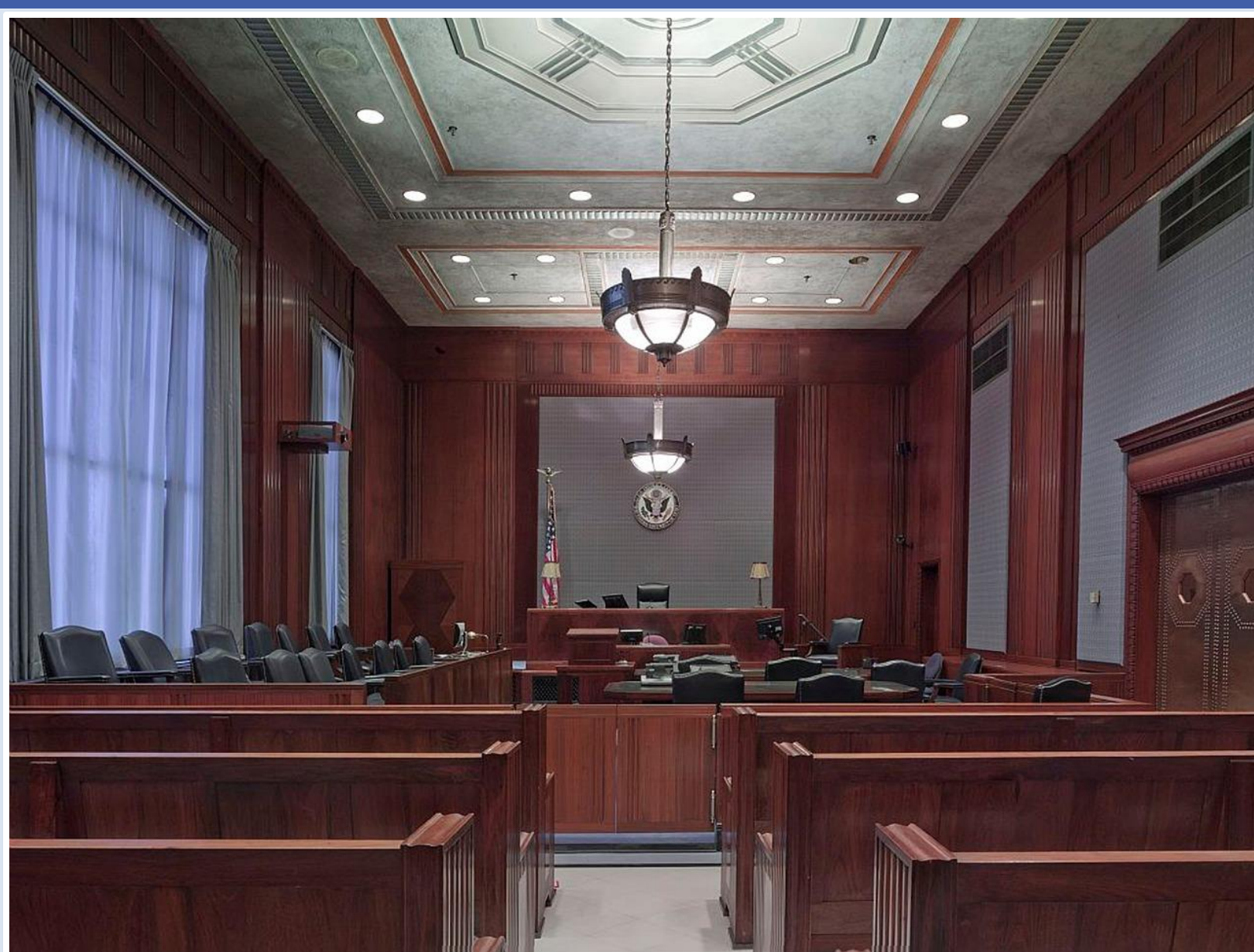


NEBRASKA CRIMINAL TRIAL PROCESS



In the United States, an individual accused of a crime has a number of rights guaranteed by the U.S. Constitution. One of those rights is the right to a trial by jury. If you are the defendant in a criminal prosecution, and plan to exercise your right to a trial by jury, you may be interested in knowing what to expect through that process.



Exercising Your Right To A Trial By Jury

Although your right to a trial by jury is guaranteed to you by the Constitution, you may have to assert your intention to exercise that right in order to use it. In a felony prosecution the court will typically presume you plan to resolve your case via jury trial unless you appear in front of the court and waive that right. In a misdemeanor prosecution, however, the converse is often true. You may be required to inform the court of your intention to have a jury decide your fate.



Preparing the Case

In a criminal prosecution, preparing the case for trial involves a thorough evaluation of all evidence the State has against you. Your criminal defense attorney will handle this part for you.



