

RHODE ISLAND PUBLIC DEFENDER

BENCH WARRANTS AND COURT DEBT

This brochure will help you understand how to clear a bench warrant and address court debt.



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State Locations:
Providence District Court: 458-3050
Providence Superior Court: 222-1540
Family Court: 222-1530
Kent County: 822-6875 Newport County: 841-8320
Washington County: 782-4180

Information in this brochure is based on Rhode Island General Laws Sections §12-20-10, § 12-6-7.1, § 12-18.1-3 and §11-25-15, §12-29-5, §23-1-3(g). This information should not be interpreted as legal advice.

Part I: Bench Warrants

What is a bench warrant?

A bench warrant is an order for the immediate arrest of a person for failure to appear in court on a scheduled day. It is issued by a court or judge and enforced by the police.* If you are arrested and brought to court on a bench warrant, you will be charged \$125.00 (RIGL 12-6-7.1).

*NOTE: Both the Department of Corrections and the Attorney General's Bureau of Criminal Identification (BCI) will detain you if they are checking your name. Be sure to clear your bench warrant before going to BCI or the prison.

How do I know if I have a bench warrant?

If you are a Public Defender client, our office will send a letter notifying you of the bench warrant. This is one reason it is important to inform the Public Defender's Office of any address changes.

You also can find case information on the court's public website, courtconnect.courts.ri.gov. If you want to confirm directly with the court, you should go in person to the Clerk's Office. You will not be detained in court if you go to ask whether or not you have a bench warrant.

If I have a bench warrant, should I turn myself in?

If you come to the court yourself and turn yourself in on the warrant, you will not be charged the \$125.00 warrant pick-up fee, and you will decrease the chances of being sent to jail (the ACI). The general rule here is that if you walk

yourself in to the courthouse, you will be able to walk yourself out as well. You should also come into court as soon as possible after learning about your bench warrant. The earlier you come in, the better your chances of release.

NOTE: It is not recommended that you turn yourself in at the police station as you run the risk of being detained.

How do I cancel my warrant?

Go to the courthouse where your case is being charged early in the day and go to the Public Defender's office in that courthouse and inform them that you are here on a warrant. The secretary will instruct you about next steps. Be prepared to wait—often, judges handle bench warrants last.

What happens after I cancel a bench warrant?

Once you cancel your warrant, you will still have to deal with the original charge(s). If you are found eligible for a Public Defender attorney, our office will represent you.

I am arrested on a bench warrant, how long can I be held?

You must be brought into court immediately if the court is in session. If court is not in session, you must be brought in the next court session.

Prior to this, you may be given the opportunity to be released by a Justice of the Peace. This specially-appointed person can, for a fee, come to the police station and set your bail. This bail will be the full amount of court debt you owed, set as SURETY BAIL. This means that you will have to pay 10% of the bail (which will equal the money you owe) or you can hire a bondsperson to post property for you. The money you pay for the bondsperson will not be deducted from your court debt. If you pay your surety bail or if the

bondsperson posts for you, you will be released. Otherwise, you will have to wait until you come into court.

Why do I have a bench warrant if I don't have an open case?

A possible reason for having a bench warrant when you do not have an open case is for a failure to appear at an ABILITY TO PAY HEARING or COST/RESTITUTION REVIEW HEARING. These hearings are regularly scheduled if you owe court debt. (See Part II for more information.)

If you are held due to a warrant for a failure to appear at your Ability to Pay or Cost/Restitution Review hearing, the court must schedule a hearing within 48 hours or, if that falls on a weekend or holiday, the next court session (RIGL 12-6-7.1). An Ability to Pay hearing takes place in front of a judge who reviews your payment history, the amount owed, and other factors that determine your ability to pay. If the court finds you unable to pay, you will be released, if not, you may be held longer and placed on surety bail if you owe court costs or cash bail if you owe restitution.

In addition, you will be given an automatic credit of \$50.00 per day for each day that you are held awaiting a hearing (RIGL 11-25-15). This credit only goes towards fines and costs; it does not count towards restitution.

Will I be represented at my Ability to Pay hearing?

Although they are sometimes present at these proceedings, there are no court-appointed or Public Defender attorneys who specifically handle Ability to Pay hearings. If you cannot afford to hire a lawyer, you can request a court-appointed lawyer directly from the judge.

What if I have a bench warrant from several different courts?

In this case, you will have to cancel your warrant from each court. It is always better to cancel a warrant in the higher court first. For example, if you have a bench warrant in Providence Superior Court and Kent District Court, you should go to Providence Superior Court to cancel your warrant before going to Kent. If you were picked up on a warrant, you may be held extra time as you are transported to different court houses. Generally you will only be taken to one court per day.

