



REQUESTING A HEARING FOR A NON-CRIMINAL TRAFFIC VIOLATION

An Informational Guide to a North Dakota Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided in this informational guide is not intended for legal advice but only as a general guide to a civil court process.

If you decide to represent yourself, you will need to do additional research to prepare.

When you represent yourself, you must abide by the following:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov by clicking on the “Self Help” link.

When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don’t understand the rules or procedures. If you are unsure if this information suits your circumstances, consult a lawyer.

This information is not a complete statement of the law. This covers basic information about requesting a hearing for a non-criminal traffic violation in a North Dakota state district court or a North Dakota state municipal court. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.

WHAT ARE NORTH DAKOTA LAWS AND RULES RELATED TO REQUESTING A HEARING FOR A NON-CRIMINAL TRAFFIC VIOLATION?

North Dakota Century Code Chapter 39-06: Operator's Licenses. Chapter 39-06 is found online at www.legis.nd.gov/cencode/t39c06.html.

North Dakota Century Code Chapter 39-06.1: Disposition of Traffic Offenses. Chapter 39-06.1 is found online at www.legis.nd.gov/cencode/t39c06-1.html.

- See Section 39-06.1-02 for the requirements for requesting a hearing on a traffic offense.
- See Section 39-06.1-05 for the list of criminal traffic violations.

North Dakota Century Code Chapter 39-07: General Regulations Governing Traffic. Chapter 39-07 is found online at www.legis.nd.gov/cencode/t39c07.html.

The North Dakota Rules of Civil Procedure apply to civil matters in North Dakota district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrcivp. Click on the "Civil Procedure, North Dakota Rules of" link.

The North Dakota Rules of Court apply to civil matters in North Dakota district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrct. Click on the "Rules of Court, North Dakota" link.

The North Dakota Rules of Evidence apply to civil matters in North Dakota district courts. The rules are found at www.ndcourts.gov/legal-resources/rules/ndrev. Click on the "Evidence, North Dakota Rules of" link.

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

WHERE CAN I FIND MUNICIPAL ORDINANCES?

An ordinance is a law passed by a municipal government, such as a city or county. Some municipal governments make their ordinances available on their government websites. If you are unable to locate the ordinance online, contact the municipal government directly.

WHAT ARE THE DEFINITIONS OF SOME OF THE COMMONLY USED TERMS WHEN REQUESTING A HEARING FOR A NON-CRIMINAL TRAFFIC VIOLATION?

*****The following definitions are intended to be helpful, BUT they are not intended to constitute legal advice OR address every possible meaning of the terms.*****

Criminal Traffic Violations – In general, traffic violations in state law (N.D.C.C. Chapter 39-07) and municipal ordinances are non-criminal. However, the following are criminal traffic violations (N.D.C.C. Section 39-06.1-05):

- Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance. (www.legis.nd.gov/cencode/t39c08.pdf#nameddest=39-08-01)
- Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance. (www.legis.nd.gov/cencode/t39c08.pdf#nameddest=39-08-03)
- A violation of chapter 12.1-16 resulting from the operation of a motor vehicle. (www.legis.nd.gov/cencode/t12-1c16.html)
- Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances. (www.legis.nd.gov/cencode/t39c08.pdf#nameddest=39-08-04)
- Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance. (www.legis.nd.gov/cencode/t39c06.pdf#nameddest=39-06-42)
- Violating subdivision b or c of subsection 5 of section 39-24-09, relating to unsafe operation of snowmobiles. (www.legis.nd.gov/cencode/t39c24.pdf#nameddest=39-24-09)
- Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46. (www.legis.nd.gov/cencode/t39c21.pdf#nameddest=39-21-46)
- Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26. (www.legis.nd.gov/cencode/t39c10.pdf#nameddest=39-10-26)

Individuals who are guilty of criminal traffic violations must pay a fine or fines, and will have a misdemeanor or felony on their criminal record.

District Court – The state trial court of general jurisdiction with service in each of North Dakota’s 53 counties. All district courts are supervised and funded by the state of North Dakota. Decisions about criminal and non-criminal traffic violations may be handled by a district court. District courts are also the appeal courts for municipal court decisions involving criminal and non-criminal traffic violations.

