

KNOW YOUR RIGHTS: DISTRICT COURT



Access to Counsel

- Prior to any plea in any criminal case the Judge should tell you the possible jail time and the range of court costs you are potentially facing.
- **If you are facing possible jail time**, you have a right to an attorney. If you cannot afford counsel, you have the right to have a public defender to be appointed. If you are indigent and choose the assistance of a public defender, one will be appointed to represent you before a plea or sentence on the charges.
- If you want to apply for a public defender, you will be asked to complete an affidavit of indigency. Fill out the form completely and truthfully, including your income **and** your expenses.
- You cannot be forced to waive your right to counsel at the hearing.

Evaluation of Ability to Pay Legal Financial Obligations During Initial Appearance

- If you cannot pay the court costs assessed, you have a right to ask the court to waive or reduce your fines, resentence you to community service, or impose other alternatives.
- You cannot be sent to jail solely because you are unable to pay fines or court costs.

If You Are Able to Pay Your Legal Financial Obligations:

- You should discuss with your lawyer whether you can pay in full and whether you can pay a

Things You Should Expect and Request of District Courts:

1. No jailing of people who cannot pay court debts.
2. No revocation of drivers' licenses for inability to pay court debts.
3. An individualized evaluation of your ability to pay at sentencing.
4. Clear notice of your right to counsel before the entry of any plea & your rights if you are unable to pay your court debt. (See "Access to Counsel.")
5. An option of receiving a sentence of community service when you cannot pay.
6. An opportunity to adjust your payment schedule or waive remaining payments and an opportunity to be resentenced to community service if you fall behind on payments.

lower amount through a monthly payment plan.

- If you are able to pay, but not pay in full, on sentencing day, you should not be jailed. You should be given the option of paying through a monthly payment plan administered by the Court. If the judge does not offer a payment plan, you can raise this yourself.

Note: There should be no minimum amount that the Court will accept as payment in monthly installments. If the court asks for a minimum amount that you cannot afford, you should inform the court of your inability to meet it. However, the state imposes a \$10 per month fee for a payment plan that cannot be waived by the court.

If You Are Not Able to Pay Your Legal Financial Obligations:

- The judge should ask you about your ability to pay. If they do not, you can tell them you are unable to pay or need more time to pay.
- If you are completely unable to pay your legal financial obligations, you should be given the option of community service instead of a fine.
- If you receive community service, you should be given options as to where you can perform the service and an explanation as to what you must do. Community service hours ordered are to be proportionate to the violation and reasonable for you.

The Right to Appeal

- District Courts hear traffic and misdemeanor cases, as well as first appearances on felony charges. Circuit Courts hear felony cases.
- District Court cases can be appealed to Circuit Court for a whole new trial.
- Appeals from District to Circuit Court must be filed by 30 days after your plea or conviction.
- You may also appeal from Circuit Court to the Arkansas Court of Appeals or the Arkansas Supreme Court.

Missed Payments or Failure to Keep Up with Community Service

- Keep your contact information updated with the court. If you are unable to make a payment or comply with community service, you should notify your attorney, if you have one, or the court to request more time to do so. You may need to appear in person to speak with the judge.
- If you are on a payment plan and fail to make your payments, or you are on a community service plan and fail to perform the required hours, the Court may issue (1) a warrant for your arrest or (2) a written notice, with an Order to Show Cause, directing you to appear at the Court for a hearing to explain your failure to comply. The Court should not issue a warrant for your arrest before giving you an opportunity to be heard regarding your ability to pay. If an arrest warrant is issued before you are given opportunity to be heard, please let the ACLU know.
- You have the right to a hearing assessing your ability to pay before being jailed, fined, or having your driver's license suspended for failure to pay fines and costs. Be prepared to

inform the court of your income and your financial obligations.

Things to Remember

- Always show up for your court appearances, regardless of the seriousness of the charge. Failure to appear in court is a separate, additional charge. Your driver's license may be suspended, a warrant may be issued for your arrest, you may be subject to additional fines and fees, and a judge may use any failures to appear against you in any future bail determinations.
- Members of the public are permitted to attend court with you and enter to observe the court proceedings.
- Most judges do not allow cell phones in the courtroom. If you have a phone with you, ensure it is on silent before you enter the courtroom.
- Practical tips: Dress as you would if you were going to a business meeting. Be on time, pay attention and be respectful.



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To get help from the ACLU of Arkansas:
Write to us at the address above or visit
www.acluarkansas.org/get-help

This document provides an overview of rights and expectations in criminal court. It does not constitute and cannot substitute for legal advice.

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