

## **District Court of Maryland**

District Eleven – Frederick and Washington Counties

Case Management Plan – Criminal Cases

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## **Criminal Cases**

Criminal cases can be initiated by a summons, arrest or the filing of a complaint or by issuance of a criminal citation. Most felony cases are initiated by arrest, but may be initiated by summons. District Court criminal cases are defined by the following tracks. See the diagram below the table of tracks and events.

#### **Track 1 - Misdemeanor Summons Cases**

Criminal summons may be issued for misdemeanor or felony cases, following an application for charges by law enforcement or a citizen, or by criminal information by the State's Attorney.

Event	Timing	
Application for charges/criminal information	Case filing	
Issue criminal summons	Immediately	
Service of charging document	Within 30 days of issuance	
Trial	45-60 days from criminal summons	
Sentence	Same day or within 30 days of trial	

#### Track 2 - Misdemeanor Arrest Cases

Misdemeanor arrest cases are initiated by complaint or after the issuance of an arrest warrant

Event	Timing
Arrest, file complaint	Case filing
Initial appearance	Within 6-8 hours after arrest
Bail review	Next business day
Trial	Set 45-60 days from arrest
Sentence	Same day or within 30 days of trial

Track 3 - Misdemeanor Criminal/Civil/DNR Citation Cases

Event	Timing
Citation Issued By Officer	Case filing – within 30 days of issuance of citation
Citation Filed With Court	Clerks' office enters citations w/in 30 days of filing and schedules trial date within 4-6 weeks of entry
Initial Appearance	Conducted by Judge at first scheduled trial date and case may be postponed to give defendant time to obtain counsel
Sentence	Same day or within 30 days of trial

#### Track 4 - Felony Cases

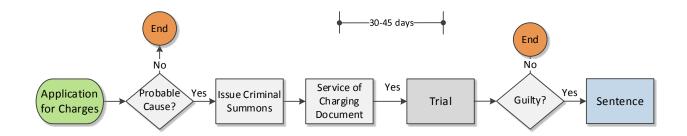
Felony cases are by arrest or summons and are forwarded to the Circuit Court. The following is a summary of events on arrest cases.

Event	Timing
Arrest, file complaint	Case filing
Initial appearance	Within 6-8 hours after arrest
Bail review	Next business day
Preliminary hearing (may be waived)	Within 30 days after request
Forward to Circuit Court	The State has 30 days after the preliminary hearing to file a criminal information or indictment in the Circuit Court
Felony charge nolle prosequied or dismissed	Remaining misdemeanor charges set 45-60 days

## How much time a case should take to get resolved

The District Court has a goal of resolving most misdemeanor criminal cases (Tracks 1, 2 & 3) within 180 days. Felony cases are forwarded to the Circuit Court typically within 60 days. Some felony cases may be amended to m or the case withdrawn for prosecution, prior to indictment or forwarding the case to Circuit Court. A felony case amended to a misdemeanor case will then be tried in the District Court on the misdemeanor track.

## Track 1 - Misdemeanor Summons Cases



Track 1 – Misdemeanor Summons Cases ≈ 180 days

A summons is a notice to appear in court to face charges at a trial. Most summons are for misdemeanors, but occasionally they are used for felonies.

#### File a Case

The following steps are required to initiate a criminal case:

**Application for Charges.** Any citizen in the community or a law enforcement officer can file an application for charges. Summons applications are taken 24/7 by a District Court commissioner. Upon application, the commissioner makes a determination of probable cause and grants or denies the summons.

## **Issue Criminal Summons (Md. Rule 4-212)**

An issued summons becomes a criminal court case. A denial of a summons application will not result in a criminal case against the other party.

A trial is typically scheduled approximately 45-60 days later and added to the docket at the issuance of the summons. For District Court cases, the defendant is required to appear at trial (see below) within 30-45 days from service. (In some cases, service may not have been completed. If the defendant appears at the scheduled trial, he or she is served in the courtroom. The judge will advise the defendant of his or her rights and then may postpone the trial to a later date. If the summons is unserved and the defendant fails to appear, the judge normally issues a warrant.)

## **Service of Charging Document (Md. Rule 4-212)**

The sheriff or other law enforcement officer must serve the summons within the time stated on the summons. The summons includes a scheduled trial date.

## **Preliminary Inquiry**

No specific Maryland Rule mandates a preliminary inquiry, but they are permitted by Md. 4-213(b)(2).

