

# Can I Change my Court Date or Location?

Having to appear in a [NSW court](#) to face criminal charges isn't fun for anyone and it may be an intimidating and stressful experience.

On top of this, the court date may come at terrible timing for you or at a location that would be very inconvenient for you to get there.

In these circumstances, you may wonder if you can change either the place or date of your upcoming court date, or if you can even avoid going to court altogether.

Even if you are represented by a lawyer, you will usually have to [attend the local court](#) at some point – for example, at your 'sentencing hearing' if you plead guilty or your 'defended hearing' or 'committal hearing' if you plead 'not guilty'.

If you plead not guilty, you (or your lawyer) will still have to come to the court at a later date for a further short court date, called a 'mention', and on the day when your case is ultimately decided, which may be a 'sentencing hearing' (if you plead guilty) or 'defended hearing' (if you plead not guilty).

## **What if I don't know when my case is going to court?**

Your [Court Attendance Notice](#) (CAN) should outline the date and location of the court, and the type of charge that you are facing.

If you don't have a CAN, you can ring the police station where you were charged and ask for the details.

Alternatively, you may be able to call and ask the court nearest to where the alleged offence occurred.

If neither of those avenues is successful, you can go onto the [Lawlink online registry](#) and undertake a case-name search. However, your case may not be entered into Lawlink until shortly before the scheduled court date.

### **How can I change the location of my court?**

Sometimes, you may wish to change the location where your case is heard on the basis that you live very far away from that location.

If this is the case, you can apply to have the matter transferred to another court which is closer to you. This is called a 'change of venue'.

Requests for a change of venue should be made in writing and at least a week before your court date, and should go into some detail about why you do not want to attend that location.

However, changes of venue will normally only be granted if you are pleading guilty, and if the charge is less-serious.

It is unusual for a court to transfer venue if you are pleading not guilty.

This is because it is generally thought that cases should be heard in the locations where the offences were allegedly committed, and because local witnesses and police may need to attend the defended hearing.

The relevant part of the law when it comes to applications for a change of venue is [section 30 of the Criminal Procedure Act 1986](#), which provides that:

In any criminal proceedings, if it appears to the court–

*(a) that a fair or unprejudiced trial cannot otherwise be had, or*

*(b) that for any other reason it is expedient to do so,*

the court may change the venue, and direct the trial to be held in such other district, or at such other place, as the court thinks fit, and may for that purpose make all such orders as justice appears to require.

### **What happens if I don't turn up?**

Simply not turning up to court without sufficient notification and justification can result in a matter being unfavourably decided in your absence, or even a warrant being issued for your arrest.

If you are on bail, the situation can be even more serious.

In that case, you could be charged with breaching your bail and you, or your bail surety, could end up losing your bail security – which is money put-up for bail.

You are generally expected to turn up when your case is scheduled, unless you have a very good reason not to.

This may include a serious illness or accident.

If you are very sick, you should telephone the court immediately and get a medical certificate from a doctor stating why you cannot attend court.

That certificate should be sent to court and you should call the court on the morning of your court date to ensure it is brought before the Magistrate.

You should also call later about the outcome.

If you have had a serious accident, you should call the court as soon as possible to advise them of this, and you should send through evidence of the incident.

If the case is nevertheless decided in your absence, and you receives a conviction or unfavourable outcome, you may be able to apply to 're-open' the case through what's known as a

‘section 4 annulment application’.

This is an application to get rid of the conviction and start the case from the point before you were convicted.

Section 4 applications can be made up to 2 years after the date when you were convicted.

Alternatively, if you are unhappy with the penalty that you received, you can file a ‘severity appeal’ – which is an application to the District Court to give you a lesser-penalty, or to get rid of your conviction altogether by awarding you what’s known as a ‘[section 10 dismissal](#) or [conditional release order](#)’.

Severity appeals must be lodged less than 28 days after your Local Court case was finalised, or up to 3 months if there are good reasons why you didn’t file the appeal within the 28 days.

If you didn’t attend your defended hearing, it may be difficult to achieve a ‘section 4 annulment application’ unless you have a very good reason. This is because witnesses will have attended court on the hearing date and courts are reluctant to call them back (and inconvenience them) for a second time.

If you have any concerns about your upcoming court date, you can call the court who may be able to assist you with general information.

However if you need specific advice relating to your situation, it is best to [seek help from an experienced criminal lawyer](#).