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# **A GUIDE TO THE LAW IN ALBERTA REGARDING**



## **ARREST WARRANTS**

**version: 2011**

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ARREST WARRANTS

**1. What is an arrest warrant?**

A warrant is a document that is issued by the court when there are reasonable and probable grounds to believe that someone has committed an offense.

An arrest warrant gives the police the power to arrest the individual named in the warrant, so that he or she can be brought before the court.

Obtaining a warrant requires an officer to follow certain rules. These include:

- a. Information alleging the offence must be sworn and brought before a justice of the peace or judge who will hear and consider the information. The justice or judge may then issue an appearance notice or an arrest warrant.
- b. A warrant must contain the name or description of the accused, a brief description of the offence alleged, and an order that the accused be arrested. The warrant remains in force until the accused is arrested and is outstanding until that time.

When executing an arrest warrant, the police officer must have the arrest warrant with him or her, when possible, and should be able to produce it when asked.

The police officer also has a duty to give notice to the person he/she is arresting of the:

- a. Warrant under which he makes the arrest; or
- b. The reason for the arrest

If the police do not follow these rules, then see our pamphlet on "How to Initiate a Public Complaint Against the Edmonton Police Service."

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### 2. When is an arrest warrant issued?

It is most common for police officers to seek a warrant when an accused has avoided the police and a warrant is the only way to get the accused to court. Warrants are also issued when an accused:

- a. Fails to appear in court on a summons, appearance notice, promise to appear, or recognizance;
- b. Avoids service of a court document; or
- c. Ignores a subpoena or avoids being served with a subpoena.

These types of warrants are known as “bench warrants.” They are issued when someone violates an order or requirement of the court.

This means that if you miss a court date and have not sent someone to appear on your behalf, then the court can issue a warrant for your arrest. This can happen even if you accidentally miss your court date or were unable to appear for a specific reason. It is very important that you make every effort to attend your court date, or at the very least, that you send someone on your behalf.

If it is your first court appearance, you can only send someone on your behalf for a summary offence. For indictable and hybrid offenses, you must attend your first court appearance YOURSELF.

### 3. What should I do if there is a warrant out for my arrest?

If there is a warrant out for your arrest you should report to the nearest police station to try and deal with it. Often, the police will simply issue a promise to appear and release you with a new court date. This is typically what happens if you accidentally miss a court date or were unable to attend for a specific reason.

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However, sometimes depending on the circumstance and the seriousness of the offense, the police will arrest and detain you until your next court appearance. These types of detentions usually take place if the police believe that it is in the public’s best interest to keep you detained or if they believe that you will not attend your next court appearance.

If you are taken into custody, then you will be brought before a justice or a judge within 24 hours who will have the final say at your bail hearing. This is something that you should be prepared for and carefully consider before reporting to the police.

If you do not report to the police, then the warrant will remain outstanding until you are arrested.

### 4. What happens if the police stop me and they discover that there is a warrant out for my arrest?

If the police discover that there is a warrant out for your arrest, then you will be arrested and detained (held in custody). You will then be brought before a justice or a judge for a Judicial Interim Release hearing (bail hearing), within 24 hours.

This hearing will determine whether you are to remain in custody or whether you will be released on bail. The Crown will make a suggestion to the justice or judge about bail and then you will be given an opportunity to explain your actions. If bail is denied then you will be held in custody until your next court date.

While this is the normal procedure with regards to arrest warrants, certain warrants can be dealt with before you appear in front of a justice or judge.

These types of warrants are commonly referred to as “pay or stay” warrants (or Form 21 warrants) and are typically issued for unpaid fines for certain summary, by-law and provincial offenses. If this type of warrant is out for your arrest, then the police will give

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you the option to pay the fine before appearing in front of a judge or justice. If you pay the fine, then the police will release you immediately. If you do not, the police will take you into custody for the amount of time specified in the warrant.

