



CUSTODY AND BAIL

Bail

Persons charged with offences who are held in custody can be released upon entering an undertaking called "bail" to appear before the Court at a later date.

In some circumstances a Police Sergeant or the officer in charge of a police station may grant bail to a person held in custody, otherwise the person held in custody must be brought before a Court (or a Bail Justice if outside court sitting hours) to determine whether bail should be granted or refused.

The court will refuse bail if there is an unacceptable risk that the person charged will not appear on the specified day at court, or when it is thought that the person may commit other offences whilst on bail, endanger the public, interfere with witnesses or otherwise obstruct the course of justice.

Conditions of bail may include:

Own undertaking

When a person is bailed without having to provide a deposit or a surety the person is bailed on his or her own undertaking.

Surety

A surety is a person who gives an undertaking to provide security to the Court to ensure that the person charged appears at Court. The amount of the security will be fixed by the Court and the person who provides the undertaking must satisfy the Court that they can provide the fixed amount. This is usually done by providing money or lodging title documents to prove they have assets to the value of the surety. If the person charged does not appear at Court, the person giving the undertaking may lose their money or have their assets sold to pay the surety to the Court.

Deposit

The person charged lodges money or property with the court. This is very similar to a surety, excepting that the surety is provided by the accused rather than by a third party. If the person charged does not appear they may forfeit the amount lodged.

Special Conditions

The court may impose any number of special conditions that it considers appropriate to the accused and the charge. This may include the surrendering of a passport, reporting to a police station, or the requirement not to contact or interfere with witnesses.



Custody

A person is deemed to be "in custody" if held in police cells or in a correctional facility.

Source: Magistrates Court of Victoria website, www.magistratescourt.gov.au