Some courts hold preliminary inquiry hearings (to advise defendants of the charges against them and of their right to counsel). District 11 does not. If a defendant appears at his or her first court appearance prepared to go forward, the trial will commence. If the defendant is unprepared to go forward, the judge may postpone the case to a later date.

## **Trial (Md. Rule 4-328)**

Dockets are generally mixed and may include pleas or trials, preliminary hearings, motions, fugitive warrants, bail reviews, violations of probation or sentencing hearings. Trials are classified statistically into trial and non-trial. In Washington County, criminal cases are scheduled on eight dockets per week. In Frederick County, criminal cases are scheduled on ten dockets per week: specially-set dockets are held for Domestic Violence-related cases four times per month (morning only) and drug dockets eight dockets per month.

A *Demand for jury trial* must be filed no later than 15 days before the scheduled trial date, or in open court on the trial date by the defendant and defendant's counsel, if any. (Md. Rule 4-301)

*Time* – the clerk shall promptly transmit the case file to the clerk of the circuit court. (Md. Rule 3-301)

*Presentence investigation*. Prior to sentencing, the court may seek a presentence investigation, resulting in the scheduling of a sentencing hearing at a later date. (Md. Rule 4-341)

### Sentence (Md. Rule 4-342)

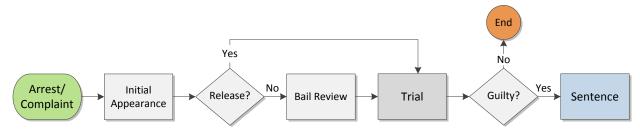
Allocution and Information in Mitigation. Before imposing sentence, the court shall afford the defendant the opportunity, personally and through counsel, to make a statement and to present information in mitigation of punishment. Reasons. The court ordinarily shall state on the record its reasons for the sentence imposed. Credit for Time Spent in Custody. Time spent in custody shall be credited against a sentence pursuant to Code, Criminal Procedure Article, § 6-218. Advice to the Defendant. At the time of imposing sentence, the court shall cause the defendant to be advised of:

(A) any right of appeal, (B) any right of review of the sentence under the Review of Criminal Sentences Act, (C) any right to move for modification or reduction of the sentence, (D) any right to be represented by counsel, and (E) the time allowed for the exercise of these rights. *Terms for Release.* On request of the defendant, the court shall determine the defendant's eligibility for release under Rule 4-349 and the terms for any release.

## Post-Conviction (Md. Rule 4-331)

Petitions for post-conviction relief must be filed in the Circuit Court (Md. Rule 4-401). A *Motion for a New Trial* (Md. Rule 4-331) must be made within ten days after a verdict. *Revisory Power*. The court has revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial in the District Court, on motion filed within 90 days after the imposition of sentence if an appeal has not been granted.

## Track 2 - Misdemeanor Arrest Cases



Track 2 – Misdemeanor Arrest Cases ≈ 180 days



Arrests may be made on defendants based on an arrest warrant or "on-view" immediately following a crime. Arrest warrants are issued by District Court Commissioners at the request of a law enforcement officer and are based on probable cause established by the officer in a written "Application for Charges" or "Statement of Probable Cause."

#### **Initiate a Case**

Following arrest on a warrant, the defendant must be taken before a District or Circuit Court judicial officer within 24 hours for the District Court and no later than the next session of court in Circuit Court to determine eligibility for pretrial release and advising of rights to counsel. (All misdemeanor case initiation is in District Court.)

Most indictments follow arrest, although in some cases the State's Attorney's Office may investigate a case following a crime and seek an arrest warrant following indictment before the grand jury.

## **Initial Appearance (Md. Rule 4-213)**

All defendants, who have been arrested must be given an initial appearance before a court commissioner. Commissioners sit 24 hours a day, seven days a week to preside over initial appearance. After hours, or on weekends, initial appearances are held at the central booking facility. At the Initial Appearance, the commissioner:

- advises defendant of charges;
- advises defendant of right to counsel;
- determines pretrial release or sets bail (Md. Rule 4-216);
- advises of rights to a preliminary hearing, if charged with a felony and not indicted;
- certifies compliance in writing; and
- files papers with the clerk of the District Court, or directs that papers be forwarded to the clerk of the Circuit Court.

