

# What if I Get in Trouble Again While on Bail?

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What if I get in trouble again while I am on bail: a Massachusetts analysis.

A common question asked by many clients. For the sake of simplicity, let us call the court of the first proceeding that initially set bail "The First Court" and the court where the subsequent arrest was arraigned "The Second Court."

In short, the second court may revoke the bail set by the first court and the defendant may be held in custody without bail for up to 60 days or until the first proceeding is resolved. The second court only has the power to revoke bail. It may not modify it or add conditions of release. To quote the Massachusetts law that gives the second court this power, a defendant who is arrested while on release pending the adjudication of a prior charge may be held for a period not to exceed sixty days upon a showing of probable cause for the new arrest and a finding, in the judge's discretion, that "the release of said prisoner will seriously endanger any person or the community." The governing law is Massachusetts General Laws Chapter 276, Section 58.

It is very important for the defendant to hold the government to the probable cause standard via a full probable cause hearing with witnesses, and not to allow the Commonwealth to proceed via proffer (ie relying on police reports alone).

In making the determination on bail revocation, the second court will consider the following factors: \* nature of the offenses \* conviction record \* whether threats of force or violence was involved \* whether there are pending appeals or sentences \* defendant's mental condition \* potential for illegal drug distribution or present drug dependency

The potential for a second arrest while on bail is greatest in 209A Restraining Order cases where violations of the restraining order, intentional or not, are frequent occurrences and usually concern the same parties. Those served with a 209A Order while on bail from a pending Assault and Battery proceeding stemming from the same incident must be especially careful: the police are aware of the 209A Order and the "victim" is likely aware of how just about any allegation of a 209A violation gets the defendant arrested.-----

Boston Attorney Dmitry Lev handles Criminal Defense and 209A Restraining Order Defense cases in Massachusetts. In addition, Attorney Lev assists individuals who had Restraining Orders issued against them and wish to have these orders removed, as well as those accused of violating these orders.

Attorney Lev maintains a blog at <http://www.levlaw.net/blog> and a website at <http://www.bostoncriminallaw.net>

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