

INFORMATION FOR PERSONS WISHING TO BE APPROVED AS A SURETY FOR AN ACCUSED PERSON

⇒ *PLEASE READ THE FOLLOWING PRIOR TO COMPLETING THE AFFIDAVIT OF JUSTIFICATION BY A SURETY
on the reverse side of this document.*

Judicial Interim Release or Bail is the right of an accused person who has been arrested to have a hearing by a judicial officer to determine whether or not release will be granted. The Court may grant bail and impose terms and conditions on an accused person pending the disposition of their outstanding charges.

In many cases, the Court will order a person be released with a surety or sureties who will guarantee an accused will attend court as required and abide by the conditions of the release order. A surety vouches for the character of an accused person and further agrees to put up money or valuable security with or without deposit to the Court in support of the accused person. If the accused person complies with the release conditions while on bail, the surety will not be subject to any financial penalty. On the other hand, if an accused person does not abide by the release conditions, both the accused person and the surety may suffer financial consequences.

The effect of granting such a release or bail is not that the accused person is set free, but is to release the accused from the custody of the law and entrust him/her to the custody of a surety. It has been said that the surety stands in the place of the Keeper of a detention facility.

A surety acknowledges and promises to pay to the Crown the sum of money ordered by the Court should the accused person fail to attend court or comply with the conditions of the release agreement, known as a Recognizance. The financial debt incurred by a surety is the fixed amount recorded on the Recognizance, which the surety and accused person must enter into, in writing, following which the release of an accused person is granted. That amount may be forfeited in the event the accused person fails to comply with the conditions set out in the Recognizance.

A surety has a responsibility to ensure an accused person's compliance with all release conditions imposed by the Court. Failure by an accused person to comply with the release conditions may result in the accused person being charged with a breach of conditions and the amount fixed for bail being forfeited by the surety.

A surety has the obligation for the production of an accused person in the same manner as the Keeper of a detention facility. It is incumbent upon a surety to know the whereabouts of an accused person and to be able to ascertain if the accused is attending court as required and abiding by the conditions of his/her release. A surety has a further obligation to report forthwith any breach of conditions by an accused person to the police.

Where an accused person is bound by a Recognizance, his/her arrest on another charge does not vacate the Recognizance, but continues to bind the accused person and his/her sureties until the accused person is discharged or sentenced in respect to the offence to which the Recognizance relates.

A surety has the right to turn the accused person over to the authorities if he/she no longer wishes to act in that capacity. A surety may also attend before a Justice of the Peace and file an "Application by Surety for Relief" if they are seeking to be removed of their responsibility. The Justice of the Peace shall, upon receipt of an "Application by Surety for Relief", issue a "Warrant for Committal" for the accused person.

The Warrant for Committal shall authorize the surety and peace officers to apprehend the accused person and command the Keeper of a detention facility to receive the accused person into their custody until the matter is discharged according to law. The responsibility of a surety continues until such time as the accused person is rendered into custody.

➤ **NOTE:** *This information has been prepared to provide a simple introduction to the requirements and responsibilities for a person wishing to be approved as a Surety for an accused person. If you wish advice on how the law applies in your circumstances, you should seek legal counsel.*

⇒ *please turn over...*

AFFIDAVIT OF JUSTIFICATION BY A PROPOSED SURETY

CANADA
PROVINCE OF ONTARIO

(To be completed by court staff)
Information #(s): 2811-998-

Her Majesty the Queen vs. _____
(Accused Person)

I, _____
(Full Name of Surety Applicant) (Date of Birth)

residing at _____
(Town/City) (Province) (Postal Code)

Telephone # _____

MAKE OATH AND SAY:

That I have resided at the above noted residence for _____ years _____ months*.

* If less than three years, please indicate previous address :

(Address) (Town/City) (Postal Code)

That I own ** rent the residence listed above. ** If owned: Sole Owner Joint Ownership (see below*)

Property Value \$ _____ Mortgage Outstanding \$ _____

* The joint owner(s) is/are aware of my intention and is/are in agreement to place this property for possible Forfeiture if the accused breaches any conditions or fails to attend court. YES No

That I have known the Accused Person for _____ Relationship _____

That I freely and voluntarily offer myself as a proposed surety for the above named Accused Person who is in custody charged with: _____

That I am familiar with the general nature of the allegations relating to the above noted charges.

That I am employed Yes – Employer _____ No – Source of Income _____

That my annual income from all sources is \$ _____

That I have the following additional assets	Value	Amount Owning
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

That I have a criminal record / youth court record Yes (if "YES" indicate offence(s) and year of conviction(s)/finding of guilt below); No

That I am presently on release on bail or charged and awaiting trial on a crim'in'al offence in Canada YES No

That I am not acting as a surety at this time for any other person.

That I am currently acting as a surety for _____ in the amount of \$ _____ charged with _____

That I am in no way associated with the said Accused Person in committing or attempting to commit the offence(s) with which he/she is charged.

That I do not anticipate that I will be called as a witness in this matter.

Do you possess a firearm, crossbow, prohibited weapon, restricted weapon, prohibited device ammunition, prohibited ammunition or explosive substance as defined by the Criminal Code of Canada? YES No

That I have not, nor has any person on my behalf, directly or indirectly, obtained, received, accepted or agreed to receive or accept or been paid or promised any money, gift, loan, remuneration or reward or any indemnity, compensation or guarantee or any other consideration whatsoever for providing this bail or for my becoming or agreeing to become a surety for bail in this matter.

That I know that if the Accused Person does not appear in court or abide by the conditions of the recognizance, I will be called upon to show cause at a hearing(s) why I should not pay the amount of bail set out on the recognizance. Failing being able to pay that amount, my goods, chattels and/or real property will be sold. If the amount of the bail cannot be realized out of such sale, I may be imprisoned.

I understand that the conditions of the recognizance are binding on the Accused Person until the matter is completed in court or until the recognizance is cancelled by court order.

I further understand that my responsibility is to notify the authorities if I have reason to believe that the accused is about to, or has, breached any condition of the recognizance. Should this occur, I understand my obligation will continue until the accused is rendered into custody.

This AFFIDAVIT and the preceding INFORMATION FOR PERSONS WISHING TO BE APPROVED AS A SURETY FOR AN ACCUSED PERSON have both been read by/to me and explained and I fully understand the contents and my obligations if approved as a surety. I also understand my right to seek independent legal advice prior to my signing this Affidavit.

Sworn/Affirmed before me at the _____, in the _____, this _____ day of _____, 20_____.

Signature of Surety Applicant

Signature of Commissioner

Commissioner's name (please print legibly)