

The Difference between Civil and Criminal

Overview - 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* to represent you in court *even if you do not have legal immigration status*. If there is no public defender or lawyer where you live, then the judge can assign another lawyer to represent you for free. More information about what to expect in criminal court is available in this video: <http://www.tncourts.gov/programs/self-help-center/what-should-i-expect-court-video>

To get a public defender or an appointed 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 appointed lawyer. The judge may ask you to fill out a form listing what you own and how much you earn. You may also need to provide copies of your paystubs to prove how much you earn.

If you are not a U.S. citizen, ask your public defender or appointed 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. Resources for immigrants are found at <http://justiceforalltn.org/node/348>.

I am a crime victim. Do I 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 or D.A.* You can find basic information for crime victims and witnesses on this FAQ page: <http://www.tndagc.com/vwh.htm>.

If you are a crime victim, you do *not* have to have a lawyer in criminal court. But, if you think you need a lawyer to protect your victim rights, you may hire a lawyer to represent you. Information about victim rights can be found at <http://law.lclark.edu/live/files/4991-tennessee>. Tennessee also has non-lawyer victim advocates who may be able to offer other help. A directory of services is at <http://ovc.ncjrs.org/findvictimservices/>.

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 law firms 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.legalinfotn.org for more information about how to contact legal aid agencies and for legal information that may help you solve your legal problem. Also, you can find information about legal help at <http://www.justiceforalltn.org/find-lawyer>.

For More Information Looking for more information on this topic? Visit www.legalinfotn.org to find other self-help resources and information about free and low-cost legal services providers in your area.

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

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.