

# GOING TO COURT



This information is general and is not a substitute for legal advice. The Legal Service Commission provides free advice for most legal problems. Contact the Legal Helpline on 1300 366 424 [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au) [www.lawhandbook.sa.gov.au](http://www.lawhandbook.sa.gov.au)

This information is for persons who have been charged with a criminal offence and have to attend a criminal law court. The civil and family law courts have different rules.

## GET ADVICE!

Get advice as soon as you can, because it takes time to get legal aid and to see a lawyer. Remember that the court will be making decisions on a very important thing - your future! So getting advice is a good idea.

## INFORMATION AT THE COURT

An information service is provided by volunteers at some courts. They can help with basic court information and referrals to other services.

## VISITING THE COURT

You may like to visit the court and watch a case from the public gallery before the day of your case. This will give you some idea of what happens in court.

## CHECK THE DATE

Check the date and time on your summons and make sure that you appear on this day. If you are uncertain telephone the court. If you don't attend, your case may be decided without you. An arrest warrant could be issued if you fail to attend.

## DUTY SOLICITOR

Duty Solicitors can sometimes help people who are appearing in court and need a lawyer to help them. Whether the Duty Solicitor can help you depends on what you have been charged with, your personal circumstances and how many other people need help on that day. The Duty Solicitor's first priority is to help people who have been arrested and are in custody. If you know that you have to go to court, you should get advice well before your court date.

## ON ARRIVAL

Check the Court List, which is usually at the court entrance, to see which court you are in.

If you can't find the List or your name ask the court staff.

## WHEN WILL MY CASE START?

Get to court on time and be prepared to wait. Your starting time depends on the number of cases that day.

## CHILDCARE

Courts do not offer childcare services.

If you need to locate your nearest childcare centre, contact:

Childcare Access Hotline – 1800 670 305

## HOW SHOULD I BEHAVE?

Dress as neatly as possible.

Do not wear a hat or sunglasses on your head.

Make sure your mobile is on silent or turned off.

No foods or drinks, other than water, are permitted in the court room.

## ARE YOU PREPARED FOR YOUR CASE TO BE HEARD?

You need a good reason to put off your court case and must ask the Magistrate's permission for an adjournment. Generally you can get one adjournment without pleading guilty or not guilty. You will then get a new appearance date but be ready to proceed on that date. The court will not give you endless adjournments.

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## LEGAL AID

Legal aid is available in some cases, if you pass an income and merits test. If you have a private lawyer you can still apply for legal aid to pay the lawyer. Contact the Legal Services Commission.

## FINES

If you are fined by the Court you will have 28 days to pay the fine, but if you need to, you may apply to the Fines Enforcement and Recovery Unit for extra time to pay. Be prepared to provide information about your means to pay the fine and the reason/s why you need extra time.

Fines Enforcement and Recovery Unit of South Australia – 1800 659 538

## BUT WHAT IF I CAN'T SPEAK ENGLISH?

Interpreters are available but must be booked in advance through the court or your own lawyer. If you do not have any interpreter but need one on the day, go to the court office for help.

## WHAT WILL HAPPEN IN COURT?

This is what usually happens but if you do not understand something ask the Magistrate.

Warning! - Do not attempt to represent yourself - even when pleading guilty - without first getting legal advice.

## IF YOU ARE PLEADING GUILTY:

- the charges are read to you and you plead guilty.
- you (or your lawyer) tell your story, give details about your circumstances and finances and produce references (if any).
- the Magistrate states the penalty.

## IF YOU ARE PLEADING NOT GUILTY

At the first court appearance your case will be given a new date for a trial (you will need your witnesses on the new hearing date not on the first day you plead 'not guilty').

On the day of the trial:

- the police (and their witnesses) give evidence and you (or your lawyer) ask questions
- if they have not, the case is dismissed and you are free to go.
- if you are found guilty you will be asked if you have anything to say, and the Magistrate then states the penalty.

## AFTER THE COURT HEARING

If you are unsure about anything, ask the court staff to explain what happened in court. Find out whether you need to sign any documents or take further action before leaving the court. If you are still unsure about what happened and your rights, including appeals, get legal advice from a lawyer.

## WHO'S WHO IN THE COURT

This is a brief introduction to some of the people you will see at the court.

**MAGISTRATE** - decides what happens to your case, whether you are guilty or innocent, whether your case will have to go to another court or be put off until another day. You may be asked questions directly by the Magistrate. The Magistrate may be addressed as 'Sir/Madam' or 'Your Honour'.

**POLICE PROSECUTOR** - appears in criminal matters and presents the police case. They are trained in law and may or may not be in uniform.

**LAWYER / DUTY SOLICITOR** - presents your side of the story to the court. It is very helpful to be represented by a lawyer, regardless of whether you think you are guilty or innocent, legally right or wrong. You can pay a private lawyer or legal aid may help you. Before you answer questions or say whether you are guilty or not, discuss everything with your lawyer.

**PUBLIC** - your family, friends, or the public, have the right to watch what goes on in court. People in police custody generally go into court by another doorway to that used by members of the public. Members of the public can wait inside the court for these cases to be called.

**COURT ORDERLY** - calls people into court. You must tell the orderly when you arrive, so the court knows you are present. Ask the orderly to show you where to stand. The orderly can tell you if your case has already been called and dealt with.

**WITNESSES** - either give an eye-witness account of events about your case, or give expert evidence upon some matter affecting your case. In criminal cases the police may be called to give evidence of what you said to them. You can bring your own witnesses who can give evidence on your behalf.

**MAGISTRATES CLERK** - sits near the Magistrate and keeps a record of the Magistrate's decisions and any evidence given.

**THE REGISTRAR** - the Manager / Administrator of the court. He or she is not normally in the courtroom, but based in the court office, known as the Registry.

For details of publication and legal information resources

visit [lsc.sa.gov.au](http://lsc.sa.gov.au) or telephone 8111 5555

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