



THE IMPORTANCE OF RESPECTING INTERIM RELEASE (BAIL) CONDITIONS!

A person charged with a crime is generally released and not held in custody at any point in the judicial process. This is due to the fundamental principle on which our justice system is based: the presumption of innocence. However, an accused's liberty while awaiting trial is not always absolute and may be subject to various conditions that the accused has to respect. These conditions are imposed by a judge after he has determined, at an interim release hearing (bail hearing), that it is not necessary to hold the accused until his trial. In such a case, the accused must sign a document in which the various conditions imposed by the judge are set out.

These conditions may, for example, require the accused not to contact certain people (victim, accomplice, witness), to stay away from a specific address, to remain at a specific address, to be present at that address between certain hours, not to consume alcohol or drugs, and so on. It is important to understand that, at this stage, the conditions are not at all intended to punish the accused, but rather to ensure public safety. In order to make sure the accused will respect the conditions, the judge could require that the accused or another person (called the surety) deposit a sum of money.

An accused faced with such a situation must obviously respect the conditions imposed on him by the judge. Failure to do so can have serious consequences for the accused.

First, he will be charged with breaching a condition, which constitutes a new offence. As a result, he will face two (2) charges: first, the charge with respect to which the judge had ordered his release while awaiting trial and, second, the charge resulting from the breach of the condition.

The accused, who was not being detained, will then have to appear before a judge again for a new interim release hearing. At this hearing, the rules will be different: custody will be the rule and release from custody the exception. Thus, it will now be up to the accused to demonstrate to the judge that his detention is not necessary for one of the three (3) reasons set out in the law: to ensure his presence in court, to ensure public protection or safety, or to ensure that public confidence in the administration of justice is not undermined. It is the accused who will have the burden of convincing the judge, despite the fact that this burden usually falls on the prosecution. An accused in such a situation therefore runs a much greater risk of being detained, even though he is still presumed innocent of the charges against him.

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* The information set out in
this document is not a legal
interpretation.

The masculine is used to designate
persons solely in order to simplify
the text.

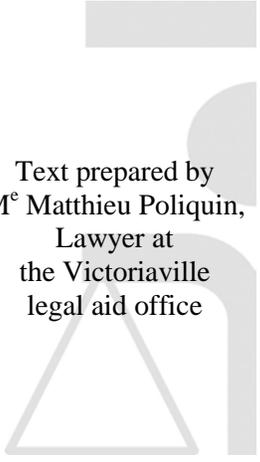


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(Continued)**

Furthermore, if the judge orders the accused to be held in custody on the new charge of breach of condition, it is highly probable that, following a request from the prosecution, he will also order the revocation of the initial release order in the original case and in all other pending cases in which the accused had been released from custody. As a result, the accused will now be detained in all the cases in which he has been charged. This is probably the worst consequence that can result from a charge of breach of condition. In fact, this situation is liable to result in a longer interim detention period, because the detention will last until all the cases in which the individual is an accused are finished.

Finally, if the accused had been released subject to conditions combined with a deposit of money (by the accused or a surety), there is also a possibility that the judge will order the deposit to be forfeited when the accused is convicted on the charge of breach of condition.

Therefore, it is essential that the accused fully understand the conditions imposed on him by the judge when the judge agrees to release him until his trial. Otherwise, the accused runs the risk of facing a new charge, being held in interim custody in all the cases pending against him and forfeiting sums of money, where applicable.



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