

Trial

Under Kansas Law, a person can be brought to trial only after a complaint or traffic citation has been filed. The complaint or citation is a document that outlines what the person is accused of and states that the action(s) is unlawful. The person being charged is referred to as the defendant.

If you enter a plea of **not guilty**, it means you deny guilt and the City must prove its charges. In a trial, the burden of proof is on the City to prove that the defendant is guilty of the charges outlined in the complaint or citation. If you enter a plea of not guilty, you must decide whether to employ an attorney to represent you, ask for a court appointed attorney or act as your own attorney. This is called appearing *pro se*. No one else may represent you. However, if you are a minor (under 18 years of age) one of your parents should be present.

- You have the right to inspect the complaint before trial, and have it read to you at trial.
- You do **not** have the right to have your case tried before a jury in Municipal Court.
- You are entitled to hear all testimony introduced against you.
- You have a right to testify in your own behalf. You also have a constitutional right not to testify. If you choose not to testify, your refusal cannot and will not be used against you in determining your guilt or innocence. However, if you do choose to testify, the prosecutor will have the right to cross-examine you.
- You may call witnesses to testify in your own behalf. You have the right to have the court issue subpoenas for witnesses to ensure their appearance at trial. However, you must furnish the names, addresses and telephone numbers of these witnesses to the court clerk, at least **10 working days before your trial date**, so that the witnesses may be located and the subpoenas served.

Presenting the Case

The City will present its case first by calling witnesses to testify against you. After each prosecution witness has finished his/her testimony, you will have the right to cross-examine him/her. Your examination must be in the form of a question and you must not argue with the witness. Do not attempt to tell your side of the story at this time. You will have the opportunity to do so later in the trial. After the prosecution has presented its case, you may present your case. You have the right to call any witness who knows anything about the incident, and to introduce exhibits such as photographs and diagrams.

The Verdict

The verdict of the Judge will be based on the testimony which sounds most reasonable and on the facts presented during the trial. In making that determination, the judge can only consider the testimony of the witnesses who are under oath. If you are found guilty by the Judge, he/she may announce the penalty at the time or may continue the case for a sentencing hearing. You should be prepared to pay the fine at the time of sentencing. However, you may be granted an extension or set up a payment plan.

Sentencing

Sentencing options in Municipal Court:

- **Fines and Fees.** Court costs are \$96.00. Traffic fines have set amounts. The Judge can set fine amounts at his discretion according to City Ordinance. Amendment/Diversion fees are set by the City Prosecutor.
- **Promise to Pay or Appear.** Payment arrangements can be made. The agreement is made thru the court. If two (2) payments are missed, you must re-appear to discuss why payments have not been made. Payments are due by the second Tuesday of each month or discussed with the court clerk as to when the payment will be scheduled. Checks are made payable to the City of Douglass. Credit/debit cards can be called in.
- **Jail Time.** Jail time may be ordered for certain offenses. All persons sentenced to jail time in Douglass Municipal Court are sent to Butler County Detention in El Dorado, Kansas. Daily jail fees which are \$35.00 per day are added to fines and fees as restitution to the City.

- **Probation.** Probation is a conditional release granted to a defendant following conviction. During your probation period you will be supervised by a probation officer and required to meet certain conditions. Failing to meet conditions of probation can result in jail time and/or fines.
- **Community Service Work.** This is a supervised work program. Work must be performed by a non-profit agency.
- **Restitution.** This can be court-ordered in cases involving financial loss directly related to the crime you are convicted of.

Right to Appeal

Anyone found guilty in Municipal Court has a right to appeal the conviction to the District Court of Butler County, Kansas. To appeal, you must post a bond determined by the court and file a proper notice either with the Municipal Court Clerk, or at the District Court office. You have fourteen (14) business days after a conviction to file a "Notice of Appeal".

In District Court, you are entitled to a trial as though the Municipal Court trial had never taken place. It may take a few months for an appeal case to be heard by the District Court.

Your appeal bond receipt sets forth the time and place for the first appearance in District Court. If you fail to appear at that time, or any other time during the course of the appeal, your appearance bond will be forfeited and the case will be returned to the Municipal Court for execution of the fine and sentence that were initially imposed.

Expungement

In Municipal Court, if you are found not guilty, if your case is dismissed, or if you are convicted, you may petition for Expungement. This means that the case information will be considered "erased" and the public will not have access to the information, except in certain situations.

You may petition for Expungement of most City ordinance convictions after three (3) years if you have satisfied the sentence imposed. The time frame is five (5) years for convictions including Leaving the Scene of an Accident, Driving While Suspended, and Failing to Maintain Insurance Liability. The time frame is ten (10) years for convictions of DUI.

Once you have petitioned for Expungement, the court will set a hearing date and send a notice to the prosecutor. Anyone who has relevant information about you may testify at the hearing. The Court may look into your background and will be given access to any reports or records that may be on file with the Secretary of Corrections or the Kansas Adult Authority.

At the hearing, your case information may be expunged if the Court finds:

- You have not been convicted of a felony in the last two (2) years and no criminal proceedings are currently pending or being instituted.
- Your behavior and circumstances warrant it.
- Expungement is consistent with the public welfare.

Once an order of Expungement is issued, you will be treated as though you were never convicted of a crime, unless:

- You are convicted of another crime. In that case, the conviction that was expunged can be viewed as a prior conviction at sentencing.
- You apply for admission, or for an order of reinstatement to the practice of law in this state.
- You apply for employment with a criminal justice agency, private detective agency, private patrol agency, or with the Department of Social and Rehabilitation Services.
- You apply for a job with the Kansas Lottery or Racing Commissions.
- You apply for a commercial driver's license.
- Other circumstances as determined by the Judge.

