



Provincial Court of Nova Scotia

Adult Bail Court Protocol

Halifax Provincial Court

This Protocol is subject to change. It is expected that, over time, changes will be made, and the Protocol will be amended. Please refer to the Court's website at: www.courts.ns.ca for the most updated version of this Protocol.

Preamble

This protocol applies to newly arrested adults who were not released by an officer or a Presiding Justice of the Peace (PJP) and who remain in custody awaiting a bail application.

The Bail Court is a Court of record held Monday to Friday from 9:30 a.m. to 4:30 p.m. in Court Room E at Halifax Provincial Court, 5250 Spring Garden Road, Halifax. The Court will have a lunch recess of at least 60 minutes. The usual Court Room decorum applies to appearances in Bail Court. When matters leave Bail Court, they will be returned to the originating Court's arraignment day or week.

Method of Appearance

Crown Prosecutors, provincial and federal, will appear in person between 9:30 a.m. and 4:30 p.m.

Privately retained counsel and Nova Scotia Legal Aid lawyers assigned to the Bail Court will appear in person between 9:30 a.m. and 4:30 p.m.

On occasion, and with the permission of the Court, Crown and Defence counsel can appear for expeditious applications by Teams video link or telephone links. However, virtual appearances are not intended for Crown and Defence counsel who have primary carriage of the Bail Court docket.

Where possible, Bail Court will accommodate in-person and virtual appearances for persons in custody, witnesses, and sureties. If an in-person remand is not requested or cannot be accommodated, a remanded accused will appear in Bail Court by a Teams video link, pursuant to s. 515(2.2) *Criminal Code*.

Contested Applications for Judicial Interim Release/Bail

Counsel are expected to attend Bail Court at 9:30 a.m. to provide the Court with a Cells report. If, *prior* to 10:00 a.m., counsel advise the Court Clerk they are ready to proceed with a contested application for judicial interim release, the matter will proceed to Bail Court to make the application before a Provincial Court Judge. Only matters that are contested will appear in Bail Court. Counsel should, at the earliest opportunity, file applications to revoke previous Release Orders to allow the Court sufficient time to bring forward relevant Informations from this and other regions.

Should counsel not receive the Crown position on release by 11:30 a.m., the matter is presumed to be proceeding as a contested bail hearing, unless the Crown provides notice of

an intended application to adjourn and remand pursuant to s. 516 *Criminal Code*, in which case the Court will hear the application.

If the Crown decides to consent to the release of an accused, the presiding Bail Judge may exercise discretion to forward the matter to the Justice of the Peace Centre for release.

Consent Releases, Common Law Peace Bonds, and Stays of Proceedings

All consent releases will proceed before a Presiding Justice of the Peace at the Justice of the Peace Centre. Counsel may file a consent release form electronically or provide a hard copy of the completed form to the Justice of the Peace Centre. If the consent release form is properly completed, counsel do not need to appear to address the matter.

In the event a Presiding Justice of the Peace determines the consent release form is incomplete or unclear, Crown and Defence will be required to appear virtually before the Presiding Justice of the Peace. The Bail Court Clerk will e-mail counsel to advise if an appearance is required.

Matters in the Bail Court may be resolved/concluded by the Crown entering a stay of proceedings or by an accused entering into a common law peace bond.

Expedited Dispositions

If, *prior*, to 11:30 a.m., counsel advise they are prepared to proceed with a disposition involving no further custody or a s. 532.1 *Criminal Code* Judicial Referral Hearing, they will proceed to the Bail Court for disposition before the presiding Judge.

If the anticipated disposition *may* involve further custody, the matter will be transferred to Bail Court as above, but the presiding Judge will determine, in light of the contested matters expected to proceed, whether there is sufficient time to hear the disposition. In the event there is insufficient time to hear the disposition, counsel may adjourn the matter directly to Bail Court at 10:00 a.m. the following day for disposition.

Consent Remands in Custody

All consent remands in custody are to proceed before a Presiding Justice of the Peace at the Justice of the Peace Centre.

Unless an accused is being remanded in custody by consent without conditions, and their appearance is waived by counsel, on the instructions of the accused, they will appear by Teams video link or teleconference to be remanded on the record.

Where a s. 524 *Criminal Code* bail cancellation is being dealt with by consent, counsel for the accused may waive their client's appearance.

Section 672.11 Assessments

All in-custody s. 672.11 *Criminal Code* fitness or not criminally responsible assessments will appear in Bail Court.

Timelines

Adult bail matters may remain on the Bail Court docket for five (5) working days. After five (5) working days, accused persons will be remanded to the originating Court's arraignment day or week. The presiding Bail Judge retains the discretion to extend the timeline beyond five (5) days at the request of the accused or counsel in appropriate circumstances.

Despite the five-day timeline, a remanded person may make subsequent applications for bail in the Bail Court. However, by operation of s. 520 *Criminal Code*, at least two (2) clear days written notice to the relevant Crown Office is required.