## Bail Review (Md. Rule 4-216)

A bail review is similar to the initial appearance, except that it is held before a judge. Its purpose is to provide a judicial review of the pretrial release determination or bail as decided by the presiding commissioner. The bail review is mandated by statute:

A defendant who is denied pretrial release by a commissioner or who for any reason remains in custody for 24 hours after a commissioner has determined conditions of release pursuant to this rule shall be presented immediately to the District Court if the court is then in session, or if not, at the next session of the court. The District Court shall review the commissioner's pretrial release determination and take appropriate action. (MD. Rule 4-216(6)(g))

Bail reviews in Frederick County are held at 1:00 p.m. on the following business day after arrest.

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*Time* – the clerk shall promptly transmit the case file to the clerk of the circuit court (Md. Rule 3-301).

*Presentence investigation.* Prior to sentencing, the court may seek a presentence investigation, resulting in the scheduling of a sentencing hearing at a later date (Md. Rule 4-341).

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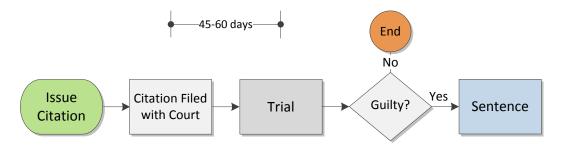
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## Track 3 - Misdemeanor Criminal/Civil/DNR Citation Cases



Track 3 – Misdemeanor Citation Cases ≈ 180 days

## **Criminal Citations (Md. Rule 4-102(b))**

A criminal citation is a notice to appear in court to face charges at trial. All criminal citations are issued for misdemeanor petty offenses.

The following steps are required to initiate a criminal citation case:

A police officer issues a Uniform Criminal Citation (Form DC/CR 45) to an individual immediately following the commission of a petty offense crime. A petty offense is an offense for which the penalty may not exceed imprisonment for three months (90 days) or a fine of \$500.00 or for other offenses where the use of citations is specifically authorized by statute or ordinance. The law enforcement officer issuing a citation enters the CJIS code for the offense on the citation. The person cited signs the citation as a promise to appear in Court. The peace officer who issues the citation is required to sign the citation.

An issued criminal citation becomes a criminal court case.

Within thirty (30) days of issuance, the police agency lists criminal citations on a transmittal and forwards the original citations with the transmittal to the Court in the district having venue. The District Court Clerk verifies the citations received, signs and sends a copy of the transmittal to the issuing agency and keeps the original transmittal. The Clerk places each citation in a separate folder and enters the citation into the system within thirty (30) days of receipt and schedules the case for trial. A trial is typically scheduled approximately 30-45 days from entry.

### **Preliminary Inquiry**

No specific Maryland Rule mandates a preliminary inquiry, but they are permitted by Md. 4-213(b)(2).

Some courts hold preliminary inquiry hearings (to advise defendants of the charges against them and of their right to counsel). District 11 does not. If a defendant appears at his or her first court appearance prepared to go forward, the trial will commence. If the defendant is unprepared to go forward, the judge may postpone the case to a later date.

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## **Civil Citation - Alcohol Beverage Code Violation**

Certain alcoholic beverage violations are considered civil offenses and will be chargeable by citation only. An individual violating Criminal Law Article, Sections 10-113 through 10-118 of the Annotated Code of Maryland is charged with a Code violation. Adjudication of a Code violation is not a criminal conviction. The Juvenile Court has jurisdiction over anyone under the age of 18 who is charged with a violation of this Code unless a waiver of jurisdiction has been filed. Although alcoholic beverage code violations are civil offenses and should be cited on a Uniform Civil Citation, violators must appear in court. The maximum fine that may be ordered by the Court is \$500.00 for a first offense, and even though the officer may write the fine on the citation, it is not payable before trial.

Citations issued for a Code violation of Section 10-113 through 10-118 of the Criminal Law Article are issued on a Uniform Civil Citation form (DC 28) and may be issued by a police officer authorized to make arrests, a forest or park warden appointed by the Secretary of Natural Resources and, in Frederick County, by an alcoholic beverage inspector. The police agency transmits the issued citations to the Court and they are handled the same as Criminal Citations noted above.

### **Civil Citation - Possession of Marijuana (Less Than 10 Grams)**

On October 1, 2014, Senate Bill 364 authorized that a civil citation (DC 28) be issued for any individual in possession of less than 10 grams of marijuana. The Juvenile Court has jurisdiction over anyone under the age of 18 who is charged with this offense. If a citation is issued to an individual at least 18 years of age but under the age of 21, it is automatically a "must appear" case.