### **5. Is the arrest warrant only valid in the province it was issued?**

Typically, an arrest warrant signed by a justice or judge is valid only in the province where the justice or judge has jurisdiction. This means that an arrest warrant signed in Edmonton is usually valid anywhere in Alberta, but would not be valid in another province.

However, this does not mean that the police cannot arrest you outside of Alberta. If a police officer in another province believes a certain arrest warrant is serious enough to arrest and detain you, then they will arrest you and contact the police in the province where the warrant was issued. Once contacted, the police from the issuing province will then contact the Crown to decide how they wish to continue. They may decide to have you released or transported back to Alberta depending on the circumstances.

Because an arrest warrant has been issued the police in the other province immediately have reasonable and probable grounds for their arrest. This means that they do not need the usual grounds for their arrest, because the warrant serves as evidence that you have already committed some sort of offense.

An out-of-province arrest warrant requires the endorsement (signature) of a justice or judge who has jurisdiction where the arrest was made. For example, if a police officer in Vancouver arrests an individual who is wanted on an arrest warrant signed by a justice or judge in Alberta, then the arrest warrant must be signed by a justice or judge who has jurisdiction in British Columbia in order for it to be valid.

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If the Crown from the issuing province decides that they want the individual returned to face charges, then the police have a maximum of six days to get a signature from the time that the arrest is made. The individual will be held in remand during this time, but must be released if the police fail to get a signature within six days. If the Crown decides to have the individual released, then the police do not need to get the signature and can release the individual immediately.

Sometimes the warrant will include a specific radius (area). This is the area that the police are authorized to arrest, detain, and transport the individual back to the appropriate court. For instance, a Canada-wide warrant allows for the transport and return of an individual if he or she is arrested anywhere in Canada. However, the warrant must still be endorsed by a justice or judge in the jurisdiction where the arrest was made.

Typically, for serious indictable offenses, the justice or judge will issue a Canada wide warrant. This is almost always the case with serious crimes like sexual assault. Province-wide warrants will normally be issued for summary offenses and less serious indictable offenses.

### **6. Does an arrest warrant prevent me from travelling?**

An arrest warrant will probably not prevent you from travelling within Canada, unless the police stop you and run your identification through CPIC.

If you are planning to travel outside of the country, there is a chance that you will be detained at the border. The border guards and customs officers can choose to run your identification and often do random checks to prevent people from slipping across the boarder with a warrant out for him or her. If they run your identification and discover that there is a warrant out for your arrest, then you will be detained at the border until the police can come and pick you up.

**7. What happens if I am arrested in Alberta for something unrelated, but I have a warrant out in another province?**

The main concern of the police who arrest you in Alberta is the offence that you have committed in Alberta. However, the police in this province call the police in the province where the warrant was issued to inform them that you have been arrested. If the warrant is out because you avoided police custody on a fairly serious offense, then you may be sent back to face those charges, after you have dealt with the charges in Alberta.

If the warrant is issued for a summary offence, or it is a bench warrant, then the police may decide that they are not going to transport you back to the issuing province.

However, the warrant from the other province could still play an important factor in your bail hearing. If you have a warrant out in another province, the Crown could use that as evidence to have your bail denied in Alberta. If the warrant was issued because you avoided police custody or failed to appear at your court date, then the Crown may suggest that you be kept in custody to prevent these things from happening once again.

**REFERRAL NUMBERS AND WEBSITES**

Edmonton Police Service (Non-Emergency Help Line) 780-423-4567  
9620 - 103A Avenue  
Edmonton, AB. Canada  
T5H 0H7  
[www.edmontonpolice.ca](http://www.edmontonpolice.ca)

Legal Aid Society of Alberta. . . . . 780-427-7575  
[www.legalaid.ab.ca](http://www.legalaid.ab.ca)

Student Legal Services (Criminal). . . . . 780-425-3356  
[www.slsedmonton.ca](http://www.slsedmonton.ca)

Student Legal Services (Legal Education). . . . . 780-492-2227  
[www.slsedmonton.ca](http://www.slsedmonton.ca)