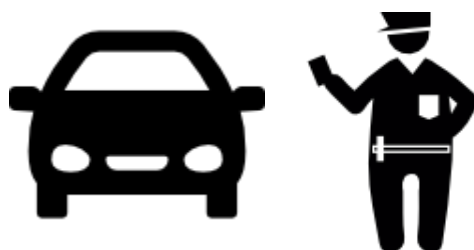




Type of law:
CRIMINAL LAW

Traffic Offences



A 2022 Alberta Guide to the Law

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GENERAL

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You are free to go



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INTRODUCTION

A Traffic offence is a provincial offence dealt with in Traffic Court, a part of the Provincial Court of Alberta. A traffic offence occurs when there is a violation of provincial statutes such as the Traffic Safety Act, municipal by-laws or a few federal statutes. An example of a traffic offence would be driving faster than the posted speed limit. Traffic Court does not deal with charges under most federal statutes, including the Criminal Code. An example of a driving related offence that would not be dealt with in Traffic Court would be Impaired Driving, an offence under section 320.14 of the Criminal Code.

WHAT DO YOU DO AFTER BEING CHARGED WITH A TRAFFIC OFFENCE

If you are charged with a provincial traffic offence, the officer will give you a ticket. The ticket will tell you:

1. What you have been charged with
2. The date and time you are required to attend court
3. The court's address



It is very important that you carefully read the front and back of the violation ticket. All your court appearances will be at the court location indicated on the violation ticket. You should also direct any telephone calls or questions to this court location.

WHAT ARE THE TWO TYPES OF TICKETS?

1. Summons Violation Tickets (pink paper)

A summons violation ticket will be pink and it will have the words “Part 2, Summons” in the upper right-hand corner.

If the officer has marked the “Court Appearance Required” box, you must appear in court in person or by agent (someone you allow to appear for you) on or before the date specified in the ticket. If you do not appear in court as required, you can be charged with the offence of failure to appear and a *warrant for your arrest may be issued*.

If the officer has marked the “Voluntary Payment Option” box with a fine amount, you have the options of paying the specified voluntary payment amount in full OR appearing in court in person or by agent on or before the date set out in the ticket.

By paying the voluntary payment amount you are deemed to have pled guilty. If you do not pay the voluntary payment amount and you do not appear in court on or before the specified date, you can be charged with failure to appear and a *warrant for your arrest may be issued*.

2. Offence Notice Violation Tickets (yellow or white paper)

An offence notice violation ticket will be yellow or white and it will have the words “Part 3, Offence Notice” in the upper right-hand corner.

Read both sides of the ticket carefully. The back provides details about your options.

If you don't respond to an offence notice violation ticket on or before the date set out on the front of the ticket, you may be convicted in your absence.

The amount set out on the front of the ticket (the Voluntary Payment Option) will be assessed as your fine. The fine and any applicable late payment charge will be recorded at the Motor Vehicle Registry and you will be mailed a Notice of Conviction. The Motor Vehicle Registry may not provide you with services until you pay all fines in full. An accumulation of unpaid fines may result in the suspension of your operator's licence.

LOST OR MISPLACED YOUR TICKET?

Contact the Traffic Court Clerk at (780) 427-5913 to find out your court date and fine deadlines.

edmonton.traffic@just.gov.ab.ca



WHAT DO YOU DO NEXT?

1. Voluntary Payment Option

You can plead guilty by paying the amount specified on the ticket in the voluntary payment option box before the court appearance date.

- Follow the instructions on the ticket
- Payment must be received before the date you are to appear in court
- If you pay using the voluntary payment option then you do not need to attend court.

OR

2. Appear in Traffic Court

If you do not use the voluntary payment option (or if the voluntary payment is not available to you) you will need to attend Traffic Court on the date specified on the ticket. See the section below for more information about appearing in traffic court.



APPEARING IN TRAFFIC COURT

Your First Court Appearance

The date and time of your first court appearance is written on the front of your ticket.

