

## What is a Surety?

A surety is a person who promises a judge or a justice of the peace to supervise an accused person while they are out on bail.

A surety also pledges or promises an amount of money to the court by signing the release order.

If the accused doesn't follow one or more of the bail conditions or fails to show up to court when required, the surety *risks losing some or all of the money* they have promised or deposited to the court.

## Can I be a Surety?

You can be a surety if:

- You are over the age of 18;
- You are able to sign the release order;
- You are a Canadian citizen or a landed immigrant;
- You are not involved in the offence the person has been charged with;
- You do not have any outstanding criminal charges;
- You are able to monitor the accused to make sure they are complying with conditions of release;
- You are willing to report a breach if one occurs; and
- You have enough money to pledge to the court as bail.



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# Should I be a Surety?

Nishnawbe-Aski Legal Services Corporation



## Responsibilities of a Surety

- Making sure the accused person goes to court when required.
- Making sure the accused person follows the bail conditions, such as
  - not leaving the house after specified hours,
  - not communicating with the victim or victim's family,
  - etc.
- Monitoring the accused person could require
  - calling them frequently,
  - visiting them frequently, or
  - living with them,
  - etc.
- Calling the police if the accused person doesn't follow any of the bail conditions.

## Failure to Obey a Court Order

Should the person be found guilty of breaching the bail order, the Crown may ask the court to make you pay the money you committed as a surety.

A hearing (called *estreatment*) will be scheduled. You and the accused person will be given at least 10 days' notice of the date and place of the hearing. At the estreatment, you will have an opportunity to explain why you should not lose your money. You will have to prove that you exercised *due diligence* in ensuring the accused person doesn't violate their bail conditions.

The judge may order that you pay all, part, or none of your money. Further legal action may be taken against you to collect the amount owing.

This brochure is meant to be informative in nature and is not a substitute for independent legal advice. Before making the commitment to become a surety, please call NALSC for more information or to speak to a lawyer.

## Ending your Obligations as a Surety

You may decide that you are no longer willing or able to supervise the accused person. In this case you have two options:

### Option 1

You may bring the accused to the court personally and ask that you be relieved of your responsibilities. This option is quicker and less invasive for the accused person.

### Option 2

You may come to the court and apply in writing to the court to be relieved of your duties. The court will then issue an order for the arrest of the accused person.

### NOTE

**Do not attempt to bring the accused person back to court yourself if you believe the accused person is a threat to your safety.** Once a court order is made, the police can arrest the accused.

Sources: <https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/sureties.php>;  
<https://stepstojustice.ca/steps/criminal-law/4-attend-bail-hearing>;  
<http://lawfacts.ca/criminal/surety>

