

Criminal Cases

Criminal Procedure in Michigan

Court cases are divided into two categories: criminal and civil. The parties in a criminal case are the prosecutor, who represents the “People,” and the defendant, who is accused of breaking one or more criminal laws.

Crimes are categorized as misdemeanors or felonies. Felonies are more serious crimes typically punishable by one year or more in prison. Misdemeanors are less serious crimes typically punishable by less than one year in jail.

Steps in a Case

Criminal cases generally begin with a crime being reported and a police investigation. The prosecutor reviews the information and decides whether to file a case with the court, commonly referred to as “pressing charges.” A judge or magistrate then reviews the case to determine if there is probable cause to issue an arrest warrant.

After an arrest, an arraignment is scheduled in district court. At the arraignment, the defendant is told the charges, possible penalties, and his/her rights, including the right to an attorney. If the alleged crime is a misdemeanor, the defendant may plead guilty or not guilty. (Felony defendants do not enter a plea until a later hearing.)

Misdemeanor cases remain in district court, and a pretrial conference is held, at which the prosecutor may offer a plea bargain to the

defendant. If the defendant does not plead guilty, the case goes to trial to be decided by a six-person jury or a judge. If the defendant is unanimously found guilty beyond a reasonable doubt, a presentence investigation occurs and the defendant is sentenced by the judge at a sentencing hearing. Misdemeanor appeals are made to circuit court.

In felony cases, the defendant may exercise the right to a preliminary examination in district court. At the examination, the prosecutor presents evidence and the judge determines whether there is probable cause to bind over the case to circuit court. If the case is bound over, the defendant is arraigned a second time and enters a plea. As with a misdemeanor, the next step is a pretrial conference at which the prosecutor may offer a plea bargain to the defendant. If the defendant does not plead guilty, the case goes to trial to be decided by a 12-person jury. If the defendant is found guilty beyond a reasonable doubt, a presentence investigation occurs and the defendant is sentenced by the judge according to the statutory Michigan Sentencing Guidelines. Felony appeals are made to the Michigan Court of Appeals.

Categories of Crimes

Felony – A serious crime; 12-person jury at trial; one year or more in prison upon conviction.

Misdemeanor – A less serious crime; 6-person jury at trial; less than one year in jail upon conviction.



Rights of the Accused

The founders of the United States knew what it was like to live without the rule of law. As British subjects, they only had the rights that the king wanted them to have. The founders realized that freedom would only be protected if our country had a strong legal system and a rule of law that applied to everyone, including the government.

The [U.S. Constitution](#), including the Bill of Rights, offers strong protections for those accused of crimes. Amendments IV, V, VI, and VIII define the rights of the accused, including protections against unreasonable searches, freedom from double jeopardy, the right against self-incrimination, the right to a public and speedy trial by jury, and a prohibition on excessive bail and the infliction of cruel and unusual punishments. Originally, the guarantee of these rights applied only to the federal government, but they have been interpreted by the U.S. Supreme Court to apply to the states under the provision of Amendment XIV that no state shall “deprive any person of life, liberty, or property, without due process of law.”

The Michigan Constitution of 1963 also protects the rights of the accused under several sections of Article I, Declaration of Rights (see [Const 1963](#), art 1, §2, 10, 11, 12, 13, 14, 15, 17, and 20). Criminal cases in state courts must adhere to the provisions outlined in the state and federal constitutions.

Fourteenth Amendment

Ratified in 1868 during Reconstruction following the Civil War, the [Fourteenth Amendment](#) has been interpreted by courts to advance the rights of all Americans through its Citizenship, Due Process, and Equal Protection clauses.

Due Process Clause

“Due process of law” defines the fundamental rules that guarantee “fair play” in legal proceedings. The Due Process Clause of the Fourteenth Amendment states “nor shall any State deprive any person of life, liberty, or property without due process of law[.]” Requirements of due process in court have been outlined as:

1. An unbiased judge and jury.
2. An opportunity to have a lawyer with you.
3. Notice of the charges being filed against you and why.
4. An opportunity to explain why the charges against you should not be filed.
5. The right to present evidence, and the right to know what evidence the opposing party has against you.
6. The right to call witnesses, and the right to cross-examine, or question, the witnesses that the other party might call against you.
7. A decision in your case that is based only on the evidence that has been presented during the case.
8. A decision in your case that is written down and explained, and includes clear explanations of any facts of your case.

This list was adapted by the American Bar Association from Judge Henry Friendly, “[Some Kind of Hearing](#),” 1975.

Experts Near You

[Michigan Trial Court Directory](#) | Select a county and click on Locations & Judges to find courts.

[Prosecutor Directory](#) | Listed by county.

[Local and Special Purpose Bar Associations](#) | Serve localities, practice areas, or specific groups of people.