The pre-payable fine for a first time violation is \$50.00 and \$125.00 for a second violation. A third or subsequent violation is a "must appear" and the Court shall order the defendant to attend a drug education program and be assessed for a substance abuse disorder. The defendant has thirty (30) days in which to pay the citation or request a trial. If the citation is not paid within thirty (30) days or if the citation is a "must appear", the clerk will automatically set a trial date.

If the case is adjudicated by trial, under Criminal Law Article 5-601(c) (2), a first violation is a civil offense punishable by a fine not exceeding \$100.00. A second violation is a civil offense punishable by a fine not exceeding \$250.00. A third or subsequent violation is a civil offense punishable by a fine not exceeding \$500.00.

Law enforcement agencies have been asked to submit civil citations for possession of less than 10 grams to the Court within 24 hours of issuance.

Effective October 1, 2016, a civil citation issued for possession of marijuana less than 10 grams is subject to public inspection until one of the following events occurs:

- The defendant has prepaid the fine.
- The defendant pled guilty to or was found guilty and has fully paid the fines and costs imposed.
- The defendant received a probation before judgment and has fully paid the fines and costs and completed any terms imposed by the Court. (The Court must receive

notification that the conditions of probation have been met. The notice will be sent to a Judge for review.)

- The case has been removed from the stet docket after the defendant completed any terms imposed by the Court.
- The State entered a nolle prosequi.
- The defendant has been found not guilty.
- The charge has been dismissed.

After one of these events occurs, the case will be shielded in the computer, removed from Case Search and unavailable for public inspection.

## **Civil Citation - Smoking Marijuana in A Public Place**

Senate Bill 517 authorized that a civil citation shall be issued for the offense of smoking marijuana in a public place. This bill took effect February 20, 2016. This offense was previously treated as a criminal charge.

These citations carry a pre-payable fine amount of \$250.00 with a maximum penalty of \$500.00 that could be assessed in Court. Court dates are automatically scheduled for these citations once the citations are received and entered by the Court. If the defendant pays the fine amount prior to trial, the case will be closed. These cases are not shielded and remain available for public inspection even after they are closed.

## **Civil Citation - Municipal Infraction**

Article 23A, Section 3 permits that the legislative body of a municipality may provide that violations of any municipal ordinance shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by State law, in which case, the violation shall be handled as a criminal offense. Municipal infractions are considered civil offenses. The charging document for a municipal infraction is a Uniform Civil Citation (DC 28).

The law enforcement officer prepares and signs the citation. If the defendant pays the fine to the municipality by the payment date written on the citation, the case is closed and will not go to Court. If the defendant submits a written request for a court date to the municipality at least five (5) days prior to the payment due date, the municipality will complete a "Request for Adjudication Form" (Form DC 28A) and transmits the citation, along with the Request for Adjudication and defendant's written request, to the Court. When the Court receives the citation and Request for Adjudication with defendant's written request attached, the Clerk makes a file and schedules a trial date.

If the defendant pays the fine to the municipality in advance of the trial date, the case is closed.

If the defendant fails to pay the fine by the payment date and fails to make a written request for trial, the municipality doubles the original fine amount (not to exceed \$1000.00) and then completes a Request for Adjudication and transmits the citation to the Court along with the Request. When the Court receives the citation and Request for Adjudication, the Clerk makes a file and schedules a trial date.

If the defendant fails to appear for a **requested** trial date and has not paid the fine, the municipality may double the original fine amount up to \$1000.00 and may enter a guilty/ex parte judgment in the amount due on the demand for judgment on the affidavit.

If a defendant appears at trial and is found guilty of committing a municipal infraction, the Court shall order payment of up to \$1000.00, plus court costs. If the fine remains unpaid for thirty (30) days following the court date, the case goes to civil for entry of a judgment unless the judge suspended or deferred the payment. At trial, the judge may also order the defendant to abate the infraction or permit the municipality to abate the infraction at the defendant's expense.

All fines, penalties or forfeitures collected by the District Court, with the exception of costs for a municipal infraction, shall be remitted to the municipality in which the infraction occurred.

