

# Criminal Law: Bail

## This factsheet explains:

- What is bail?
- What are the different types of bail conditions?
- How do I apply for bail at Court?
- Will my application for bail be granted?
- What happens if my bail is denied?
- What happens if I missed my court date?
- What if my bail conditions are no longer suitable?
- What is Police Bail?
- How can Legal Aid ACT help me?

This factsheet gives general legal information. It is not legal advice. *Last reviewed on 23 April 2026*

## What is 'bail'?

If you have been charged with a criminal offence, you may be given bail. Bail means you can stay in the community while your case is going through the courts. Bail is a promise that you will follow certain rules. These rules are called "conditions". There are lots of possible conditions of bail.

## What is Police bail?

If you have been arrested by the police, they may grant you bail themselves and release you immediately back into the community. This is called 'police bail.' It can include bail conditions, or they might just tell you to come back to court on a certain date.

Some of the common Police bail conditions include;

- Regular reporting to a police station
- Living at a specific address

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- Not to contact any Police witnesses or complainants

Police bail conditions are just as serious as Court bail. You must follow all the rules that are set for you. If you break or breach your Police bail conditions, you can be arrested again and kept in custody until your case is heard in court.

Sometimes, the police will not release you back into the community and you will be taken to the ACT Magistrates Court, where you can apply for bail there with the help of a lawyer.

## What are the different types of bail conditions?

The Magistrate or Judge can decide to give you different bail conditions that you must follow. Your bail conditions will always include a condition that requires you to return to court on the next court date. Some other conditions may include (but are not limited to) things like:

- Reporting at a Police Station on a regular basis.
- Living at a certain address.
- Surrendering your Passport.
- Participating in rehabilitation programs.
- Not using alcohol or prohibited drugs.
- Not going to a particular place.
- Not contacting victims or other witnesses.
- Not driving a motor vehicle.

After Court, you will be required to sign your bail conditions. The Court will give you a copy of your bail conditions so you can remember and comply with what your specific conditions are. The bail conditions will also contain a future date when you are required to appear in court.

**You can talk to a lawyer for free through Legal Aid ACT's Criminal Law Duty Service. We have a duty lawyer at the ACT Magistrates Court from 9am to 3pm on sitting days. A duty lawyer is also available on Saturday at the ACT Magistrates Court for bail applications only. You do not need an appointment. You can also call our Helpline on 1300 654 314.**

## How do I apply for bail at Court?

The ACT Magistrates Court decides bail applications every weekday and on Saturdays. If you are arrested during the day and taken to the Court before 3pm on a weekday, you will be able to apply for bail on the same day.

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If it is after 3pm on a weekday, after 9am on Saturday or any time on Sunday, you will be held in police custody until the Court can decide the bail application when it next resumes.

If you are arrested during the week, this will be the following day. There is no Court bail list on Sundays in the ACT. This means that if you are arrested and charged on a Saturday afternoon or Saturday evening, you will not have an opportunity to apply for bail until Monday.

The laws surrounding bail are complicated. While you are entitled to represent yourself, we encourage you to always have legal representation if you are applying for bail.

Legal Aid has a free lawyer rostered on at the ACT Magistrates Court from:

- Monday to Friday 9am to 3pm on Court sitting days; and
- On Saturday for bail applications only.

This means that a Legal Aid lawyer can represent you to apply for bail regardless of your income. You are also entitled to arrange for a private lawyer to represent you instead.

If you are arrested, the duty lawyer will come to the cells in the ACT Magistrates Court to speak with you. You do not need to make an appointment or call first.

## Applying bail as young person

If you are under the age of 18, you are considered a 'young person.' Bail as a young person can be a different experience than adults because detention in custody is a last resort in the ACT for children and young people. If a young person is arrested, they will talk to the Legal Aid duty lawyer for free at the ACT Children's Court.

## **Will my bail application be granted?**

There is no guarantee that you will be granted bail. The Department of Public Prosecution (DPP) may oppose your application for bail.

If bail is 'opposed' this means the DPP will argue that you should not be granted bail. The DPP may oppose bail for many reasons.

In considering whether you should get bail, the Magistrate will consider a variety of factors, such as:

- Whether you are likely to commit another offence or be a safety risk to another person.
- Whether you are likely to come back to court or not.
- The type of offence, and how serious it is.
- The strength of the case against you and the likelihood of a sentence imprisonment, if you are found guilty.
- Your circumstances and ties with the community.

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- Your character and background.
- Your criminal history.
- Whether you have previously committed an offence while on bail.
- Whether you have breached Court orders in the past (such as family violence orders or previous bail conditions).
- Whether you have any special vulnerabilities or needs such as your age, your cultural background or whether you have any physical or mental health impairments.
- Your conduct towards any victim of the offence or family of the victim of the offence.

These are not the only things that the Magistrate or Judge considers. For some very serious offences, there is no entitlement to bail unless you can demonstrate that you have 'special or exceptional circumstances'. It is very important that you talk to a lawyer about this.

## **“But it didn't happen like that.”**

A bail hearing is not about whether you did or did not do what you are accused to have done. Bail is about deciding whether you can come back into the community or whether you should remain in custody.

Bail hearings generally happen very soon after the allegations. This means that, most of the time, the only information the court will have about what happened is what the police say happened, or what any witnesses say happened.