- If the peace officer checked the box that indicates that you must appear between 9:00 a.m. and 3:30 p.m., you must appear between those times.
- If a particular time, such as 9:30 a.m. is specified, you must appear at that time.

In Calgary and Edmonton, you attend the “Justice of the Peace” counter to enter your plea (tell them if you are guilty or not guilty). In other locations, you may be required to go into the courtroom. The charge against you will be read out. You will be asked if you plead guilty or not guilty. Before entering a plea of guilty or not guilty you may ask to reserve your plea.

- Reserving your plea means you want more time to decide how you would like to plea.
- If you do not fully understand the charge against you, reserving your plea will give you time to get additional information or legal advice.
- If you reserve your plea, you will be assigned another date to return to court.

Trials in Traffic Court are generally heard by a sitting justice of the peace often referred to as a Traffic Commissioner. Provincial Court judges hear trials at some locations in the province.

A Provincial Court judge should be addressed in court as *Your Honour*, and a Traffic Commissioner as *Your Worship*.

First Appearance Centers

There are First Appearance Centers for Traffic Court in Calgary and Edmonton. Provincial Crown prosecutors at these offices are available to speak to persons charged with an offence. No appointment is necessary; individuals are seen on a first come, first serve basis.



If you think there are circumstances that should be considered or want general information about the charge against you, you can speak to one of the prosecutors at the First Appearance Centre. They have the authority to review and deal with the charge.

What if I am unable to attend court on the appearance date?

If you are unable to attend court on the appearance date, you can arrange to have a lawyer, or an agent appear for you.



Offence notice violation tickets have a mail-in option available (see the back of the violation ticket for further instructions or options).

You may also go to the courthouse before the specified appearance date. The clerk at the Traffic Court counter may be able to deal with your ticket right away or give you a new date to appear.

Can I transfer the charges to another court location and plead guilty there?

If the police gave you a summons violation ticket (pink paper) and you want to plead guilty, you can ask to have the charge transferred from the Traffic Court location on the ticket to any other location.



If you want a charge to be transferred (for a guilty plea):

1. Visit the clerk at the Traffic Court location where you want the charge transferred.
2. You will be asked to sign a “request for waiver” form. It will take several days for your request to be processed, so **make sure you request the waiver well in advance of your appearance date.** A Crown prosecutor must approve the request for waiver.

Note: It is NOT possible to transfer the charge if you intend to plead not guilty.

PLEADING GUILTY

There are several things to consider before pleading guilty. For example, what are the possible consequences of conviction? What is the maximum fine? Is there a possibility of jailtime? Will a conviction affect your insurance rates?



You may choose to consult legal advice prior to entering a guilty plea.

How do you plead guilty?

1. Arrive at Court early and speak to the Crown prosecutor who is generally seated at the desk on the right when you walk into the courtroom. Ask the prosecutor what type of fine, demerits, and/or driving suspension he or she is asking for if you plead guilty.
2. Wait until your turn, they will call last names in order, (this will be after the lawyers and student lawyers are finished their matters).
3. Stand up at the desk on the left and inform the judge that you want to enter a guilty plea.
4. The clerk will read the charge to you, then you will say “guilty”.
5. Next, the prosecutor will tell the Traffic Commissioner about the offence, often reading facts from the police report. You will be asked if you agree to these facts, **if you disagree with any of the facts, you should tell the Traffic Commissioner and explain why.**
6. If the prosecutor wants to show your driver’s abstract to the Traffic Commissioner, he or she should show you a copy of your driver’s abstract first. Make sure it is your record and that there aren’t any mistakes in it. If there are mistakes, tell the Traffic Commissioner.

For more information about pleading guilty, see the SLS pamphlet on “Guilty Pleas and Sentencing”. It is available online at www.slsedmonton.com/criminal/how-to-plead-guilty/

PLEADING NOT GUILTY

If you plead not guilty, a trial will be scheduled.



