

What Is a Bail Hearing?

When someone is arrested by the police, this person (called the “accused”) can either be released right at the scene, from the police station or through a **Bail Hearing** that takes place in a criminal courthouse. A bail hearing is a bit like a **short trial**. A Justice of the Peace is the one who decides if the accused will be released from jail or will stay in jail until the criminal charges are dealt with. The Justice of the Peace will make his decision to release the accused (or not) by considering three points: **(1.)** If the accused is released, will he come back to court to face the charges or will he take off? **(2.)** If the accused is released, is he going to be **dangerous** i.e. will he get into more trouble, threaten the victim or not follow the conditions of release imposed by the court? **(3.)** Is the case against the accused a **strong case** and **what will the public think**: will everybody be angry at the court if the accused is released?

What Does a Surety Do?

A surety is someone who is either a **friend** or a **family member** of the accused. It is someone who is ready to sign bail for the accused in order for the accused to be released from jail. A surety is asked to pledge or sign an amount of **money**. The reason an amount of money is requested is to make sure that the surety takes their “surety job” seriously. Most times, you will **not** have to deposit that amount of money **BUT** you may have to show the court that the money is available to you by showing a bank book, deed to your house, RRSP’s, Savings Bonds, etc... You are to **supervise** the accused and to make sure that he follows the conditions of his bail. If the accused does not follow the conditions of the bail, your “job” is to remove or cancel the bail by phoning or going to the police or the Justice of Peace office. The court wants you to be very **STRICT** with the accused: if he misbehaves, he goes back to jail. If you are **aware** that he is **not** following the conditions of his bail and you do **not** call the police or the Justice of the Peace, **YOU COULD LOSE THE FULL AMOUNT OF BAIL THAT YOU SIGNED**. If you pull the bail, the accused will have to return in jail. Please note: if you pull the bail, you are still responsible for the bail money as long as the accused is not back in custody. You also have to be aware that a bail release could be in place for several months so your responsibilities could also last several months. **Finally, without the help of a surety, an accused could stay in jail for a long period of time.**

What Does a Bail Hearing Look Like?

The Duty Counsel will interview you by asking you general background questions (age, address, employment, etc...) and asking you questions about being a surety for the accused. After the interview is finished, you are to have a seat in Bail

Court. The court starts at 10:00 a.m. BUT the bail hearing that you are here for can take place **anytime** between 10:00 a.m. and 4:30 p.m. The Crown Attorney decides **when** the bail hearing takes place: several other Bail Hearings are scheduled too. When it's time for "your" Bail Hearing, the accused will be brought in the prisoner's box. You are **NOT** allowed to talk to the accused while he is in the prisoner's box. The Crown Attorney will stand up and read the allegations. The allegations are a description of what the accused **supposedly** did. You should listen carefully. After the Crown is finished, the Duty Counsel will stand up and **might** call the accused to testify. The Duty Counsel will ask him questions about his personal background. The Crown will ask questions, too. After this is finished, the surety (**you**) will **probably** testify: the Duty Counsel and the Crown will ask questions. The court wants to make **SURE** that the surety will supervise the accused. After this is over with, the Duty Counsel and the Crown make submissions (speeches). The Justice of the Peace then decides if the accused will be released or detained. If bail is granted, **a Justice of the Peace will decide if you can be the surety or not.**

If the Accused Is Detained (Bail is Denied)

If the accused is denied bail, he will need to hire a **private lawyer** to do a bail review, if he wants to be released. A bail review is much more complicated than a bail hearing because several legal documents need to be prepared. As well, bail reviews take place in **downtown Toronto**, in Superior Court and can take **several** days or weeks to be heard.

Are You Going to Be a Surety?

Your general duties are to:

1. Make sure the accused (defendant) comes to court on time on the days the court says (s)he is to attend;
2. Make sure the accused obeys ALL of the conditions ordered by the court. These conditions are clearly listed on the bail papers;
3. Make sure the accused does not commit any new offences;
4. Call the police if you know the accused did not follow or is about break any of the conditions of the bail. Examples of conditions that may be imposed include:
 - curfew or a house arrest (sometimes with exceptions)
 - a boundary condition
 - to live at a specific address
 - to report to a Reporting Centre or to a Police Station

- to have no contact or communication in ANY way with the complainant
- to attend treatment or counseling for a substance abuse
- to attend school or to seek & maintain employment ETC.

These conditions can **ONLY** be changed (*varied*) by a Judge or a Justice of the Peace **(ie. NOBODY can give “permission” to an accused to change or ignore a condition of the bail, including YOU, as the surety, or the victim)**. As well, if you do not want to be a surety anymore, advise the Justice of the Peace at the courthouse and the accused.

5. Supervise the behaviour of the accused until the case is completely finished.