

What can I do to Increase the Chance of Getting Bail? A Quick Guide for Friends and Relatives

If your loved-one has been arrested and charged with a criminal offence in NSW, the police will usually have the first say as to whether or not they should be [granted bail](#).

If the police grant them bail, they will be released back into the community until their next court date.

However, if police refuse to grant bail, they will be held in custody until they can be brought before a court – which must occur as soon as practicable, which is usually the same afternoon or the next morning.

Having someone close to you in custody can be a distressing experience.

However, there are things you can do to assist them in getting bail.

Residence letters

One factor that the court will consider is whether there is an appropriate place for your loved-one to reside at while they are out of custody.

They may be granted bail to their own home, or to a family member or friend's house.

If they wish to be bailed to a family member or friend's home such as your own, it can be useful for you to write a letter to the court confirming that you are happy to have them live with you.

Their lawyer can hand the letter to the Magistrate or Judge in court to be read when determining their bail application.

This letter should be addressed to the Presiding Magistrate if the bail application is being heard in the Local Court; or the Presiding Judge if it is being heard in the District Court.

If your friend or family member is appealing a bail application to the Supreme Court, it is normally best for your loved-one's lawyer to help prepare an 'affidavit' (a sworn statement) to hand-up to the Supreme Court Justice (judge).

In the Local and District Court, the letter should begin with a sentence or two detailing who you are, how you know the person who is applying for bail, how long you have known them for, as well as your address and contact details.

You can then include anything in their letter that will demonstrate that your home is an appropriate place for them to live.

Things which you may wish to include are:

- That you are aware of the charges against them;
- The names and ages of anyone else who lives at the property, and how they are related to you;
- What you do for a living, and how often you expect to be home;
- Details of the nearest police station and how far away it is;
- Whether you can accompany them to the police station if they are required to report to police as part of their bail conditions;
- Whether you can accompany them to court;
- A statement or undertaking that you will report to police if they breach any of their bail conditions;
- Any other positive factors that will demonstrate how you will support them in sticking to their bail conditions, such as curfews or staying away from a particular area;

- Whether you have any prior criminal convictions, and if so, how long ago they were and what they were for, and
- Whether you are an 'undischarged bankrupt'.

All letters handed up in court must be typed or neatly written, signed and dated.

If the bail application is to be made in the Supreme Court, your loved-one's lawyer can see you in conference and put the information in the form of an affidavit.

Support letters

Another form of documentation which may assist your loved one's bail application is a [support letter](#).

A support letter is similar to a character reference in that it demonstrates that your loved-one is a responsible person who is likely to turn up to court when required, and who will stick to any bail conditions imposed by the court.

It should also include any information as to how you will support him or her if they are released back into the community.

A support letter may be written by a family member, friend or work colleague.

Again, the letter should always commence with a short paragraph about who you are, how you know the bail applicant, and how long you have known them for.

Other information may include:

- Evidence of their good character or any positive traits – for example, how they have helped care for their children or examples of any community activities that they may have engaged in;
- If the letter is being written by an employer, anything that would indicate that they have a strong work ethic,

or, where possible, details of any future employment that may be available.

- How you will support your friend or family member in the community – for example, by helping them find work, getting them involved in programs that may assist them, meeting with them regularly, or assisting them in obtaining medical care.
- That you are confident that they will stick to their bail conditions.

A support letter should never make any statements about the actual offence or court proceedings, or whether or not you believe the applicant is innocent or guilty.

Once again, if the application is being made in the Supreme Court your loved-one's lawyer can take the necessary information from you during a conference and include it in your affidavit.

Surety

A Surety is a person who agrees to pay or forfeit an amount of money or property (called 'security') if their loved-one (the 'bail applicant') does not turn up to court when required.

A bail applicant may wish to act as their own surety, which means that they will lose their own money if they do not show up to court.

Alternatively, a family member or friend may wish to put up money on their behalf.

There is no designated amount that should be put up, however generally, the more serious the offence, the larger the amount needed.

If you wish to use money as security for your loved one's bail, you must prove that you have the agreed amount in your bank account – in other words, you cannot agree to put up

money that you don't have or which you will obtain in the future.

Alternatively, you may wish to use your home, property or land as security.

In these cases, you will only be able to put up the 'equity' in that property; in other words, the value of the property less any mortgages or other debts.

To use real estate as security, you will normally need to obtain a copy of the title deed, a property valuation and a recent mortgage statement.

Your security may be 'secured' or 'unsecured'.

It is secured if you need to actually deposit the money before your loved-one is released.

It is unsecured if you agree to forfeit the money if your loved-one breaches bail.

To act as a surety, you will need to be an 'acceptable person'; which normally means that you must not have any previous convictions or be an undischarged bankrupt.

If your loved-one is granted bail, you will often need to complete an 'acceptable person information form' at the court registry after the bail application is heard in court.

Rehabilitation

If your loved-one has a drug or alcohol problem, you or their lawyer can increase the chances of bail by helping to enrol them into a rehabilitation program; whether residential (live-in) or outpatient (non live-in).

An acceptance letter from the relevant centre or program will need to be handed-up during the bail application.

Acceptance into rehabilitation can help to persuade the court

that your loved-one is intent on addressing any underlying conditions, and is unlikely to offend while on bail, which are relevant consideration.

Participation in the program may be a condition of their bail.

Getting a good lawyer

A well-prepared and persuasively-argued bail application can mean the difference between, on the one hand, getting out of custody and, on the other, remaining there for weeks, months or more.

Being out of custody has several benefits, apart from the obvious benefit of being free.

It can allow a person to get help to overcome any underlying drug or alcohol problems, to maintain gainful employment, to pay bills and to prepare for their defence.

You normally only get 'one shot at bail' in the Local or District Court, which means that its essential to put your strongest foot forward.

It's therefore vital to engage criminal defence lawyers with vast experience and proven success in achieving bail for their clients – even in difficult circumstances.

At [Sydney Criminal Lawyers®](#), our defence team has many years of experience in achieving bail for our clients – from the Local to the Supreme Court.

We regularly achieve bail in even the most difficult cases – including large commercial drug cases, serious assault cases, firearms cases and even homicide cases.

Our highly-respected Senior Lawyers will thoroughly prepare your loved-one's bail application and persuasively present it in court.

And all for a fixed-fee of \$1650 inclusive of GST for Local or District Court bail applications, and \$2750 inclusive of GST for Supreme Court bail application.

So [call us anytime for a free consultation](#) and let us get your loved-one out of custody.