

Lehigh County Law Library Pathfinder

This PATHFINDER is not intended to be legal advice. If you need legal advice or assistance drafting legal documents, you must hire a private attorney.
Law Library staff **cannot** assist you in drafting or completing legal documents.

PRIVATE CRIMINAL COMPLAINTS IN PENNSYLVANIA Q & A

Pa. R. Crim. P. 506 permits a private citizen to file a criminal complaint against another person.

The text of the complete Pennsylvania Rules of Court can be viewed online at www.pacode.com.

Pa. Rule of Criminal Procedure 506 Approval of Private Complaints

- (A) When the affiant is not a law enforcement officer, the complaint shall be submitted to an attorney for the Commonwealth, who shall approve or disapprove it without unreasonable delay.
- (B) If the attorney for the Commonwealth:
- (1) approves the complaint, the attorney shall indicate this decision on the complaint form and transmit it to the issuing authority;
 - (2) disapproves the complaint, the attorney shall state the reasons on the complaint form and return it to the affiant.
- Thereafter, the affiant may petition the court of common pleas for review of the decision.
- Comment:* For the contents of a private complaint, see Rule 504.
- In all cases where the affiant is not a law enforcement officer, the complaint must be submitted for approval or disapproval by the attorney for the Commonwealth.
- The district attorney may "transmit" the complaint to the issuing authority pursuant to paragraph (B)(1) by returning it to the affiant for delivery.

Credits: *Note:* Original Rule 105 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 105 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 133 and amended September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; amended October 22, 1981, effective January 1, 1982; rescinded November 9, 1984, effective January 2, 1985. Present Rule 133 adopted November 9, 1984, effective January 2, 1985; renumbered Rule 106 and amended August 9, 1994, effective

Q When Must I File a Private Criminal Complaint?

A In some cases, especially incidents in which the police did not observe the alleged criminal behavior, the police may instruct you to file a private criminal complaint. In these cases, Rule 506 of the Pennsylvania Rules of Criminal Procedure does permit an individual to file a criminal complaint against another person.

! In most cases, the police will bring charges against persons who have committed crimes. If you believe you have been the victim of a crime, you are urged to report the crime to your local police department. The police have the training, experience and knowledge to enable them to determine where jurisdiction lies, conduct an investigation, determine if a crime has been committed, and then the legal knowledge and expertise necessary to file the appropriate criminal charges.

Q Is my private complaint guaranteed to get the other person arrested or to get the police to investigate something for me to see if I have a civil case?

A The filing of a Private Criminal Complaint in no way guarantees that criminal charges will be brought against the person. The person may never be arrested and police may not investigate your claims.

! Filing a criminal complaint should not be used to "get a person arrested" or start a law suit for civil damages.

Q Must I know the exact criminal statute violated or law broken?

A It is best to make sure that the incident you are complaining about is actually a crime. If you file a Private Criminal Complaint, you become the "affiant" or the person making the allegation just as if you were a police officer. The same rules apply to you in filing charges that apply to a police officer.

! You will be expected to state on the complaint the sections of the crimes code you feel were violated using proper citation format: 18 Pa. C.S.A. § 2701 (a) Simple Assault

! Criminal statutes can be found in the Pennsylvania Statutes Annotated, Title 18, Crimes and Offenses.



RECEIVED A BAD CHECK? Lehigh County has an online Bad Check Restitution Program.

See the Check Program website for more information:

<https://www.lehighcounty.org/departments/district-attorney/bad-check-restitution-program>

A check is Eligible if...

- The amount is no more than \$2,500 (or multiple checks not exceeding this limit). There are no minimum dollar restrictions.
- It was received in Lehigh County, deposited in a bank in exchange for goods or services and was presumed "good" at the time of acceptance.
- A "Courtesy Notice" was sent to check writer allowing 10 days to make check good.

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Q Do I need to have Probable Cause?

A You must demonstrate that “probable cause” exists and that the person you wish to have charged actually committed a crime. Probable Cause is the legal standard of proof that our courts require in order for charges to be filed. Simply stating or alleging that something happened is not probable cause.

! A mere allegation is not sufficient to initiate criminal charges. If the incident is not a crime in Pennsylvania, the complaint will not be approved by the District Attorney or MDJ.

Q How Does my Complaint get Reviewed? Will it be investigated?

A Summary offenses may be reviewed and approved or disapproved by the Magisterial District Judge. Felonies and Misdemeanors must be reviewed by an Assistant District Attorney. In those cases, the complaint will be forwarded to the District Attorney’s office. An Assistant District Attorney will be assigned to review the Private Criminal Complaint. The Assistant District Attorney can approve or disapprove the complaint immediately, but may forward the complaint to a County Detective who will conduct an investigation of the crime or crimes you have alleged. With the additional information provided by the investigation, the Assistant District Attorney will then make a determination if probable cause exists to justify the filing of the charges.

Q What Happens if my Complaint is Approved?

A If the Assistant District Attorney determines, based upon the facts, circumstances, and the law, that probable cause exists, the complaint will be approved and transmitted to the Magisterial District Judge to issue process.

! If the Private Criminal Complaint is approved and process is issued, you must appear at all court proceedings that result and you will be responsible for providing the Magisterial District Judge with the names and addresses of all persons you wish called as witnesses on your behalf.

Q What Happens if my Complaint is Not Approved?

A If the Assistant District Attorney determines, based upon the facts, circumstances, and the law, that probable cause does not exist, the complaint will be disapproved.

! The Assistant District Attorney will state the reason(s), on the complaint form, for not approving the complaint and return it to you. You have the right to petition the Court of Common Pleas to review the decision of the Assistant District Attorney.

Q How do I Obtain the Private Criminal Complaint Form?

A Download the form on the Administrative Offices of the Pennsylvania Courts (AOPC) at <http://www.pacourts.us/Forms/>

A Or obtain a paper Private Criminal Complaint form from the Magisterial District Judge in whose jurisdiction the alleged crime was committed.

! If you do not know the location of the MDJ office for that area, use the MDJ locating feature on the Lehigh County Court of Common Pleas website at www.lccpa.org to determine the correct jurisdiction.

Q Where do I Submit the Completed Criminal Complaint Form?

A Complete the Private Criminal Complaint providing a detailed explanation of the facts and circumstances that cause you to believe a crime was committed and what crime or crimes you are alleging were committed.

! Provide a citation of the specific section and subsection of the Pennsylvania statute(s) allegedly violated.

! Submit the completed form to the Magisterial District Judge in the correct jurisdiction. The jurisdiction in private criminal complaints would be where the act was committed. Once submitted to the MDJ, the MDJ will review and/or forward the complaint to the District Attorney.