



ABDALLAH LAW

First Time Offenders: A Guide to the Illinois Criminal Trial Process and What to Expect

Few things are more frightening than getting a call from your friend, son, daughter, spouse, or other loved one that they have been arrested. If you are going through this experience, or fear that it may happen in the future, you'll need to know what to expect in the coming days, weeks, and months. It's also important to note that most of the clients that come through our doors DON'T expect that something like this would happen to them or someone they know.

When someone is charged with a felony crime in Illinois, they will have to go through the criminal trial process in order to determine their guilt or innocence, and to determine what (if any) penalties there may be.

While every criminal trial is unique, they all follow the same basic steps. Understanding what each step is, and how it can impact a case, will help you prepare for what is to come. This basic outline can also help you to know what steps you need to take during this difficult process, so please take some time to read through and become more familiar with the criminal law process in Illinois.

The Complaint, Investigation, and Arrest

Criminal cases almost always start with either a complaint or an investigation (or both). If someone sees your loved one committing a crime or is a victim of the alleged crime, they will call the police and file a

complaint. The police will then either launch an investigation into the crime or initiate the arrest, depending on the situation.

The investigation of the crime can vary dramatically depending on what all is involved. It could be as simple as interviewing the defendant and the person who issued the complaint, or it could involve a full investigation, a grand jury subpoena, collection of evidence, and much more. Depending on the specifics of the case, they could make an arrest while performing the investigation or wait until after the investigation is complete to make the arrest. If the state decides they have enough evidence to move forward with a trial, they will file the official charges.

The Charge

Once in police custody, they must charge you with a crime within a reasonable amount of time. At this point, they will tell you what crime you or your loved one is being charged with. If you have an attorney by now (and you should), this information should be supplied to them immediately, so they can begin crafting your defense strategy. In most cases, the next step will be appearing in front of a judge for a bond hearing.

The Bond Hearing

Incarcerated defendants are legally allowed to post bond (i.e. a certain amount of money) in order to leave the jail until their actual trial dates in most cases. Without posting bond, you stay in jail until your trial date, which could be weeks or even months into the future. In order to determine how much the bond will be, and ensure the defendant is permitted to post bail, the defendant will need to appear before a judge. This typically happens within 24-48 hours after they are charged.

When in the bond court, the judge or magistrate will determine whether or not you or your loved one will be able to post bail to get out of jail. The vast majority of defendants are permitted to post bail unless it is an extraordinarily serious case, or there is a very high flight risk. Once the

judge sets the bond amount, the defendant (or more commonly, their family) can post the bail and get out of jail until their trial date.

The Pre-Trial

The next step is the pre-trial process where the courtroom is set, and if applicable in the case, a Grand Jury is selected to ensure the defendant's constitutional rights are protected. The Grand Jury isn't there to establish guilt or innocence. No, their function is determine whether 1) there is sufficient evidence to show that a crime has been committed so that the case may continue to a trial, and 2) determine whether there is a reasonable suspicion that the defendant is the one who committed the crime. This is also the stage when the prosecuting state attorney gathers and arranges all the evidence against the defendant, and the defense attorney crafts a defense strategy on the defendant's behalf to be used during the trial.

The Trial

The trial phase is the part of the criminal justice process that most people are at least somewhat familiar with as this is where and when most courtroom TVs and movies take place. Think "Law & Order." During the trial, both the prosecuting state attorney and the defense team present evidence, speak to witnesses, and make their arguments. Depending on the complexities of the case, this process could take anywhere from an hour all the way up to several weeks—even months! At the end of this process, the judge or jury will determine whether the defendant has been found guilty or not-guilty. If you are found guilty, this is called getting "convicted," and if you are found not guilty, it's called being "indicted." Furthermore, if you are found guilty, the next phase of the process is the sentencing.

The Sentencing Hearing

During the sentencing process, the prosecution will present any additional negative factors (aka "aggravating factors") that they believe should influence the punishment you receive, and make their recommendation for your sentence. The defense team will present any positive, "mitigating

factors,” and argue for what they believe a fair sentence should be. When all of this is done, the judge will rule on what he or she decides is an appropriate sentence.

Possible Appeal

If an unfavorable ruling is given, it may be possible for the defendant to file an appeal. If granted, an appeal can make it so that the part of the trial in question is reviewed or re-heard in appellate court. It is important to note that not every case will be eligible for appeal, and an appellate court will only hear the parts that are in contention.

So...What Now?

While the steps involved in the Illinois criminal trial process may seem straightforward, every case is unique and will be slightly different. Whether you or your loved one is just being investigated, or they have already been charged with a crime, your first step should always be to speak with an experienced criminal defense attorney in the state of Illinois. Call Abdallah Law to discuss the specifics of your case, and get an advocate who will aggressively defend your rights. While having a loved one arrested can certainly be scary, it is important to react appropriately to get them the best possible help for their situation. By the same token, if you are the one getting arrested, you want to put your future in the best hands possible. You want a legal team that has many minds working to defend you.