Pretrial Motions

Pretrial motions are often filed in an attempt to resolve some issues ahead of time in a criminal case. For example, if your attorney believes the police conducted an illegal search of your home, your attorney might file a motion asking the court to exclude evidence uncovered as a result of that search.



The Jury Pool

Prior to the day of your trial, a computer randomly selects potential jurors based on the Nebraska driver's license, state identification card holders, and voter registration lists. The people selected are then sent a summons and instructed to report to the courthouse on the day of your trial. They are also required to fill out a jury questionnaire that is then given to both the prosecution and the defense.



Choosing the Jury – Voir Dire

On the day of trial, your actual jury is picked based on a process known as “voir dire.” A small group of prospective jurors is brought into the courtroom and seated. Both the prosecuting attorney and the defense attorney are then allowed to question the jurors in an effort to determine if the individual should be excused using a challenge either “for cause” or “peremptory.” A challenge for cause

means there is a legal reason why the individual cannot serve, such as he/she is related to the defendant. Peremptory challenges may be used for any reason. Each side is given a designated number of peremptory challenges that may be exercised to excuse prospective jurors. These are used by both sides to try and shape the final jury. Once each side has used up their challenges, the people remaining become the final jury.



Opening Statements

Starting with the prosecution, each side is allowed to give an opening statement that introduces the jury to the case.



The State's Burden

In a criminal prosecution, the State has the burden to prove the defendant guilty beyond a reasonable doubt. This means the prosecution must present evidence

that proves each element of the crime beyond a reasonable doubt. Because the State has the burden of proof, the prosecution presents its case first.



Direct Examination

The prosecutor calls witnesses to the stand and asks questions during direct examination.



Cross Examination

Your attorney may also ask questions of a prosecution witness during cross-examination.



Putting On a Defense – Or Not

After the prosecution finishes presenting its case, the defendant has the option to put on a defense – or not. Because the burden is on the prosecution to prove you guilty, you are not required to prove anything. Therefore, you are not required to put on a defense at all. However, you and your attorney may decide to present a defense if it is in your best interest to do so.



Rebuttal

If a defense is presented, the State will then get one more chance to present testimony and evidence during rebuttal. This is not an opportunity to rehash what the State already went over during previous testimony but an opportunity for the State to “rebut” something that came up during your defense.



Closing Arguments

Each side is allowed to give a closing argument that sums up the case and asks the jury to find in their favor.



Jury Deliberation

The judge gives the jury instructions that are to be used to reach a verdict. The jury is then excused to deliberate. In a criminal case, the jury verdict must be unanimous to convict the defendant. The jury will elect a “foreperson” who will help guide the discussion in the jury room. The jury may take as much time as necessary to reach a verdict.



The Verdict

When the jury has reached a verdict, the court is notified and the parties return to the courtroom. The foreperson hands the verdict to the judge and the judge reads it. The jury may find the defendant “not guilty” or “guilty.” In rare cases, if, after an extended period of time, the jury cannot reach a unanimous verdict it may be deemed a “hung jury.” A hung jury essentially requires the prosecution to retry the case because it is equivalent to no verdict.



Sentencing

If the defendant was found guilty, the judge may move directly to sentencing or may set a sentencing hearing for some time in the near future.



Right to Appeal

If you are convicted, you have an absolute right to appeal that conviction to a higher court. If you are found not guilty, however, the State cannot appeal that verdict.

If you have been charged with a criminal offense in Nebraska, it is in your best interest to consult with an experienced criminal defense attorney right away. In Nebraska, contact Petersen Criminal Defense Law 24 hours a day at 402-509-8070 to discuss your case with an experienced defense attorney.

About Petersen Criminal Defense Law



Omaha, Nebraska Law Firm: Committed To Making Your Voice Heard By The System

Established in 1995, Petersen Criminal Law follows a simple firm philosophy: Our clients are presumed innocent until proven guilty. Our firm's attorney, Thomas M. Petersen, has devoted his career to this philosophy, helping clients throughout the Omaha, Nebraska, area make sure their voices are heard in the criminal defense system.

In that time, he has handled over 6,000 criminal defense cases and represented clients in numerous trials. This experience means he is a battle-tested veteran of the criminal defense system who has committed himself to putting to work for you the insights he has gained.

Your Decision Today Affects The Rest Of Your Life

Facing criminal charges means your future is at stake. You do not have to let a Nebraska criminal case ruin your life, though your choices today do affect your future.

For that reason, you want an adviser in your corner who has traveled this road before and understands the terrain. You do not want to test your ability to learn the law on your own when your own liberty is at stake.

No Lectures. No Judging. We Just Defend You.

Call Petersen Criminal Law at 402-909-0367. You can also schedule your initial consult by contacting the firm online. All consultations with our firm remain completely confidential.

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