## **Department of Natural Resource Citations**

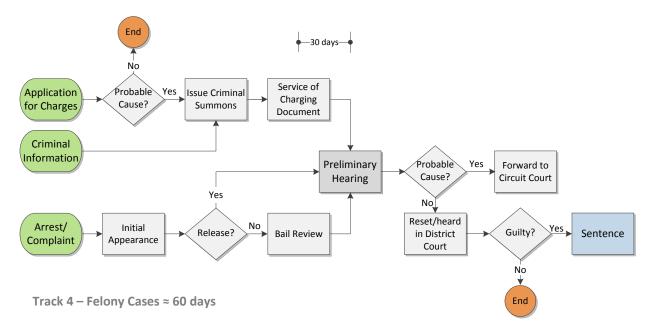
Department of Natural Resource citations are issued for violations of the natural resource laws of the State. Under Natural Resources Article 1-204(a), every Natural Resources police officer shall have all the powers conferred upon police officers of the State. These powers may be exercised anywhere within the State. Natural Resource citations either carry a pre-payable fine amount or require a defendant to appear for an offense punishable by time in jail. Only one offense is charged per citation. These offenses are charged on a Maryland Natural Resources Citation form.

When a Natural Resources citation is received and entered by the Court, a trial date is scheduled. The defendant must appear in Court unless the citation has a pre-payable fine amount and the fine is paid in advance of the trial date, which will result in the case being closed.

If a defendant fails to appear for a "must appear" Natural Resources citation, the Court may issue a bench warrant on the trial date for the arrest of the defendant.

If a defendant fails to appear in Court for a pre-payable citation, the Court will hold the file for five (5) days. If the defendant pays the pre-payable fine amount within the five (5) days, the case will be closed. If the fine remains unpaid, the Court will issue a Failure to Appear or Pay Fine Notice (DC/CR 115) to the defendant and add a \$100.00 fine to the original fine amount for the citation. The Failure to Appear or Pay Fine Notice notifies the defendant that a warrant for the defendant's arrest may be issued by the Court unless, by the end of the 15th day after the date on which the notice was mailed, (i) the defendant pays the fine on the original charge plus the \$100.00 fine for failing to appear or (ii) posts bond or a penalty deposit and requests a new trial date. If the defendant fails to pay the fines or post the bond or penalty deposit within the fifteen (15) days, the Court may issue a warrant charging the defendant with failure to appear.

## **Track 4 - Felony Cases**



A felony case is usually initiated by arrest, although occasionally a summons is issued on a felony case. The procedures for a felony case follow the procedures listed above, except for the preliminary hearing.

## **Preliminary Hearing (Md. Rule 4-221)**

The preliminary hearing is set to make certain that a felony defendant has received a copy of the charging document and is read the substance of each offense; and to determine probable cause before forwarding to Circuit Court. The defendant is entitled to cross-examine witnesses but not to present evidence. Preliminary hearings are conducted on felony summons cases.

Defendants, whose cases include felony charges with exclusive circuit court jurisdiction, may request a preliminary hearing at or within 10 days of the initial appearance. Failure to make a timely request is an automatic waiver of the preliminary hearing. Following a written or default waiver by the defendant, the State's Attorney may request a preliminary hearing in District Court for up to 10 days.

After probable cause has been determined, the case is forwarded by the District Court to the Circuit Court within 15 days, although the State's Attorney is only required to file the Information within 30 days after the finding of probable cause.

After probable cause has been determined, the case is scheduled for a felony dismissal date approximately 31 days out. The State's Attorney has up until the dismissal date to file a criminal information or indictment to forward the case to Circuit Court. If the State's Attorney does not request to forward the case, the felony charges will be dismissed on the felony dismissal date and the remaining misdemeanor charges will be rescheduled for trial.

## **Postponements**

The postponement policy for criminal cases is based on the <u>District Court Administrative Regulations</u>, as follows:

Postponement requests (fill out a Motion for Postponement CC-DC-070) are processed as follows:

If a defendant files the request pro se and does not have an attached certificate of service, the clerk presents the request directly to a judge for a ruling. If there is a certificate of service attached indicating that a copy of the request was provided to the State's Attorney, the request will be held for ten days in order to give the State's Attorney time to respond.

If the defense counsel or State's Attorney files a postponement request and the opposing side's position on the request is included in the motion, the clerk will present the motion directly to a judge for a ruling.

If the defense counsel or State's Attorney files a postponement request and the opposing party's position is not included, the motion is held for ten days (if hand-delivered) or 13 days if mailed, to give the opposing side time to file a response. If a response is received before the ten/thirteen days have passed, the motion is given to a judge to be ruled on. If a response is not received within the ten/thirteen days, then the motion is given to a judge after the ten/thirteen days have passed.