Failing to appear for trial



When you plead not guilty, you will be advised of the trial date and the number of the courtroom where the trial will be heard. On the trial date, arrive at least 15 minutes early and look at the appearance list on the screen outside the courtroom (courtroom 001 in Edmonton). Let the Crown Prosecutor know you are there. The prosecutor can usually be found sitting at one of the tables at the front of the courtroom.

If proceedings were commenced by a summons violation ticket (pink paper) and you are late or do not attend the trial:

- You can be charged with the offence of failing to appear and the court may issue a warrant for your arrest, OR
- The trial may be held in your absence.

If the proceedings were commenced by an offence notice violation ticket (yellow or white paper), and you are late or do not attend, you may be *convicted in your absence* (found guilty even though you weren't there).

Find Out What Evidence There is Against You

You can get a copy of the evidence in your case; this is called **disclosure**. The process to get this information varies across the province. You should confirm the exact procedure with the Crown Prosecutors' Office.



You can contact the Crown Prosecutor's office in Edmonton by telephone at (780) 422-1111. In other areas speak to the clerk at Traffic Court to get information about how to contact the Crown Prosecutor.

Preparing Your Defense

Before you can be convicted, the Crown Prosecutor must prove, beyond a reasonable doubt

- That the offence was committed,
- That you are the guilty party (not someone else), and
- The time, date, and place of the offence.



During the trial, the prosecutor will present evidence to the Traffic Commissioner to establish the above factors. You will be given a chance to question (cross-examine) the prosecutor's witnesses, and you will have a chance to call your own witnesses to give evidence. Even if you have an excuse, only certain excuses can be used as defenses, and many excuses will not help your case. Get legal advice before pleading to see if you may have a defense.

Bringing Your Witnesses to Court



Your witnesses must be physically present in court to testify. Letters or written statements from witnesses will not be accepted as evidence.



or written

You can subpoena (make them come) witnesses to come to court if they are unwilling or if they need it to get time off work. You can get copies of subpoena forms at the clerk's office. Fill out one subpoena for each witness and ask the clerk to have it authorized. After the subpoena has been authorized, arrange for the police or a private document-service company serve it. You may have to pay a fee for this service. You should allow enough time for the subpoena to be served (at least two weeks).

What if you change your mind and want to plead guilty?

If you entered a plea of not guilty at your first appearance and you want to change it to guilty at the trial date, you must tell the Traffic Commissioner that you wish to change your plea to guilty.



If you know before the trial date that you want to plead guilty, you should go to Traffic Court and have your matter brought forward and dealt with. Dealing with the matter before the trial date gives time to cancel the witnesses and saves everyone inconvenience.

What Happens at a Traffic Trial?

First, the Crown Prosecutor calls witnesses and presents their case.

- Photographs, diagrams, maps and other visual aids are admissible as evidence if they are relevant and properly identified.



After the prosecutor is finished asking a witness questions, you will have a chance to ask questions. This is called cross-examination.

Once you have finished your cross-examination of a witness, the prosecutor can ask the witness further questions that have come up for the first time through your questions.

After the prosecutor has finished presenting the Crown's evidence, you will have an opportunity to put forward a defense. You are not required to put forward a defence. If you choose to put forward a defense, you can do it through your own testimony, by calling witnesses, and by introducing evidence.

- If you testify, the prosecutor can cross-examine you. The prosecutor can also cross-examine your witnesses.

After hearing each side's case, the Traffic Commissioner will ask for argument. Argument gives both sides a chance to persuade the Traffic Commissioner. The Traffic Commissioner will then decide whether to find you guilty or not guilty.

Note: When presenting a defense DO NOT use an excuse as a defense. For example, “I was having a bad day,” or “It was the police officer’s fault.” It is a good idea to get legal advice before pleading.



