to back into court and if the court agrees with the change new bail papers will be prepared and signed by the Justice of the Peace and the Surety.

**When do I have to pay Bail?** - The court will determine the specific bail amount at the Bail Hearing. In general, you do NOT need to pay money at the time bail is set. However, you may have to prove that you will be able to pay the bail (see #4 below). The bail amount helps motivate the Surety to thoroughly supervise the accused and to contact police if a condition is broken.

**Broken Bail Condition or Missed Court Date** - If the accused breaks a condition of bail or fails to appear for court the Surety must report this to the police immediately or they may be asked to pay the promised bail money. When a Bench Warrant is issued it is the responsibility of the Surety to see that the accused turns them self in to the police. If the Surety does not report to police they may be required to pay their promised bail, even if they have taken their name off the bail. If the accused misses court call the Duty Counsel to verify if a bench warrant was issued. The accused should call or visit the Duty Counsel Office first immediately to inquire if the bench warrant can be rescinded.

## How to Become a Surety?

### To be accepted as a Surety by the Justice of the Peace you must ...

1. A surety must be a Canadian citizen, landed immigrant / permanent resident of at least 21 years old. (Younger persons are sometimes permitted.)
2. Not have a recent criminal record. The Justice of the Peace will determine the impact a record will have on the prospective Surety.
3. Present government photo identification (e.g. driver's license) and proof of address.
4. Present proof to the Justice of the Peace (JP) of being able to pay the bail amount by showing a current bank statement or passbook, savings bonds, GIC's, RRSP's, a deed to property, etc. An Interac receipt for credit card is not acceptable. Sureties with limited money may still be considered for approval as a Surety by the court.
5. Not be co-accused or the victim of the crime committed by the accused. The Surety cannot have anything to do with the criminal charge. It may also be a problem if you are a witness to the allegations.
6. Be employed, however some Justices of the Peace will accept someone if they think the person will be an excellent surety even though they are not employed.
7. Not be an employee of the accused.
8. It is a criminal offence to accept payment to act as a surety. Offering such payment is also an offence.
9. Have known the accused for a reasonable length of time. The suitability of the Surety may depend on the length and nature of the relationship with the accused, and by their ability to supervise the accused to ensure bail conditions are upheld. Usually sureties are family members or friends. Generally community agencies (social workers etc) will not agree to act as sureties. Sureties may be asked to answer questions in court under oath.

**How to withdraw as Surety** - Go to any court and speak with the Justice of the Peace to remove your name for the bail. If the accused is going to miss court or is not obeying all the bail conditions it is the responsibility of the surety to call police and “pull bail” (cease being the Surety). If the surety “pulls bail”, the accused will be arrested. Sureties are responsible for the accused until they are back in custody.

**Signing for Bail** - Sureties must sign bail papers (indicating they agree to pay bail money if the accused breaks a condition) at court between **8:30 and 5:00 pm**. If you cannot sign the day of the bail hearing you may do so at Court any week between **8:30 am and 5:00 pm**. On weekends you must go to Old City Hall Court between **9am – 12:00 noon**. The accused will remain in custody until the bail papers are signed.