

# YOUR RIGHTS IN TRAFFIC COURT

The court's job is to decide all cases as the law requires, which should make driving safe, and help people obey the law. You need to know your rights and the meaning of words that are used in court BEFORE you go to court. Then you can better understand court operations and be ready for court when you get there. (Don't forget to read the traffic ticket and the instructions on it.)

## What These Words Mean

*Traffic Ticket or Summons* – command by court order to appear in court. Failure to appear may result in a warrant for your arrest.

*Charge* – what you are accused of doing.

*Plead* – to answer the charge in court.

*Plead Guilty* – to admit the charge.

*Plead Not Guilty* – to not admit the charge, or assert your innocence, or require the prosecutor to prove the charge. This is the default plea unless and until you plead guilty.

*Defendant* – the person charged with the traffic violation.

*Continuance* – having the judge change the trial to another day in the future.

*Subpoena* (“sa-pee-na”) – an order from the court that compels a person to come to court.

*Prosecutor* – the lawyer for the city or county.

*Court Costs* – the money needed to pay for the operation of the court system.

*Testify* – to speak under oath (swear to tell the truth) in court.

*Witness* – a person who testifies in court about something they know.

*Appeal* – to try to have a higher court hear the case again or overturn a guilty verdict.

*Arraignment* – the reading of the charge(s) and formal entry of a plea of “Guilty” or “Not Guilty.”

## When You Get To Court

If you don't know if your name is on the list for that day, ask the clerk. Then sit down in the court room.

When your name is called, walk up to the judge. The judge may ask you

questions. You may answer the questions, or you may ask the judge to wait to answer the questions until you have a lawyer, or you may remain silent.

If you are charged with breaking the law, you are the defendant.

The judge will read the charge. If you do not understand it, ask the judge to explain it.

When the judge asks how you plead, you must say “guilty” or “not guilty.”

### **If You Plead Guilty:**

The judge may ask you questions. You must answer them.

The judge will tell you how much money to pay as a fine and court costs or what sentence you must serve. Before you plead guilty, you have the right to ask the judge if you will go to jail.

Some of the money you pay is a fine, turned over to the government.

Some of the money you pay is for court costs for the operation of the court system.

### **You Should Plead Not Guilty:**

- If you did not do what you are accused of doing.
- If you are not sure that what you did was against the law.

### **If You Need Additional Time**

If you need more time (for example, to find a lawyer, find witnesses, better prepare, etc.), ask the judge for a continuance. Tell the judge why you are requesting the continuance and how long a continuance you will need. If a continuance is granted, plan to enter a plea when you next appear before the judge.

### **Trial**

If you do not have a lawyer and you, your family or a friend think you need the help of one, you should contact one **BEFORE** going to court. You may also choose to proceed without a lawyer and represent yourself. If you choose to represent yourself, there are many dangers and disadvantages. You may ask the judge to explain those to you.

The judge may set your trial for another day (continuance), but only for a good reason.

You have the right to bring witnesses to the trial. If you need the court to help you bring witnesses, the court will give them subpoenas to tell them they must come to court for you.

If you want a trial by jury, you may ask for one; the judge will tell you if the law allows it in your case.

The burden of proof is on the municipality to prove you guilty beyond a reasonable doubt.

The prosecutor must bring witnesses to tell what they saw and heard. You or your lawyer may ask them questions. The prosecutor has the right to ask your witnesses questions and, if you testify, to ask you questions. (You don't have to testify if you don't want to.) There is no significance attached to not testifying in court.

If the judge decides that you are not guilty, the trial is over, and you may leave.

If the judge decides that you are guilty, the judge will tell you what the penalty is and what then to do.

## **Penalties**

- Fine
- Jail
- Both fine and jail
- Other. The judge may include in the penalty an order to go to driver's school, alcohol safety school or other schools to help you better understand how to drive safely on the public street or highways. You must go to the school so you won't face more penalties, including a jail sentence.

## **Appeal**

Also known as "trial de novo," which means new trial.

If you think what the judge or jury decides is unfair or wrong, you may ask for your case to be sent to a higher court. Tell the judge you want to appeal. You must file the necessary paperwork and post bond within 10 days. You cannot appeal if you pay any portion of the fine or costs the judge set in your case.

## **Rights**

Remember, you have the right to:

- Have a reasonable time after you are charged with a traffic violation to get ready to answer the charge in court.
- Have a lawyer. The judge may provide you with a lawyer if you are poor and if you face the possibility of going to jail.
- Ask witnesses to speak for you.
- Ask for a jury if the law permits you to have one in that court.
- Testify or not testify.
- Ask the court to issue subpoenas for witnesses.

## **For Legal Advice See Your Lawyer**

The Missouri Bar offers a free Lawyer Search function, located at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org). Those seeking representation can use the tool to locate lawyers by practice area, geographic location, and spoken language.

The Missouri Bar or the Office of Chief Disciplinary Counsel cannot provide legal advice or refer you to an attorney. If you would like a referral to an attorney in the Springfield or Greene County area, call (417) 831-2783. The Office of Chief Disciplinary Counsel does not screen the attorneys who are affiliated with this lawyer referral service, and OCDC does not have information on their credentials or abilities.

Hiring a legal professional can be costly, but it is important to remember that you are paying for expertise. If you are unable to afford a lawyer, it might be possible to be represented at a lower rate or on a pro bono basis. In these situations, your quality of representation should not decrease, but your out-of-pocket costs will. The Missouri Bar does not match members of the public with pro bono lawyers, but it maintains a list of available discounted services, which is available at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org).

Additionally, some matters, such as an uncontested divorce or traffic ticket, may not call for a lawyer at all. The Missouri Bar produces numerous brochures and blog posts – all available at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org) – that address general legal questions. While they are not a substitute for a hired lawyer, they are helpful for background information on matters and can help you decide if you need to seek representation.

For more information, go to [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org) or call 573-635-4128.