SENTENCING/PUNISHMENT

If you are found guilty, your sentence could include a monetary fine, imprisonment or a combination of these. In some situations, the Traffic Commissioner may order you to pay compensation for loss or damage to property suffered by a person as a result of the commission of the offence.



Before the Traffic Commissioner sentences you, you will be given a chance to tell the Traffic Commissioner something about yourself, about the offence, and about any special circumstances that might affect the sentence.

What Should I Tell the Traffic Commissioner?

You will have an opportunity to “Speak to Sentence” where you will tell the Traffic Commissioner some things about yourself and the circumstances surrounding the offence. This may include:

- Your background (age, part of a minority group, disabilities, education).
- Family circumstances (are you married, do you have kids or other dependents).
- Employment information (Where you work and how long you have been working there).
- If you are not working, you can inform the judge of your income situation, for example, that you are on AISH, or EI, or supported by your partner.
- Mitigating circumstances surrounding the offence.
 - Only bring this up if there was a really good reason for committing the offence (for example: driving without a licence to get away from danger).

These factors will help the Traffic Commissioner decide what type of sentence to give you, the amount of time to pay, etc. Remember, always be absolutely honest with the Traffic Commissioner. **If you do not want to speak to sentence you do not have to.** You do not have to talk about any of the topics listed above if you don’t want to.

If you do not have enough money to pay a fine, tell the Traffic Commissioner that you will need time to pay. If you cannot pay your fine by the due date, you can apply for an extension at the clerk’s office. This must be done before the due date.

You may also be eligible to work off the fine through the **Fine Option Program** by doing community service work. For more information about the **Fine Option Program** you can call the Alberta Justice information line at **780-422-0730**.

If you want more information on Speaking to Sentence, see the SLS pamphlet on “Guilty Pleas and Sentencing”, available on our website www.slsedmonton.com.

Victims of Crime Surcharge

If you are found guilty under the *Criminal Code* and the Traffic Commissioner imposes a fine, a victim surcharge under the *Victims of Crime Act* will automatically be added to your fine. If you were given a violation ticket with a Voluntary Payment Option, the amount shown on the face of the ticket will already include the surcharge. The surcharge amount is 30% of any fine imposed. The judge can increase the amount of the surcharge if he/she sees fit.

I NEED HELP APPEARING IN COURT

Interpreters?



If you or your witnesses are not fluent in English, you can request an interpreter for your trial date. To request an interpreter, tell the Justice of the Peace at your first appearance when your trial is scheduled. If you decide you need an interpreter after your first appearance, contact the Traffic Court Clerk. The clerk can arrange for a request to be made. Make the request well in advance of the trial, because the request needs to be approved. The court will then appoint an interpreter (at no cost to you) to assist you in all proceedings before the court.

Lawyers and Agents

You may appear in Traffic Court in person or have an agent appear on your behalf. An agent is someone that you authorize to represent you in court. An agent might be a friend, relative, associate or possibly a lawyer or a non-lawyer who represents individuals in court for a fee.

Paid agents who are not lawyers are not allowed to represent persons in some court locations in Alberta. Agents do not need to have any legal training. If you would like a lawyer or paid agent to represent you on your court date arrange for one as soon as possible. If you do not have a lawyer or agent on the day set for the trial, the Traffic Commissioner might not grant you an adjournment to get one, and might require you to represent yourself.



How Do You Get a Lawyer or Agent?

You can look up lawyers who practice in Traffic Court online or in the yellow pages.

For paid agents, look in the yellow pages or online under paralegal services, court agents, traffic law representation or traffic ticket agents.

You can also call the Lawyer Referral Service at 1-800-661-1095. More information about this service is in the back of this pamphlet.

MORE INFORMATION AND HELP

Alberta Registries Help Desk	Ph: 780-638-3777 Web: www.e-registry.ca
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The Alberta Registries Help Desk provides support for online Vehicle Registration Renewal, the registry in Alberta. This service can help you find your nearest registry agent.