You might have a different version of events. However, the time for sharing your version of events is **not** the bail hearing. Saying too much at a bail hearing could undermine your case later on. You will have an opportunity to present your case to the court later.

## **What happens if bail is denied?**

Having your bail denied does not mean you have been found guilty of the charges. It means that the Court has determined that you are to remain in custody while your court case is still ongoing.

## **Can I try to apply for bail again?**

If you choose to apply for bail a second time, you should ask your lawyer to help you with this. If you do not have a lawyer, you may wish to contact the DPP in writing and inform them that you are seeking a court listing for a second bail application.

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If you are attempting to apply for bail for a third time, you will need to show a change in circumstances since your last bail application. If there has been no change in circumstances, you cannot apply for bail a third time.

## What happens if I do not follow (breach) my bail conditions?

It is important to follow your bail conditions. If you breach your bail conditions, or if a police officer reasonably believes you have breached your conditions, they may arrest you without a warrant. If you breach bail and are arrested, the DPP can apply for your bail to be cancelled, this means your bail is revoked. The Magistrate or Judge will then need to consider whether you should be allowed to stay in the community.

If you breach bail, the Magistrate or Judge may;  
Revoke your bail and place you back in custody;  
Vary your bail conditions; or  
Take no further action.

If you think you have breached your bail conditions, you should contact Legal Aid ACT. It is important to talk to a lawyer before talking to the police or the DPP.

## What happens if I missed my court date?

It is important to remember that when you are on bail, you are also making a promise to the Court that you will appear in Court on the date that your matter is next listed for. If you do not come to Court on the date you are bailed to, it is possible that a warrant may be issued for your arrest and that you will be charged with failing to appear before the court. This is a criminal charge, and it is important you contact Legal Aid ACT if you believe you failed to appear at your court date.

## What if my bail conditions are no longer suitable?

If you have bail conditions, you must follow them. If you do not follow your bail conditions, you could be arrested and held in custody.

**If you are having difficulty complying with your bail conditions, you should contact Legal Aid ACT or your lawyer to discuss applying to the court to vary your bail conditions.**

If you do not have a lawyer, you can apply to vary your conditions yourself. You can do this by attending the DPP office in the Canberra City and completing a 'Request to Vary Bail Conditions' form. The DPP will submit this form

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to the Court on your behalf. You will be told when you must return to Court for your bail variation application to be heard and decided. It is recommended that you speak with a lawyer before trying to vary your bail. If you have a lawyer and would like your bail to be varied, your lawyer will need to provide the DPP with 48 hours notice before the matter is listed for a bail variation.

## How can Legal Aid ACT help me?

If you need legal advice or assistance, the first step is to contact our free Legal Aid Helpline on 1300 654 314.

Our Helpline operation hours are:

From 8:30am to 7:00pm on Monday to Thursday.

From 8:30am to 5:00pm on Fridays.

Our paralegals who operate the Legal Aid Helpline can offer you some information and referrals with your criminal law case.

We have a duty lawyer at the ACT Magistrates Court from 9am to 3pm on sitting days. A duty lawyer is also available on Saturday at the ACT Magistrates Court for bail applications only. You do not need an appointment.

If you require **ongoing** assistance with your criminal law case, you may wish to apply for a grant of legal assistance. The Legal Aid Application form can be found on our website at [www.legalaidact.org.au](http://www.legalaidact.org.au). The assessment of your application may take up to 4 weeks and it is recommended to apply as soon as possible and prior to your next in court date.

## Ongoing Legal Assistance

If you successfully apply for a grant of legal assistance, you will be appointed a lawyer. The lawyer will talk to you about the evidence in your case and give you advice on what your options are. The lawyer will represent you in court and guide you through the process.

If you have successfully applied for a grant of legal assistance, your criminal lawyer can provide representation in court on a wide range of cases, including:

- Bail applications and variations
- Defended Hearings/Sentencing hearings
- Serious criminal offences
- Appeals, if there are reasonable prospects of success.

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## Helpful contacts

### Legal Aid ACT

- Phone: 1300 654 314 (Monday to Thursdays, 8.30am to 7pm, Fridays 8.30am to 5pm)
- Website: [www.legalaidact.org.au](http://www.legalaidact.org.au)
- **Criminal Law Duty Office** located across from Court Room 1, Level 1 of the ACT Magistrates Court

### Youth Law Centre

- Phone: (02) 6173 5410 (Monday to Friday, 8.30am to 5pm)
- Website: [www.legalaidact.org.au](http://www.legalaidact.org.au)
- Email: [ylc@legalaidact.org.au](mailto:ylc@legalaidact.org.au)

### Aboriginal Legal Service

- Phone: (02) 6120 8800 for criminal cases or 1800 765 767 for all services
- Email: [canberra@alsnswact.org.au](mailto:canberra@alsnswact.org.au)

## The Law

*Bail Act 1992 (ACT)*

[Bail Act 1992 | Acts](#)

*Children and Young People Act 2008*

[Children and Young People Act 2008 | Acts](#)

## Other useful factsheets by Legal Aid ACT

- *Criminal Law: [First Time in Court?](#)*
- *Criminal law: [Police Searches](#)*
- *Criminal law: [Being Charged](#)*
- *Criminal law: [Dealing with police](#)*

These factsheets are on our website: [www.legalaidact.org.au/what-we-do/information-education](http://www.legalaidact.org.au/what-we-do/information-education)