



## I got arrested. What happens now?

This fact sheet talks about what happens when you are arrested for a crime in Minnesota.

### Can police search me or my car after I get arrested?

Yes. After police arrest you, they usually search you for weapons and other contraband like drugs before putting you in their squad car. This is allowed under the federal Constitution and the Minnesota Constitution. Sometimes, the police search your car, like if you were arrested after a traffic stop.



### Do they take me to jail?

After officers arrest you and do a search, they take you to the local police station or the county jail. At the police station or jail, you are *booked*. This means they take your fingerprints and photograph and get personal information.

### Can police ask me questions or interrogate me?

After placing you under arrest, they might ask you questions about the alleged crime. Before they try to question you, they *must* tell you your constitutional rights. These rights include (but are not limited to):

- The right to remain silent. This means you don't have to say anything to the police.
- The right to have a lawyer represent you *and* be present during any questioning.
- The right to a public defender if you can't afford to pay for a lawyer.

***Even if officers do not tell you that you have these rights, you still have them.*** In order to protect your rights, you must say them clearly and out loud. For example, "I am going to remain silent" and "I want to talk to a lawyer."

### Do I have to stay in jail?

After you are booked, you could be released (let go) right away OR they might detain you (keep you) in jail until you can be seen by a judge. This depends on the crime they say you did and also on what the jail or Sheriff's office think. They can decide to release or retain you. You can find more information on release and detention below.

## How do I know if I'm being charged with a crime?

After you get arrested, the police refer your case to the local prosecutor. The prosecutor is the lawyer for the State. The prosecutor reviews the basic evidence in your case, like police reports and witness statements. The prosecutor, not the police, decides if you should be charged with a crime. They also decide what crime to charge you with.

If the prosecutor decides to charge you with a crime, they file a *complaint*. This is the document that officially begins the court case. A complaint lists the crime being charged, the statute, the maximum sentence if you are convicted, and a summary of the alleged facts against you.

A copy of the complaint is mailed to you if you are released. Or given to you at your first hearing if you are detained.

## Who should I talk to about my case?

You should talk to a lawyer about your case. **Do not** talk about your case with anyone else detained in the jail. **Do not** talk about details of your case on the phone while in jail. In both situations, the things you say could be used against you in court.



## How can I find a lawyer?

As soon as possible, and before your first court date, find a lawyer to represent you.

If you can't afford a private lawyer, you may be able to get a public defender. To apply for a public defender, go to <https://mncourts.gov/Help-Topics/Public-Defender.aspx>. You may also qualify for a free or low-cost lawyer through:

- [The Legal Rights Center](#) offers free criminal defense services for adults and juveniles in Hennepin County. For more information, visit the website or call (612) 337-0030.
- [Neighborhood Justice Center](#) offers free or low-cost criminal defense services for people facing criminal charges in Ramsey County, Dakota County, and Washington County. For more information, visit the website or call (651) 222-4703.
- [Indian Legal Assistance Program](#) offers free or low-cost criminal defense services in St. Louis County, Lake County, Cook County, Aitkin County, Carlton County, and Bois Forte Tribal Court. For more information, visit the website or call (218) 727-2881.
- [Regional Native Public Defense Corporation](#) offers free or low-cost criminal defense services to federally enrolled tribal members in Cass County, Becker County, Clearwater County, Beltrami County, Mahnommen County, and Itasca County. For more information, visit the website or call (218) 339-5680 (Leech Lake) or (218) 983-3285 (White Earth).

If you can't find a lawyer before your first hearing, you can ask for a lawyer or apply for a public defender at that hearing.

If you want to hire a private lawyer, search for one through the Minnesota State Bar Association at <https://www.mnbar.org/member-directory/find-a-lawyer>.

### **What happens if I am released?**

If you are released, the police may give you a citation right away that lists the charges against you. Not everyone who is arrested has a citation. If you don't get a citation from the police, watch your mail for a document called a Summons. This has information about when and where your first court date is. Your first court date generally happens 1-2 months from the date of your arrest, but it may take longer than that if the courts are full. If you don't get a Summons in the mail, call the court now and then to see if there are any warrants filed against you.

### **What happens if I am detained?**

If you are detained, the law says that you have a hearing before a judge within 36 hours. The 36 hours does not include the day you are arrested, Sundays, or federal/state holidays.



While you are waiting to see a judge, you may want to hire a lawyer. You can do that by using the phone books at the jail or by having a friend or family member hire a lawyer for you. If you can't pay for a lawyer, you can apply for a free public defender at your first court date. If you are using a public defender, they are usually appointed just before your first court date. This means you probably only meet with them for a few minutes before the first hearing.

### **What happens at the first court date?**

**If you are released**, your first court date (usually called a first appearance or an arraignment) generally happens 1-2 months from the date of your arrest. But it can take longer if the courts are full. At the hearing, you or your lawyer meet with the prosecutor to talk about your case. Often, the prosecutor makes an offer to resolve the case with a plea deal. You and your lawyer decide if you want to take the plea deal or wait. If you choose to take the plea deal, you enter a guilty plea during the first hearing. If you choose to wait, the court schedules another hearing in 1-6 months. Waiting can give more time to review evidence and investigate the case.