PART II: Court Debt

What is court debt?

Court debt is a general term for money owed to the court. Here, court debt is a term used for criminal court debt. It does not include traffic tickets, city ordinance violation tickets, etc; it must be debt associated with a specific criminal case.

Court debt generally can be divided into two types: **administrative costs** and **punitive costs**. Examples of administrative costs include COURT COSTS which are assigned for every case unless they are waived, and ASSESSMENT FEES.

Court costs are administrative fees collected by the court. The money goes towards general revenue, law enforcement, and the Victim's Indemnity Fund (a fund for victims of violent crime that is operated by the General Treasurer. Phone: 401-462-7655). According to Rhode Island law, the court can assess money from individuals who are found guilty or plead guilty or *nolo contendere* ("no contest"). Court costs: up to \$93.50 per count in misdemeanor case, \$273.50 per count in felony case with sentences less than five years, and \$453.50 per count in felony case with sentences more than five years.

Assessment fees are case-specific. These include, for example, a \$125.00 assessment for each domestic charge (RIGL § 12-29-5) and a \$118.00 drug assessment fee for drug-related charges (RIGL §23-1-3(g)).

Punitive Costs:

This money owed to the court is considered part of the sentence or punishment. The two most common types are FINES and RESTITUTION.

FINES are commonly assessed as part of a sentence for a variety of offenses. Sometimes fines are issued as an alternative to jail time. They are always considered punitive and money collected from fines goes into the Rhode Island General Revenue.

RESTITUTION is money assessed by the state to pay off a debt to an individual or an organization.

What if I can't pay my court debt?

If you do not have the money to pay your court debt, you will be placed on a payment plan and will be asked to come into court on a regular basis to make payments.

If the court determines that you are unable to pay your court costs, the judge may waive the costs. (RIGL 12-18.1-3)

How do I pay?

You can pay in person, by mail, and, for District Court costs and fines, you can pay online. You will receive a receipt for payments in person but if you pay by mail you must submit a written request for a receipt. Another person can pay for you; however, if you have an Ability to Pay hearing, you must go to this yourself. No matter who pays, it is very important to **keep your receipts**.

RESTITUTION: All restitution payments for all courts (Family, District, Superior, etc.) are made at Central Registry, located in Providence Superior Court, Rm 110. Bring your case number when you go to pay. To pay by mail, send check or money order with the appropriate case number. Address: 250 Benefit Street, Rm 110-Restitution, Providence, RI 02903.

SUPERIOR COURT COSTS AND FINES: These can be paid at the Costs and Fines window at all of the courthouses in the state, no matter where the charges were brought. They also can be paid through mail. It is helpful if you have your case numbers available. Address: 250 Benefit St., Rm 111-Costs and Fines, Providence, RI 02903.

DISTRICT COURT COSTS AND FINES: These must be paid in the District Court where the charges were brought. You may also pay this court debt online through the Court's website.

COURT DEBT TIPS

1. If you owe court debt and are on a payment plan or have an Ability to Pay hearing or a Cost/Restitution review, you must

GO TO COURT EVEN IF YOU DO NOT HAVE MONEY TO PAY.

The court almost never incarcerates someone if s/he shows up to court without money and explains the circumstances why s/he cannot pay, but if you do not go to court, a bench warrant will likely issue, you will risk unnecessary jail time, and you will have to pay the \$125.00 warrant pick-up fee if you do not turn yourself in.

2. Even if you do not have a court date scheduled, when you go to pay your court debt, ask the clerk to speak with the judge. **JUDGES HAVE**

THE POWER TO LOWER COURT DEBT (with the exception of restitution). RIGL §12-18.1-3 (d) states: "If the court determines that the defendant does not have the ability to pay the costs as set forth in this section, the judge may by specific order mitigate the costs in accordance with the court's determination of the ability of the offender to pay the costs."

Bring your proof of indigency to your court date, ask to speak to the judge and ask the court to waive your court debt based on your inability to pay

Examples include documents that show that you receive:

- Food Stamps (SNAP)
- Temporary Assistance for Needy Families (Rhode Island Works)
- General Public Assistance (GPA)
- Disability Insurance (SSI/SSDI, etc.)
- Social Security

You may also want to bring other evidence, including documentation of job search, job training, substance abuse/mental health treatment or other evidence of your efforts towards rehabilitation.

3. Judges also have the power to offer community service as an alternative to paying off court debt.

Ask the judge if the court will accept COMMUNITY SERVICE to pay off court debt. There is no guarantee that judges will do this. Remember that community service must be completed at a non-profit agency and you must have proof of service in writing on the organization's letterhead.