City of Edmonton Bylaw Ticket Inquiries	Ph: 780-496-5161
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For more information about municipal bylaws, including information about parking tickets, you can contact the Bylaw Ticket Inquiries office. They are open from Monday – Friday, 8:30am – 4:30pm.

Dial-a-Law	Toll-free Ph: 1-800-332-1091
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Dial-a-Law is provided by Calgary Legal Guidance for all Albertans. You can call the toll-free number to receive general information on a variety of legal topics. If you have access to a computer, you can go to their website and choose to either read or listen to the information.

Edmonton Crown Prosecutors Office 6 th Floor, J.E. Brownlee Building, 10365 – 97 th Street Edmonton, AB T5J 3W7	Ph: 780-422-1111 Email: edmontonprosecutions@gov.ab.ca
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The Prosecutors Office has responsibility for the prosecution of *Criminal Code*, *Youth Criminal Justice Act*, and provincial statute offences. This includes working with the community to promote safe communities and implement alternative approaches to the administration of justice.

Elizabeth Fry Society of Edmonton #700 - 10242 105 Street NW	Toll free: 1-866-421-1175 Web: www.efryedmonton.ab.ca
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The Elizabeth Fry Society of Edmonton is aimed providing at-risk women and girls with various programs and services. Programs include the Aboriginal Women's Program, Criminal Court Program, Employment Services Program, Financial Literacy Program, Legal Clinics, Imprisonment Programs, and youth programming. Services include smudging, laundry facilities, and drop-in workshops.

Fine Option Program 14605 134 Avenue NW Edmonton, AB T5L 4S9	Ph: 780-422-0730
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This program is run by the City of Edmonton for adult offenders who want to work off fines instead of making payments or spending time incarcerated. Participants complete community work service for a specified number of hours, depending on how much of their fine they wish to pay off through this program. You must have your court papers and Time to Pay notice in order to register for the program.

Lawyer Referral Service	Toll free: 1-800-661-1095
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When you call, you will speak to an operator and you will describe the nature of your problem to them. The operator will then provide you with the contact information for up to three lawyers who may be able to assist you. When contacting these referred lawyers, make sure to let them know that you were given their information by the Lawyer Referral Service. The first half hour of your conversation with a referred lawyer will be free and you can discuss your situation and explore options. **Note:** This free half hour is more for consultation and brief advice and is not intended for the lawyer to provide free work.

Native Counselling Services of Alberta (NCSA) 10975 124 Street NW Edmonton, AB T5M 0H9	Ph: 780-451-4002
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NCSA provides numerous programs working to support and strengthen Aboriginal individuals and families. These programs include support in court, assistance with child/family service matters, housing and support for at-risk youth, and Aboriginal healing lodges. They do not provide therapy or counselling.

Provincial Court Clerks – Criminal Division	Ph: 780-427-7868
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The Provincial Court Criminal Clerks are able to assist in providing information for Provincial Court Criminal matters regarding judicial procedures, court appearances, trial dates, adjournments, outstanding warrants, summonses, subpoenas, witness fees, and payment of fines. It is not their role to provide you with legal advice. *The criminal division does not handle traffic matters.*

Provincial Court Clerks – Traffic Division	Ph: 780-427-5913
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The Provincial Court Traffic Clerks are able to assist in providing information for Provincial Court Traffic matters regarding bylaw tickets, judicial procedures, court appearances, trial dates, adjournments, outstanding warrants, summonses, subpoenas, witness fees, and payment of fines. It is not their role to provide you with legal advice.

Student Legal Services – Criminal Office #100 - 9924 106 Street NW Edmonton, AB	Ph: 780-425-3356 Web: www.slsedmonton.com
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Law students who provide legal information, but *not* individual legal advice. The students can provide free legal assistance, for less serious matters, to those over 18 & considered low income. **Please note, Student Legal Services cannot help with traffic offences, unless they are attached to a criminal charge that qualifies OR you are charged with driving while unauthorized.**