

## STEPS IN MICHIGAN CRIMINAL CASE

Whether it's your first time being charged with a crime or you're just curious as to how the process works, this guide will take you through step-by-step as to how a criminal prosecution in Michigan begins and the stages that follow.

1. **Crime/Investigation**—Before there can be any arrests or prosecutions, a crime must occur. The police are called to investigate and based upon their findings, will conclude whether or not a crime has occurred. Sometimes the police have enough information to make an arrest at the scene and other times they don't. Maybe the suspect wasn't there to be questioned or they had to do a more thorough investigation to determine what happened and who committed it. When they believe that they have enough evidence, they will ask the prosecutor's office to authorize an arrest warrant.
2. **Arrest**—The suspect at this point becomes a criminal defendant once he is arrested and charges are formally filed by the prosecutor's office. Either the suspect at the scene is arrested or the suspect is arrested after an investigation has occurred and the police have obtained an arrest warrant based on probable cause.
3. **Arraignment**—This will be the first time you will face either the judge or the magistrate. If you have not bailed out of jail, the arraignment must take place within 48 hours of your arrest. The judge or magistrate will inform you as to what crime you are being charged with. If it is a felony charge, the judge will inform you that you have the right to an attorney at public expense if you cannot afford one. If you request a court-appointed attorney, the judge will have you fill out a sheet regarding your finances to determine if you are eligible. In some cases, you will be eligible for a court-appointed attorney for a misdemeanor charge, but that's not usually the case. All of these stages take place at the district court.
4. **Pre-Exam Conference**—Within 14 days of your first court appearance or arraignment, you are entitled to what is known as a Preliminary Exam. But before that, most jurisdictions have what is called a Pre-Exam Conference. That is a meeting between your attorney (if you have one) and the prosecutor assigned to your case. Plea offers and negotiations will take place to see if the case can be resolved without having to go to trial. More than 90% of cases are resolved without going to trial.
5. **Preliminary Exam**—For felony cases, you are entitled to have a Preliminary Exam within 14 days of your first court appearance. Misdemeanor charges do not have Preliminary Exams. If misdemeanor cases are not resolved at the Pretrial Conference, they proceed to trial. Also known as a probable cause hearing, the prosecution has the burden of proving at the Exam that a felony has been committed and more likely than not, you are the one that committed it. It is a very low standard and is not the "beyond all reasonable doubt" standard at trial. The Preliminary Exam is like a mini version of a trial. The prosecution will call

witnesses and present evidence (usually only a bare minimum) and at the conclusion will ask the judge to bind the case over to the circuit court. Since the standard is so low, the prosecution meets their burden of proof most of the time and the case usually gets bound over (or continues on) at the circuit court.

6. **Pretrial Conference**—Once the case is bound over to the circuit court, a new prosecutor and a new judge will be assigned to your case. Much like the Pre-Exam Conference at the district court, the Pretrial Conference is a meeting between your lawyer and the prosecutor to see if the case can be resolved without resorting to trial. If not, trial will be set.
7. **Pretrial Motions**—These occur before the scheduled trial date. They can include a variety of issues and motions such as: suppressing evidence, dismissing the charges, excluding past criminal records, jury instructions... Your case will dictate what motions will be filed and heard if any. There may still be some preliminary issues that can be resolved on the day of trial known as “motions in limine.” These could range from asking the judge to give rulings on admissibility of evidence, what type of questioning to permit or restrict, or just simple housekeeping matters. Once these are complete, the trial begins.
8. **Trial**—You will have the choice of either having a trial by jury or a trial by judge. Ask your lawyer for advice on which one you should choose. Since the prosecution has the burden of proving your guilt beyond all reasonable doubt, they get to have the first and last word.
  - a. **Jury Selection**—The process begins with jury selection where both the prosecution and defense gets to question potential jurors. After some potential jurors have been dismissed either for cause or by “peremptory challenges,” the case will start.
  - b. **Opening Statements**—The prosecution begins their “case in chief” with their opening statement. The defense has the option of presenting an opening statement after the prosecution or they can wait until their “case in chief.” Opening Statements is like a preview of the case. The lawyers tell the jury what to expect and what evidence they believe will be presented at trial and what the evidence will show.
  - c. **Prosecution’s Case**—The prosecution will then begin their case by calling witnesses and presenting evidence against the defendant. The defense will have an opportunity to cross-examine those witnesses and make challenges to the evidence. After the prosecution is done presenting evidence and calling witnesses, the defense has an opportunity to present their case if they choose to.
  - d. **Defense Case**—The defense will usually start by making a motion for “directed verdict,” which means that the prosecution has not met their

burden of proof and the case is so lopsided in favor of the defendant, the judge should automatically enter a verdict in favor of the defendant without the case preceding any farther. Usually the motion is denied. The defense will then present their case in chief where they call witnesses and present evidence and the prosecution has the chance to cross-examine those witnesses and challenge the evidence just as the defense did against the prosecution.

- e. **Closing Arguments**—Once the defense is finished with their case in chief, the trial concludes with closing arguments. This is where the lawyers get to argue to the jury what they believe the evidence presented in the case proved. Again, the prosecution gets to argue first followed by the defense. The prosecution has the chance to rebut the defense's argument and get in the last word because they have the burden of proof. Once arguments are done, the case is submitted to the jury and deliberations begin.
9. **Sentencing**—If you are found not guilty or if the jury cannot agree on a verdict, then congratulations you are free to go! But if not and the jury finds you guilty, the next phase will be sentencing. If you plead guilty to the charge, then obviously you bypass the trial portion and go straight to sentencing. The probation department will arrange a meeting with you and ask you a series of questions about your background, life, and previous criminal history if any. In their report they will make a recommendation as to what sentence you should receive. In the report will be "sentencing guidelines." The current crime you are convicted of is scored for points based on the severity of the crime as well as any past crimes you have been convicted of. These factor into sentencing guidelines which present a range as to how much time you should spend in prison, if any. For example, your guidelines might be 16-24 months. That gives the judge a working knowledge as to what you should be sentenced to.
  10. **Appeals**—After either your guilty plea or conviction, you can appeal the decision if you somehow believe you were treated unfairly or improperly. Sometimes you have an automatic right to appeal, but most of the time you have to "leave to appeal" meaning that the appeals court doesn't have to take your appeal. You would have to ask for permission for them to hear your appeal and they would have to grant it.