



Bail *in* Queensland



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If you are accused of committing a criminal offence in Queensland, you will usually receive a Notice to appear stating a time and date when you must go to court. For more serious offences, you may be arrested by the police and remanded in custody. For these kinds of offences, a police officer may grant you the right to leave custody and come back for your court appearance (i.e. watch-house bail). Alternatively, you may be kept in custody until you appear before a court for the offence. Once you appear before the court, you can request the right to leave custody and return to court later for your trial if your trial will take longer than a day or will be heard at a later date (i.e. court bail). In both cases, you may enter into a written promise to appear before the court at a particular time and date. This is called a bail undertaking. The rules on being granted bail are in the Bail Act 1980.





Procedure for being granted watch-house bail

If you are arrested in Queensland for committing a crime, you will generally be placed in the custody of a police officer who is legally obliged to consider whether they should grant you bail. If it is impracticable for you to be taken to a court within 24 hours of your arrest, that police officer must choose to either grant you watch-house bail, or issue you with a notice to appear at the court at a later date.

Bail can be granted on two conditions: the payment of a

deposit of money as security for later appearing in court, or subject to certain special conditions. These special conditions can include, for example, prohibitions on entering certain premises, surrendering your passport, or attending a drug and alcohol assessment referral.

These special conditions will only be imposed if the police officer considers it necessary to ensure you do not commit another crime while you are on bail, or to secure your

appearance at court. If you are granted bail on the condition of paying a deposit of money as security, you will not enter into a written bail undertaking. Instead, you will forfeit that money if you do not appear at court when required.

If you are refused bail by the police officer, they must record their reasons for doing so; however, they do not have to give you a copy of those reasons. You may, however, appeal the refusal to a court.



Procedure for being granted court bail

In Queensland, if you are not granted watch-house bail, you will be remanded in custody until you appear before the court. Once you do so, you can apply for court bail if your trial will be held at a later date. At the bail application hearing, the court can consider any evidence it thinks is relevant to your character, and the prosecutor will give evidence demonstrating why you should not be granted bail. This may include evidence of previous

convictions or charges, and evidence of previously breached bail undertakings. The court will refuse your bail application if it considers there to be an unacceptable risk you will commit an offence whilst on bail or not appear at court when required.

If your bail application is approved, the bail undertaking is similar to that granted for a watch-house bail, in that your bail may be granted subject to

special conditions, or you may simply be required to pay a deposit as security for attending court later. Alternatively, the court may release you into the custody of another person if it thinks you have an impairment of the mind. Also, a court cannot make a costs order for your bail application, so you do not have to pay anything extra for making the application.



The rules on being granted bail are in the **Bail Act 1980**.



What happens if I am approved for bail?

You will be subject to the terms of your bail undertaking and allowed to leave custody. However, if you breach your bail conditions, a warrant for your arrest in Queensland may be issued. These conditions could include, for example, restrictions on entering certain licensed premises or events where alcohol will be sold, or being within a certain distance of a particular place (for example, a school). If you are not an Australian citizen, you may also be required to hand over your passport.



What happens if I am refused bail?



A court will refuse your bail application if it thinks there is an unacceptable risk you will commit another offence while you are on bail, or you will not attend court when required. If your application is refused, you will be kept in custody until your trial.

In making this decision, the court will look to a number of things including your character, how serious the offence is,

your home environment and employment, and your history of any previous bail applications. Provided the refusal was not made at the trial itself or by a Supreme Court (which must hear bail applications where the offence may result in life imprisonment), you can have the decision reviewed, usually by the Supreme Court.



What is a surety?

Often having a surety will assist you with receiving a positive outcome at a bail application. A surety is a person over 18 years who agrees to forfeit money or other property if you breach the conditions of your bail. The court will have to

decide whether the nominated surety is suitable for the role based on their own personal conditions. The court itself will also often require a surety as part of approving your bail application.

Where you go from here depends on your situation. Everyone has their own individual priorities and demands on their life that they need to deal with.



This information guide aims to point you in the right direction so that

you know the legal options available to you - options that many of our clients are not aware of before talking to us.

Remember, you are NOT alone !





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and speak direct with a
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at an outcome that will ensure
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