**If you are detained**, the first hearing is for the judge to decide on bail and other conditions of release. This might be things like drug testing, an ankle monitor, or restrictions on having firearms. Your lawyer and the prosecutor both make arguments about bail and other conditions of release. Usually, your lawyer argues for low or no bail and for limited conditions of release.

The prosecutor may agree with your lawyer, or they may argue that you should have a high bail or have to follow strict conditions. This hearing usually only lasts 5 minutes or less.

**NOTE:** This hearing is *not* to decide if you can be released. Under the Minnesota Constitution, every person has the right to be released before trial, as long as they pay bail and/or agree to follow any other conditions. The judge CANNOT detain you without setting bail.

### **Can the judge release me?**

The judge makes the final decision about bail and other conditions of release. A judge generally has 3 options:

1. **You can be released *without* conditions.** This means that you don't have to pay bail, have an ankle monitor, or agree to any other conditions. You must promise the court that you will show up for future hearings.
2. **You can be released *with* conditions.** One of these conditions might be bail that you have to pay before you can be released. Other conditions can be things like a no contact order, drug testing, an ankle monitor or other electronic monitoring, check-ins with probation agents, and more.
3. **You can be released with bail as the only condition.** If this happens, you pay the full bail amount and you don't have to agree to any other conditions.

### **How does the judge decide how much my bail should be?**

The amount of bail and the other conditions of release that the judge chooses depends on things like:

- The facts of your case
- The crime you are charged with
- How strong is the evidence against you
- Your family and community ties
- If you have a job
- Your mental health, including any substance use issues
- Your criminal history
- If you have ever failed to show up in court when you were supposed to
- If you are a risk to the alleged victim, any other person, or the community

If you have ever failed to show up in court and if you could be a risk to public safety are the 2 main factors judges look at when choosing conditions of release. In many cases, judges use a pretrial risk assessment to help them decide about these 2 things. You get a score based on your criminal history, history of court appearances, employment, education, and other factors. The score determines if you are low, medium, or high risk.

## How do I pay bail?

If the judge orders you to pay bail, you can do that in one of 3 ways:

1. Pay the full bail amount yourself, or with the help of a friend or family member. If you do this, you need to pay the bail all at once, and you may need to have the exact amount in cash. Call your local jail to find out their rules.
2. If you can't afford to pay the bail, you can apply to the Minnesota Freedom Fund (MFF) for help. Your lawyer or a family member or friend can ask for you. It can be done online. If MFF agrees to pay your bail, they pay the full amount to the court. MFF's services are free, and you don't have to pay them back. For information go to: [www.mnfreedomfund.org](http://www.mnfreedomfund.org).
3. You can also use a for-profit bail bond company. This is done by another person - usually a family member or a friend. When you use a bail bond company, your family or friend pays a fee to the bond company. The fee is usually 10% of the bail amount. Your family or friend does not get this money back. When they pay the fee, they also sign a contract with the company. Under the contract, your family or friend is responsible for making sure that you go back to court after being released. Once the fee is paid and the contract signed, the bond company files a document with the court. This document promises that the company will pay the full bail amount if you don't show up in court. If you don't show up, and the bond company has to pay the full bail amount, your family or friend who signed the contract has to pay back the full bail amount to the bond company.



**Be careful!** Contracts with bail bond companies often include serious conditions, like letting them or their representatives (bounty hunters) to search the signer's home, track their vehicle, track their employment status, and gain access to their private information, like medical records. The person signing the contract may also get repeated phone calls, text messages, and emails. It's important to understand the risks and be careful when paying bail bond companies for their services.

## What if I can't pay bail?

If you can't pay bail, you probably stay in jail until your case can be resolved, with a trial or a plea deal. This may take a few days to a few months, depending upon the type of case and how full the court's case load is.

You can ask that the court review and reconsider your bail at *any* time. If you are struggling to come up with bail money or if the high bail is keeping you from getting out of jail, talk to your lawyer about asking for a bail review hearing.

## What happens after my first court date?

If you don't take a plea deal at the first court date, you have at least one more court date. This is called a pretrial hearing or an omnibus hearing. It usually happens 1-2 months after your first court date, but it could be longer depending on how full the court's case load is. The second court date is another chance for you and your lawyer to talk about the case with the prosecutor, consider a plea, or ask for more time. You may have 2-3 pretrial or omnibus hearings while you wait for your trial.

Other types of hearings you might have before your trial include hearings about:

- If there is probable cause to believe that a crime was committed
- The admissibility of evidence
- The use of evidence related to your criminal history or the criminal history of other possible witnesses

Some of these hearings could end up in your case being dismissed or in you getting a better offer from the prosecutor.

If you don't resolve your case during these pretrial hearings, a trial is likely. In most cases, you have the right to a trial by jury. But you can choose to have a bench trial, which is a trial by the judge instead of a jury.



**Fact Sheets are legal information NOT legal advice. See a lawyer for advice.**

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