

Understanding the Criminal Court Process

At this time you have been charged with committing a crime under North Carolina law. This does not mean that you are guilty of committing the crime with which you are being charged.

The following information will help you understand what is going to happen in the court process. (This is a general outline and is not intended to cover all aspects of the court system, nor is it meant to replace the advice of an attorney.)

What should I do before I go to court?

- If you have children, find a babysitter.
- Plan to stay at least three hours. The courtroom will be crowded and it may be a while before the judge listens to your case.
- Dress appropriately. If you dress inappropriately, you may be asked to leave the courtroom.
- If you have an attorney, talk with your attorney in advance. The more your attorney understands about your case, the more he/she can help you.
- Find out in which courtroom your case will be heard before court starts. You can do this by calling the Clerk of Court's office in your county. Call **prior to your court date**, not the morning of court. Your attorney may be able to help you with this.
- Bring all of the papers you have about your case to court.
- If you have any witnesses who can tell the court what they saw or heard concerning your charges, you may wish to bring them with you. Make sure that they also dress appropriately.
- Bring a pencil and paper to court with you. You may need to take notes about your case or write down court dates. **It**

is your responsibility to know when to return to court if your case is continued (or postponed) until another date.

- If you need additional time to discuss your case with your attorney, or to bring enough money for costs and fines, or to bring witnesses to the court on your behalf, you may ask for a continuance (in other words, you may ask the court to delay your court date to another day). **However, the court usually allows a continuance only if there are very special circumstances. You therefore should be prepared to handle your case on your first court date.**

What should I do when I am in court?

- Arrive at the courthouse early and find your name on the list of names outside the courtroom. When you enter the courtroom sit close to the front. Do not talk in the courtroom.
- When court starts, listen for your name to be called. Your name may be mispronounced so listen closely. When your name is called say, "Present," loudly and clearly. If your name is called and you do not answer, it is the same as not being there. If your name is **not** called, notify the person who is calling the names in the courtroom at the first recess or break. You may be in the wrong courtroom.
- If you get to court late, stay in the courtroom. The Assistant District Attorney may call names a second time after court starts. If you are late and your name is not called then stay in the courtroom until the next break or recess and let the person who is calling the names know that you are there. This **does not mean** that the judge will listen to your case.

- After the judge hears your case and has reached a decision, make sure that you understand what the judge's decision is. **If you have any questions, ask the judge before you leave the courtroom.**
- If the judge says that you are guilty, then you need to have **cash** to pay your fine and the costs of court. The clerk in the courtroom will tell you where to pay your fine. If you are permitted to pay in installments, make sure that you have your **case number** with you each time that you come to make a payment. Keep all of your receipts for payment!

What happens when I stand before the judge?

There are three types of offenses with which you might be charged:

- **Infractions:** An infraction may carry a maximum of \$100 as the penalty. You **cannot** be sentenced to serve time in prison for an infraction.
- **Misdemeanors:** A misdemeanor may require the payment of a fine and/or a sentence of imprisonment.
- **Felonies:** A felony may require the payment of a fine and/or a sentence of imprisonment.

When you stand before the judge in court, the Assistant District Attorney will read the charges that have been made against you. You will be asked how you plead to your charges.

You may plead in three different ways:

- You may say that you are "**Not guilty**," which means that you deny the charges against you or you want a trial.
- You may say that you are "**Guilty**," which means that you admit that the charges are true.

- You may say “**Nolo contendere**” (**no contest**), which means that you are not going to plead guilty, but you are willing to be sentenced as you would be if you were found guilty.

If you say “**Guilty**” or “**No contest**” to a misdemeanor you will receive your punishment by the court **that day**.

If the charge against you is a **felony**, the District Court judge will give you **another day** to return to court because, with some limited exceptions, judges in Superior Court hear cases that are felonies.

What will my punishment be?

Your sentence or punishment could be any one of the following, or some combination of the following:

- a fine and court costs; or
- probation, a suspended sentence (which means going to jail if you violate the rules of your probation), community service and if necessary, restitution to the victim; or
- an active sentence, which means that you must go to jail for a specific amount of time set by the judge.

What are my rights?

Anyone charged with a misdemeanor or felony has certain legal rights.

- You have the right to remain silent. You do not have to say anything about the facts of your case. If you do, your statements can be used against you during your trial.
- You have the right to hire an attorney to be present with you. If you cannot afford an attorney, the court will consider whether you qualify for a court appointed attorney. This is not a free attorney. If you plead guilty or are found guilty, you will be ordered to pay the attorney’s fee. If you plan to ask the court to appoint you an attorney, you will save time by filling out

an affidavit at the Clerk’s office. You may do this before court.

- You have the right to appeal the judge’s decision. If, after you have been found guilty, you wish to have a jury trial, you must tell the judge **within ten days** that you wish to appeal his/her decision. A jury trial is when 12 people hear the evidence of your case and decide whether you are guilty. District Court does not have jury trials. If you are charged with a misdemeanor or an infraction, the judge will decide your case. If, after your case has been heard in District Court, you appeal to Superior Court, you will have a jury trial.
- You have the right to bail. Bail is the amount of money you must pay in order to be released from jail prior to trial. The judge may place other conditions on your pre-trial release. You must follow the conditions that the judge gives you in order to stay out of jail. If you do not follow his/her conditions, then you will be put back in jail.

WHAT HAPPENS IF I DO NOT GO TO COURT?

If you do not go to court on the date that you are supposed to, then an **Order for Arrest** may be issued on that day. If you miss court, then go to the Clerk’s Office **immediately** and explain the situation. You may be assigned another court date or you may not. Asking for a new court date does not mean that you will get it. **It is your responsibility to arrive at court on your court date and to arrive at court on time. You should also be aware that your failure to appear in court might result in the revocation of your drivers license.**

COST

UNDERSTANDING THE CRIMINAL COURT PROCESS IN THE STATE OF NORTH CAROLINA



The Honorable I. Beverly Lake, Jr.
Chief Justice
Supreme Court of North Carolina

John M. Kennedy
Director
Administrative Office of the Courts

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Division of Legal and Legislative Services
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