If there are less than ten/thirteen days until the court date, the motion is attached to the front of the file and the file is placed with the docket. In this instance, the motion will be ruled on by the judge in Court, unless a response is filed prior to the Court date, in which case the motion would be given to a judge to be ruled on.

In any case, if a motion for a postponement is filed (either with or without the opposing party's position) too late to get a ruling from a judge, the motion will be attached to the front of the file and will not be ruled on until the case is called on the court date. (Generally if motions are filed the day before the scheduled court date or on the actual court date, they will not be ruled on prior to the court date.)

A. **Designation of Postponement Clerk**. The administrative judge has designated a clerk to consider first requests for postponements that are received five or more days prior to the trial date and docketing problems due to judges' unavailability.

## **Personal Identifiers**

It is the responsibility of the filer to redact personal identifiers, prior to submitting a filing with the Court. Filers include anyone filing documents with the Court, including police officers, the state's attorney, criminal complainants, landlords, petitioners, and others. The filer does not have to be a party to a case, and may include Federal Courts, military personnel, or relatives to a party in a case.

Per Md. Rule 1-322.1, unless otherwise required by law or permitted by court order, the following personal identifier information shall not be included in any electronic or paper filing with a court:

- (1) an individual's Social Security number, taxpayer identification number; or
- (2) the numeric or alphabetic characters of a financial or medical account identifier."

The Rule also states that unless otherwise provided by law or court order, this Rule does not apply to the following:

- (1) a financial account identifier that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;
- (2) the record of an administrative agency proceeding.

## **Discovery**

Discovery and inspection is available in the District Court in actions for offenses that are punishable by imprisonment. The discovery and inspection shall be completed before the hearing or trial. A request for discovery and inspection and response need not be in writing and need not be filed with the Court. If a request was made before the date of the hearing or trial and the request was refused or denied, the Court may grant a delay or continuance to permit the inspection or discovery.

# Do You Need a Court Interpreter or Other Special Accommodation?

The Maryland Judiciary provides court interpreters for hearings and proceedings conducted in court, as well as certain court-related services and events, at no cost, for individuals who are parties or witnesses in court proceedings.

Only court-appointed interpreters can serve as official interpreters in the courtroom. Your family or friends cannot serve as official court interpreters. But, you can have your family members or friends help you to communicate with the court staff outside the courtroom.

You should request an interpreter for your hearing 30 days before the court date, if possible.

Fill out a Request for Spoken Language Interpreter (CC-DC-041). If requesting a sign language interpreter or other special accommodation, use the Request for Accommodation for Person with Disability (CC-DC-049). You can also ask your attorney to fill out the form for you.

Submit the form to the Clerk's Office of the courthouse where your hearing is scheduled by mail or in person.

If you are a party in the case, you only need to submit a single Interpreter Request Form. Once the court receives your first timely request, the court will assign an interpreter for all proceedings at which you are expected to appear. Other interested persons (victims and witnesses) must submit a new Interpreter Request Form for each proceeding.

# Frederick/Washington County District Court and the Community

The following are resources available in the community to help with resolving a dispute.

Courthouse locations Frederick County Washington County 100 W. Patrick Street 36 W. Antietam St.

Frederick, MD 21701 Hagerstown, MD 21740

Court telephone number: 301-600-2000 240-420-4600 Location of Clerk's Office: First Floor First Floor

Alternative Dispute Resolution	866-940-1729
Legal Aid	800-649-8813
Maryland Courts Self-Help Center	410-260-1392
People's Law Library	https://www.peoples-law.org/
Washington County Community Mediation Center	301-665-9262

Link for below for District Court of Maryland Criminal Information <a href="http://www.courts.state.md.us/legalhelp/criminalcases.html">http://www.courts.state.md.us/legalhelp/criminalcases.html</a>

## **Forms**

The following forms might be needed by the defendant in criminal cases.

DC-CR-033 Petition for Determination of Eligibility for Counsel

DC-CR-037 Petition to Strike Bond Forfeiture/Extend Period for Satisfaction/Order

CC-DC-070 Motion for Postponement

CC-DC 041 Request for Spoken Language Interpreter

CC-DC 049 Request for Accommodation for Person with Disability

A growing amount of content on the Maryland Judiciary's web site is now available in languages other than English. The non-English pages provide forms, brochures, and other helpful information about the Maryland Courts. The materials are available in Spanish, French, Russian, Korean and Chinese. <a href="http://www.mdcourts.gov/courtlanguage/index.html">http://www.mdcourts.gov/courtlanguage/index.html</a>.