



PROCEDURAL STEPS IN THE CRIMINAL JUSTICE PROCESS

INITIAL APPEARANCE: At the Initial Appearance, the defendant makes their first appearance in front of a judge. If the defendant is arrested and held in custody, this hearing should take place within 24 hours of their arrest. If the defendant is cited or served with a summons to appear, the initial appearance will be set on the citation, or if the defendant is charged by a long form complaint, on a summons. At the Initial Appearance, the judge will inform the defendant of the charges. The judge will also determine the conditions of release that will apply to the defendant while the case is pending resolution. These conditions may include release on their own recognizance, release to a third party, or release after posting a bond to secure their appearance at future court proceedings. The judge may impose additional conditions to protect society and/or the victim in the case. For example, the court may require that the defendant not return to their address or contact the victim in any way.

ARRAIGNMENT: This hearing should be set no later than 10 days after the charges are filed if the defendant is in custody. If the defendant is not in custody, then it will be set within 30 days. In some circumstances, it takes place at the same time as the initial appearance. At the Arraignment, the defendant appears before the judge and enters a plea of either guilty, not guilty, or no contest. The judge will set a date for a pre-trial conference.

PRE-TRIAL CONFERENCE: This proceeding is scheduled after the arraignment. At the Pre Trial, the State will usually make a plea offer to the defendant. A plea offer includes what offense the defendant will admit to committing and what sentence or range of sentence they will be exposed to. It may include a provision for jail, a fine, probation, counseling, or restitution. The defendant may plead guilty pursuant to a plea agreement at the Pre-Trial Conference. Because this is a misdemeanor case, the court will usually sentence the defendant right after the guilty plea if the victim has received the required notice. If the victim would like to attend the Pre-Trial Conference, they may speak to the prosecutor during the proceeding or before the judge sentences the defendant. The victim may also tell the judge what impact the crime has had on them.

Under the Victims' Rights Laws, the victim is entitled to confer with the prosecutor about the case disposition. Should the victim contact the

prosecutor, the prosecutor will listen to their concerns and input and explain the handling of the case. If the victim wishes to confer with the prosecutor, it should be done at or before the Pre-Trial Conference, otherwise the prosecutor will assume that the victim does not wish to confer about the case. There may be one or more pretrial conferences while the State and the defendant negotiate a plea agreement or some other case disposition. In all cases, the prosecutor determines the strategies, goals, and outcomes of the case.

CHANGE OF PLEA: This is a proceeding at which the defendant changes their plea from not guilty to guilty or no contest. Usually, the Change of Plea is a result of a plea agreement with the prosecutor.

TRIAL: If the case is not resolved at the pretrial conference, it will be set for trial. A Trial may be before a judge or a jury depending on the type of charge involved in the case. A Trial is held to determine the guilt or innocence of the accused. To find the defendant guilty, the judge/jury must conclude that the State has proven its case beyond a reasonable doubt. The victim's testimony will be essential for the judge/jury to make the determination. At Trial, the victim and witnesses will be sworn to tell the truth and will testify about the facts of the crime. A prosecutor will ask the victim or witnesses questions and then the defendant or defendant's attorney may ask the victim or witnesses questions during the trial. The State may present other witnesses such as, police officers or other civilian witnesses. Once the State is finished presenting witnesses, the defendant will have an opportunity to testify and/or present their own witnesses. After the defense presents its case, the State can present any rebuttal evidence it may have. After all the evidence is presented, both the prosecutor and the defendant will have a chance to present closing arguments to the judge/jury. The judge/jury will begin deliberations until they reach a verdict about the defendant's outcome.

If the judge/jury finds the defendant guilty, the court will, in most cases, sentence the defendant immediately. If the judge/jury finds the defendant not guilty, the case is over, and the State cannot appeal the judgment.

SENTENCING: Once the defendant has either pleaded guilty or has been found guilty, they will be sentenced. At Sentencing, the victim will have the opportunity to tell the judge what sentence they believe the defendant should receive. The victim may also tell the judge about the impact the defendant's actions have had on their well-being such as any injuries, mental and physical anguish, emotional distress, or economic loss. The court may impose the following terms: jail time, a fine, restitution, probation, counseling, and/or community service hours.

RESTITUTION: If the victim has out-of-pocket expenses that are a direct result of the defendant's criminal action, they may be entitled to restitution. Restitution can cover items such as: medical expenses, loss of work due to

injury caused by the defendant, property damages, insurance deductibles, etc. If the victim is awarded restitution, they may file a Restitution Lien against any assets (personal and real property) held by the defendant. Restitution does not cover damages such as pain and suffering. Those types of damages may be recovered by filing a civil lawsuit (items not covered under criminal restitution) against the defendant. Victims are not waiving their right to collect damages through a civil lawsuit if the court orders restitution and the victim accepts it.