

Are You Eligible for Bail?

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The majority of people who are arrested are allowed to post bail and live at home while awaiting their trial and the final verdict. But, in some cases, bail is denied by the court. Here's some information to help clarify who is likely to be eligible for bail, who may have to stay in jail awaiting trial, and how judges decide who will be granted bail.

What Can Cause You To Be Denied Bail?

For most cases, the defendants can pay bail out-of-pocket or pay a percentage of the bail as a fee to a bail bond company and avoid waiting in jail to go through trial and receive the verdict. But, here are the kinds of questions judges consider when evaluating requests for bail. The answers to these questions largely determine whether bail will be granted or denied:

How serious was the alleged crime?

If the alleged crime is one that the court determines is an indicator that the accused is a threat to public safety, bail may be denied. This is not uncommon in cases involving extreme violence and in cases in which the victim is a minor.

Bail may also be denied if the alleged crime carries the potential for a sentence of life in prison or the death penalty, especially if the evidence is abundant. Or, if the offense carries a potential prison sentence of 10 years or longer in prison, bail might not be granted.

What is your history of criminal convictions?

Whether the alleged crime is extremely serious or is more minor, the court will consider the defendant's prior criminal history in determining eligibility for bail. For example, the judge might deny bail if the currently alleged crime is minor, but the accused has a record of repeatedly committing the same offense or more serious crimes.

If your criminal record shows only a few minor offenses, you probably aren't perceived as a threat to the public. So, you may be granted bail, depending on the other factors discussed here, and possibly others that the court will consider.

Does the court view you as a flight risk?

When the judge reviews your criminal history, he or she will also examine the court records of your attendance at hearings. If the documented history shows that you made all your required appearances in court in the past, that might weigh in your favor in the bail decision. If the records show a habit of failing to appear, the court may determine that you are a flight risk and deny bail.

What is your financial condition?

A very wealthy defendant may be considered a higher flight risk, no matter where his or her family lives. This may be of great concern when a defendant is facing very serious charges that carry a potentially long prison sentence. The court may view someone with the financial and other resources needed to flee the country alone or their whole family as a higher risk of flight than a low-income person.

How well settled are you in the community?

The court will also consider where you live and how long you have resided there. The judge will consider where your family lives as well. Courts tend to be less concerned about flight risk with defendants who have lived in the same area for many years. Judges also tend to be more comfortable granting bail to individuals who have long-term jobs.

If the defendant's whole family has lived in the area for many years too and/or the individual has other strong ties to the community, those factors can be weighed in the bail decision. The reasoning is that a defendant is probably less likely to give up *everything* to avoid the legal matter. But, for a defendant with very few ties to the local community, the judge may reason that the individual does not have much to lose by running from serious charges.

Still, bail may or may not depend more on other considerations or on a combination of all the factors discussed above, and possibly others.

Who Decides If You Will Be Allowed to Post Bail?

It's important to know that the court makes all bail decisions. Your defense attorney is your guide on how to apply for bail with the court. The role of your bondsman is to help you get a bail bond for the amount of the required bail after the court has set it.

Living at home and preparing for trial is important for a defendant in a criminal case. Staying in jail makes it more difficult to prepare well. But, based on the above and other factors, bail is sometimes denied, requiring defendants to stay in jail awaiting the trial and verdict.

If you are not considered a danger to the public, or a flight risk, or another type of likely problem for the community, you can probably expect the court to grant bail in your case.

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