Municipal Court – The trial court for the city or municipality. Municipal courts have jurisdiction over all violations of municipal ordinances, except certain violations involving juveniles. Municipal courts are funded by the city or municipality. Decisions about criminal and non-criminal traffic violations may be handled by a municipal court. Municipal court decisions about criminal and non-criminal traffic violations may be appealed to district court.

Municipal Ordinances – An ordinance is a law passed by a municipal government, such as a city or county.

Non-Criminal (Administrative) Traffic Violations – In general, traffic violations in state law (N.D.C.C. Chapter 39-07) and municipal ordinances are non-criminal. Individuals who are guilty of non-criminal traffic violations must pay a fine or fines, but will not have a misdemeanor or felony on their criminal record.

North Dakota Century Code – The laws of North Dakota, also called statutes, which are enacted by the North Dakota State Legislative Assembly. The North Dakota Century Code is often referred to as the “Century Code,” or the “N.D.C.C.”

North Dakota Department of Transportation – A state agency to which criminal and non-criminal traffic convictions are reported by municipal and district courts. (www.dot.nd.gov; (701) 328-2600)

Points – Many traffic violations are assigned a certain number of points based on the seriousness of the offense. When a driver accumulates 12 or more points on their record, the North Dakota Department of Transportation suspends the driver’s license. Contact the Department for information about options for point reductions.

Prosecuting Attorney – The lawyer who represents either the city or municipality for ordinance violations, or the lawyer who represents the State of North Dakota for state law violations.

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WHO ARE THE PARTIES IN A STATE LAW OR MUNICIPAL ORDINANCE NON-CRIMINAL TRAFFIC VIOLATION?

Plaintiff:

If the non-criminal traffic violation is a state law offense, the Plaintiff is the State of North Dakota.

If the non-criminal traffic violation is a violation of a municipal ordinance, the Plaintiff is the city or municipality.

Defendant:

The individual charged with the non-criminal traffic violation.

WHAT IS THE PROCESS FOR REQUESTING A HEARING FOR A NON-CRIMINAL TRAFFIC VIOLATION?

If you wish to challenge that you committed a non-criminal traffic violation, you must request a hearing within 14 days of the date of the non-criminal traffic violation.

FIRST: Review the ticket you received for the non-criminal traffic violation.

At minimum, you will need:

- The amount of the ticket.
- The address of where to send your payment for the bond and your request for a hearing.

SECOND: Determine whether District Court or Municipal Court will handle the non-criminal traffic violation.

The non-criminal traffic violation may be handled by a municipal court or a district court, depending on if the offense is a violation of a municipal ordinance or state law.

Contact information for North Dakota municipal courts can be found online at www.ndcourts.gov/ under "Other Courts".

Contact information for North Dakota district courts by county can be found online at www.ndcourts.gov/ under "District Courts".

THIRD: Within 14 days of the date of the non-criminal traffic violation you must:

Within 14 days of the date of the non-criminal traffic violation, you must:

- Pay the bond, which is the amount of the ticket; and
- Request a hearing.

Payment of the bond and the request for a hearing can be made by mail, or in person at the office of the clerk.

A hearing date will be scheduled upon payment of the bond.

Contact the office of the clerk and ask how they accept payment of the bond.

FOURTH: Appear for the hearing at the scheduled place, date and time.

At the hearing, the Plaintiff will present their evidence.

- You may cross-examine witnesses and object to the Plaintiff's evidence.

You will have a chance to present your evidence.

- The Plaintiff may cross-examine your witnesses and object to your evidence.

Following the hearing, the court will make a finding of not guilty or guilty and impose fines accordingly.

If you are found guilty, the bond is used to pay the ticket.

If you are found not guilty, the office of the clerk will refund the bond.

Failure to appear at the hearing without just cause is deemed an admission of the charged traffic violation.

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LAWYER RESOURCES AND LIMITED LEGAL REPRESENTATION

You are not required to hire a lawyer to bring a civil action in a North Dakota state district court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is www.legalassist.org.
- **The State Bar Association** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is www.sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- **For a list of all lawyers who are licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at www.ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled. For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make the court appearance for you.

You and the lawyer must agree in writing to Limited Legal Representation.