

## WHAT IS BAIL?

Bail is money paid to the court to ensure that an arrested person who is released from jail will show up at all required court appearances.

## WHO CAN POST BAIL FOR ME?

You may post bail for yourself, have someone over 18 years old post it on your behalf, or use a bondsman. Whoever posts bail for you assumes full responsibility for your appearance in court. If you fail to appear as required, a warrant will be issued for your immediate arrest and the bail will be forfeited.

## HOW CAN I POST BAIL?

Bail may be posted in the following manner:

### 1. Cash Bail

"Cash bond" may be posted by the defendant, an individual, or by a private surety. Failure to pay support may be posted by the defendant only. If you appear for trial or the charges are disposed of before trial, the amount posted will be refunded. If you do not appear, the bail becomes due and any cash posted will be forfeited.

### 2. Property Bail

Property (e.g. land or home) in Maryland may be used to post bail, provided that the net equity in the property meets or exceeds the amount of bail. To determine net equity, deduct any liens, mortgages or deeds of trust, and ground rent, capitalized at 6 percent, from the assessed value of the property.

When posting property, you need to present tax bills, assessment notices, copies of a recorded deed or other public records. Each person whose name appears on the tax bill must sign the form, unless a power of attorney has been executed by one or both parties authorizing another signature.

### 3. Intangible Assets

Acceptable intangible assets include:

- Bankbooks and certificates of deposit accepted at 100 percent of stated value
- Letters of credit from a bank
- Certificates for stocks listed on the American or New York Stock Exchange, accepted at 75 percent of the present exchange quotation.

Only a clerk of the court may accept intangible assets; a commissioner may not. Present the required documents to a clerk at the court location where the case is pending.

### 4. Credit and Debit Cards

Bail may be charged on certain credit and debit cards. Although a commissioner or clerk accepts the card, an independent company processes the charge. The charge includes the amount of the bail and a service fee. (These charges will appear on your next credit or debit card statement.) The card and personal identification must be produced in person at the time of posting bail. (Contact a District Court commissioner or clerk for information on cards accepted and the fees charged.)

### 5. Professional Bail Bondsman

A bail bondsman charges a nonrefundable fee to post bail. In addition to the fee, the bondsman may require collateral security or property to secure your release. Collateral will be returned to the person who posted it after disposition of the charges. The service fee and collateral received must be displayed on the bail bond form. Make certain that the information is correct on the form, that you receive a receipt and that you understand the action the bondsman may take if you fail to meet your obligations.

For the telephone number of a bondsman consult the Yellow Pages under "Bail Bonds."

## DO I NEED A LAWYER?

You are not required to have a lawyer. However, a lawyer will give you legal advice, help defend you, explain any potential collateral consequences of a conviction, including immigration consequences, and protect your interests before the court.

## HOW DO I GET A LAWYER?

If you wish to hire a lawyer but do not know one, or if you wish to defend yourself but want to consult with a lawyer, the Lawyer Referral Service of the local Bar Association can help. Check the Yellow Pages under *Lawyer Referral Service*.

If the offense is one that is punishable by imprisonment and you want to hire a lawyer but cannot afford one, the State may supply you with a lawyer free of charge, if you meet eligibility requirements. Contact the Office of the Public Defender at 877-430-5187.

If you do not meet eligibility requirements for a public defender, many organizations and law firms provide free or low cost legal services. Contact the Maryland State Bar Association or a local bar association for assistance.

## WHEN SHOULD I CONTACT A LAWYER?

**Immediately.** Your lawyer will need time to prepare your case for trial. If you have not hired your own lawyer or contacted the public defender by the time of your trial, the judge can make you go to trial without a lawyer.

**The public defender may refuse your case if you apply with less than 10 working days before trial.**

It is your responsibility to obtain legal counsel.

See section, "What Happens After I Am Arrested" for information about representation at an initial appearance before a judicial officer.

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# Criminal Defendant

What  
Happens  
When You  
Are Arrested  
for a Crime?

## WHAT HAPPENS AFTER I AM ARRESTED?

You will be taken before a District Court commissioner. The commissioner will determine if there is probable cause to charge you. If there is not probable cause, you will be released, but the charges will remain. If there is probable cause to charge you, the commissioner will determine whether you are released and the terms of the release.

If the commissioner determines that there is probable cause to charge you, you have a right to be represented by an attorney before a pretrial release decision is made. If you wish to have an attorney, you may contact your own attorney. If your attorney cannot be present in person, the attorney may participate by telephone or other electronic means. If your attorney is not able to participate, you will be temporarily held until your attorney is available.

