



WHAT IS A CRIMINAL PROCEEDING?

Criminal proceeding is a legal proceeding where an accused person is prosecuted for committing a criminal offence and can be sentenced upon conviction.

HIERARCHY OF TRIAL COURT

High Court

to hear all criminal cases punishable with death

Sessions Court

to hear all criminal cases except cases punishable with death.

Magistrates' Court

to hear all criminal cases which carry maximum term of Imprisonment sentence of 10 years of Imprisonment and/ or fine.

PARTIES IN CRIMINAL PROCEEDING

Magistrate/ Session Court Judge

A judge who will preside the proceeding in court.

Prosecutors

A Legal Officer who will conduct prosecution proceeding of the accused person.

Defence Counsel

A Lawyer representing the accused person.

Witnesses

Persons who will be called by the prosecution/ defence counsel to give evidence in court.

Accused

A Person charged for committing a criminal offence.

EXAMPLES CRIMINAL OFFENCES

- Public nuisance
- Rape
- Voluntarily causing hurt
- Causing miscarriage
- Wrongful confinement
- Assault
- Kidnapping
- Incest
- Theft
- Extortion





WHAT DO I DO IF I AM PROSECUTED?

1

When you are charged in court you will be referred to as 'accused person'.

2

The court interpreter will read out the charge to you.

3

You will then be asked if you understand the charge.

4

You will be asked whether you plead guilty or claim for a trial.

5

The Court will then record your plea.



SENTENCES

If you plead or found guilty of the charge, the Court will pass the sentence according to law. A sentence may include either one or more of the following:

- imprisonment,
- fine,
- whipping

The Court will only pass a sentence after considering the seriousness of the offence, any previous convictions (if any), a plea of mitigation factors and aggravating factors.

Plea of Mitigation

A "plea of mitigation" is when the accused asks the court for leniency in sentence. Mitigating factors may include:

- family background;
- employment history; and
- educational qualification;
- any other relevant factors.
- medical history;

Aggravating factor

After delivering your plea of mitigation, the Court will then ask the prosecution for any reasons to give you a harsher punishment. Aggravating factors may include:

- The seriousness of the harm;
- lack of remorse; and
- any other relevant factor.





WHAT IS REMAND?

- A suspect can only be detained for the purpose of police investigation in the police station for not more than 24 hours.
- If the police investigation cannot be completed within this period and the police wish to detain the suspect beyond 24 hours, an application for further detention must be made within 24 hours to the Magistrate's Court.
- A Magistrate is a judicial officer who has the power to make a remand order.
- A person is "remanded" when the Magistrate gives a remand order to extend the suspect's detention beyond 24 hours.
- The purpose of remand is to give more time to the police to complete the investigation and to decide whether there is enough evidence to charge the suspect for the suspected offence. The police must make the remand application without unnecessary delay.



WHAT HAPPENS DURING REMAND?

The police must give reasons to the Magistrate to justify as to why they need to detain the suspects beyond 24 hours. The Magistrate will consider these reasons carefully.

If the offence investigated relates to imprisonment of less than 14 years, the detention shall not be for more than 4 days on the first application and subsequently, not more than 3 days on the second application.

During remand, a suspect may request to:

- be represented by a lawyer;
- contact his or her family members;
- get medical attention;
- make complaints if he or she was ill-treated or denied proper food, water or clothing.

If the offence investigated relates to imprisonment of more than 14 years, the detention shall not be for more than 7 days on the first application and not more than 7 days on the second application.

At the end of the remand application, the Magistrate may make a remand order or may refuse to grant one. If the Magistrate refuses the remand, or the period of the second remand lapses, the police must either charge the suspect or release him.

If an order for remand is made, suspect will be taken to the police lockup.

The suspect may be allowed visits by his or her lawyer or family members.



WHAT IS BAIL?

Temporary release of an accused person upon depositing sufficient securities to the court and an undertaking by the bailor to ensure the attendance of the accused person throughout the trial.

WHO CAN BE A BAILOR?

An adult (aged above 18 years).

A Malaysian Citizen (for non-citizen, the person shall be subjected to the condition to be imposed by the court);

For a foreign accused person, the bailor shall be a Malaysian Citizen;

Understand all the conditions imposed by the court;

Able to produce the bail fixed by the court.

BAIL PROCESS

Bail will be processed at the relevant court registry;

The bailor must produce the following:

- i) The bailor's identity card;
- ii) The saving account/ fixed deposit to be used as bail

The Registry/ Magistrate will explain the conditions of the bail to the bailor and the accused person.

The bailor will be given a reference letter which must be kept for any matters relating to the bail bond.

eJAMIN

eJamin offers an alternative way to pay the bail amount via quick and efficient online means.

How to use eJamin?

- 1 Submit the details of the surety (bailor) and the accused person via eJamin Portal (<https://ejamin.my/>) along with the case details.
- 2 Deposit the bail amount via FPX (online Banking) into Bank Islam or Bank Muamalat trust account.
- 3 The Bailor and the Court will receive an email indicating the proof of deposit.
- 4 The Registrar of the Court or the Magistrate will then explain to the bailor and the accused person regarding the terms and condition of the bail. Afterwards, the bail bond will be given to the bailor.

WHAT IS THE RESPONSIBILITY OF A BAILOR?

The bailor must ensure the attendance of the accused to the court on the dates fixed by the court.

RISK OF BECOMING A BAILOR

If the bailor fails to adhere to any of the condition of the above bail, the court may forfeit the bail.

