



The Differences between Criminal Court and Civil Court

Criminal laws are the rules that apply when someone commits a crime, such as assault, robbery, murder, arson, rape and other kinds of crimes. After a person is arrested and charged with a crime, that person goes to a Criminal Court.

Civil law refers to almost all other disputes—these are the rules that apply when one person sues another person, a business or agency. This can cover a housing case such as for eviction or foreclosure, a family case such as divorce or custody, consumer problems such as debt or bankruptcy, or when someone sues for money because of damage to property or personal harm. All of these cases go to a Civil Court.

The judges in criminal and civil court have different powers. Criminal Court judges can punish you for breaking the law by sending you to jail. Civil Court judges can order you to pay money or a fine, or make decisions about your family or your home.

What happens in criminal court?

In criminal court, the government files a case against someone for committing a crime. The person accused of committing the crime is called the *defendant*. The government must prove that the defendant is guilty “beyond a reasonable doubt,” which is a very high standard. If the defendant is found guilty, then he or she may go to jail or prison.

I have been accused of a crime and cannot afford a lawyer. What can I do?

Under U.S. law, if you have been accused of a crime that may lead to jail time, the judge should assign a government-paid lawyer called a *public defender* or *legal aid lawyer* to represent you in court *even if you do not have legal immigration status*.

To get a public defender or legal aid lawyer, you need to tell the judge that you cannot afford to hire a lawyer. Each court has different rules for how low your income must be to qualify for a public defender or legal aid lawyer. The judge may ask you to fill out a form listing what you own and how much you earn.

About this Guide

This guide was created by the Legal Aid Society of Northeastern New York in partnership with the New York LawHelp Consortium and Pro Bono Net, with support from the Legal Services Corporation Technology Initiative Grant program.

To read all of the guides in this series, visit LawHelpNC.org or LawHelp.org.

You may also need to provide copies of your paystubs to prove how much you earn. If there is no public defender or legal aid lawyer where you live, then the judge can assign another lawyer to represent you for free. If you are not a U.S. citizen, ask your public defender or legal aid lawyer to check with a qualified immigration lawyer about how a plea bargain in your criminal case may affect your immigration status. Some plea bargains may result in deportation. A qualified immigration lawyer may be able to suggest a plea bargain arrangement that won't result in deportation.

I am a crime victim. Do I need a lawyer in criminal court?

If you are a crime victim, you do *not* need a lawyer in criminal court. Only a lawyer for the government can file a case in criminal court. The lawyer for the government is called the *prosecutor, district attorney, D.A., county attorney, or state attorney*.

What happens in civil court?

In civil court, one person *sues* (files a case) against another person because of a dispute or problem between them. A business or agency can also file a case in civil court or be sued in civil court. If someone loses a case in civil court, that person may be ordered to pay money to the other side or return property, but that person does not go to jail just for losing the case.

What kinds of cases do civil courts handle?

Civil court cases can be about:

- money and debts
- property
- housing – such as eviction, foreclosure or to fix bad living conditions
- an injury – such as from a car accident, medical malpractice or environmental harm
- marriage and children – such as divorce, child custody, child support, or guardianship

Administrative or government agencies also have hearings to handle civil cases such as:

- the denial of public benefits such as welfare, Food Stamps and Medicaid
- traffic violations
- unemployment hearings and workers compensation
- Social Security and SSI benefits
- discrimination and civil rights violations

How difficult is it to win a case in civil court?

To win, you must prove your civil case by the “preponderance of the evidence.” In other words, the judge or jury must believe that your case is stronger than the other side’s case.

I cannot afford a lawyer for my civil court case. What can I do?

- **Contact legal aid** (also called *legal services*) or other not-for-profit agencies that provide *free* legal help to people who cannot afford to hire a lawyer. These agencies usually help with:
 - domestic violence
 - family law – divorce, child custody, child support and guardianship
 - housing – eviction, foreclosure, bad living conditions
 - public benefits – welfare, Food Stamps, Medicaid, SSI, and Social Security
 - consumer problems – credit card debt and bankruptcy
 - Each agency has different rules about who qualifies for services and the kinds of legal services they provide. Even so, these agencies cannot help everyone who needs help even if they qualify for services. Go to www.LawHelpNC.org for more information about how to contact legal aid agencies and for legal information that may help you solve your legal problem.

- **Contact your local bar association**, which is an organization for lawyers.
 - You can call your local bar association’s *lawyer referral service* to find a licensed, private lawyer who has experience with your type of legal problem. The lawyer will meet with you for 30 minutes about your case for a fee of less than \$50. It is very important to carefully review the fee agreement before you hire the lawyer to start working on your case. Usually, there is no fee for medical malpractice, car accident or worker’s compensation cases because the lawyer will only get paid if you win your case.
 - You can also ask your local bar association or local law school if they have any of the following *free* services for people needing legal help:
 - *a volunteer lawyer project*
 - *a pro bono project* (another word for a volunteer lawyer project)
 - *a free legal workshop*
 - *a self-help clinic*

To contact the bar association in your area, go to

www.americanbar.org/groups/bar_services/resources/state_local_bar_associations.html

For More Information

Looking for more information on this topic? Visit LawHelpNC.org to find other self-help resources and information about free and low-cost legal aid providers in your area.

Disclaimer

This guide was prepared for general information purposes only. The information it contains is not legal advice. Legal advice is dependent upon the specific circumstances of each situation. Also, the law may vary from state to state. Some information in this guide may not be correct for your state. To find local resources, visit LawHelpNC.org.