If you do not have an attorney because you are unable to pay an attorney, you may be entitled to free or reduce-fee representation. The representation will be free before the commissioner and, if you are not released by the commissioner, before the judge who reviews the commissioner's pretrial release determination. The free representation is PROVISIONAL and limited to helping you during the commissioner's pretrial release determination and the court's review of that determination. **YOU WILL NOT HAVE THE SAME FREE ATTORNEY FOR THE TWO PROCEEDINGS UNLESS YOU MAKE SPECIFIC ARRANGEMENTS WITH THE ATTORNEY.**

After the decision to release or hold you has been made, you will need to arrange for representation for the remainder of the case. Of course, a private attorney can represent you. If you cannot afford a private attorney, you may be entitled to representation by the public defender. You will need to contact the public defender directly. The commissioner will give you the public defender's contact information. If you are detained, you will be allowed to meet with the public

defender at the detention facility. If you are released, you will have to contact the public defender's office and follow their instructions.

## WHAT HAPPENS IF I RECEIVE A CITATION OR SUMMONS DIRECTING ME TO APPEAR FOR A PRELIMINARY INQUIRY

You should appear for the preliminary inquiry at the date and time designated or within five (5) business days of receipt if a time is not given. The hearing will be cancelled if an attorney enters an appearance to represent you.

## WHAT IS A PRELIMINARY INQUIRY?

A preliminary inquiry is a pretrial proceeding conducted by a judicial officer when you have been charged with a jailable (must appear) offense by citation or summons. You will be advised of your rights, the charges against you, and the penalties.

## WHAT COURT WILL HEAR MY CASE?

The District Court hears most cases involving motor vehicle violations, criminal misdemeanors and certain felonies. The circuit court hears cases involving serious felony crimes.

## WILL I BE TRIED BY A JURY?

A judge hears District Court cases and many circuit court cases; however, you may request a jury trial if you face a charge punishable by imprisonment for more than 90 days. A written request for a jury trial should be filed fifteen (15) days before the scheduled trial date; however, the request may be made at any time before the trial actually starts.

If your case is set for trial in the circuit court, you will be asked whether you want a jury trial when you are arraigned in the court.

## WHAT IS A PRELIMINARY HEARING?

A preliminary hearing is a proceeding held in the District Court to determine if probable cause exists to charge you with a crime. You are not allowed to testify or to offer

evidence at the hearing, but you have the right to hear the evidence against you and to cross examine the state's witness. If the court finds no probable cause, charges may be dismissed. (However, the state's attorney may refile charges later.)

If you are charged with a felony or crime which must be tried in circuit court and you have not been indicted by the grand jury, you have a right to a preliminary hearing. You must request one within ten (10) days of your first appearance before the commissioner. If you waive your preliminary hearing, or if it is held and the court finds there is sufficient probable cause, the state's attorney must file within thirty (30) days a charging document in the circuit court, enter a *nol pros* (unwilling to proceed) or *stet* (a stay of proceedings) in the District Court, or amend the charges so that they can be tried in the District Court.

## WILL I HAVE A RECORD?

Records will exist on all charges filed against you and the disposition of those charges, including any convictions.

Even if you are not convicted, court records will exist on the charges filed against you and the result of the case. Additionally, police agencies, the state's attorney, or the public defender may maintain records of your arrest and/or trial.

Under certain conditions you can have all records pertaining to your case made unavailable to the public through a process called *expungement*.

If your case is expunged, no public or private agency or individual can use the records of your arrest and/or trial against you.

For more information regarding expungements, please see *Expungement Brochure* (CC-DC-CR-072BR).

## CAN I APPEAL A VERDICT ?

You have a right to appeal a guilty verdict entered in a District Court criminal or traffic case. You do not have a right to appeal if you have been given a Probation Before Judgment.

## **How and when should I plan an appeal?**

Complete the *Order for Appeal* and file in the District Court within 30 days of disposition. Pay circuit court costs. If you cannot pay, speak with a clerk on the procedures to have the fee waived. The District Court has no power to grant an extension of time for filing an *Order of Appeal*.

## **Do I continue to pay fines during appeal?**

You must continue to make scheduled payment of court ordered fines and costs unless the judge ordered that payment be stayed or that the full amount be paid as a condition to forwarding the appeal. Requests for stay of payment must be made in writing at the same time that you file your appeal.

## **Am I still on probation during my appeal?**

You must fulfill the terms and conditions of your probation, unless the judge has ordered a stay of probation. Requests for stay of probation must be made in writing at the same time that you file your appeal.

## **Will I be released during appeal?**

Your release depends upon the factual circumstances of the case and the ruling of the judge. The District Court conforms with the guidelines established by the Court of Appeals of Maryland to determine your confinement or release pending appeal.

## **Must I post new bail while my appeal is pending?**

Original bail, if any, continues through an appeal unless discharged by the judge. If the judge sets an appeal bail greater than the original bail, you must post an additional bail to cover the increase.

## **Do I need a transcript for an appeal?**

A transcript of the trial is not required in criminal or traffic appeals. If you would like to have a recording of your District Court trial, you may have one upon payment of the cost.