A GUIDE TO ARBITRATION

ARBITRATION

FAMILY COURT OF THE STATE OF DELAWARE

https://courts.delaware.gov/family

Related Forms

Form 315 – Arbitration Agreement

All forms can be found on the Family Court Website at https:\\courts.delaware.gov\family

Family Court Contact Information

New Castle County
Leonard L Williams
Justice Center
500 N. King Street
Wilmington, DE 19801
302-255-0300

Kent County
Family Courthouse
400 Court Street
Dover, DE 19901
302-672-1000

Sussex County
Family Courthouse
100 East Market St
Georgetown, DE 19947
302-855-7400

What is Arbitration?

Arbitration is an informal Family Court proceeding where a specially trained hearing officer attempts to resolve certain juvenile delinquency cases. (A juvenile is a person who has not reached his or her eighteenth birthday by the date of the alleged offense.)

How does a case qualify for arbitration?

A Hearing Officer decides if a case is appropriate for arbitration. If not appropriate for arbitration, the case will proceed to a formal Court hearing.

What kinds of charges are usually arbitrated?

First-offender juvenile misdemeanors or violations such as shoplifting, criminal mischief, trespassing, consumption of alcohol, harassment, offensive touching, and disorderly conduct.

How is a person notified of an arbitration conference?

Everyone involved in the case receives a mailed notice of the date, time, and place of the conference. The defendant (the person against whom the charges have been filed) and a parent or guardian MUST attend the conference. The complainant (the person who has filed charges) and the victim are not required to attend. The Attorney General may notify the complainant and the victim of an arbitration proceeding.

Do I need a lawyer for arbitration?

You may have a lawyer represent you at arbitration, although it is not a Court requirement.

What happens in an arbitration conference?

An arbitrator will read the charge to you and ask you if you are willing to accept responsibility for the incident. You do not plead guilty and you are not found guilty. If you accept responsibility, you and your parent or guardian will sign an arbitration agreement. After listening to all parties, the arbitrator will assign conditions to you, such as community service, payment of restitution, conflict resolution classes, or alcohol/drug evaluations. If all the conditions of arbitration are met, and no new charges are filed for a period of 90 days, the charge(s) will be dismissed after 90 days. Conditions cannot include commitment to an institution, supervised probation, or payment of Court costs

and fines. If the conditions are not met within the required time frame or new charges are filed, all charges will proceed to a formal Court hearing. If you are not willing to accept responsibility for the incident, you may enter a plea of not guilty, sign a waiver of arraignment (a hearing where you are asked how you plead), and your case will be scheduled for a trial.

If a case is arbitrated, can a victim receive restitution? (Restitution is the monetary loss suffered by the victim in a crime.)

Only cases where restitution is owed to a business entity may proceed through arbitration. For example, if restitution is owed to a corporation, company, sole proprietor or partnership, the case may be appropriate for arbitration. If restitution is owed to a private citizen, the case will not proceed to arbitration.

What happens when an arbitrated case is heard in a formal Court hearing?

The arbitrator cannot testify at any Court hearing about any proceedings that took place in the arbitration conference. Also, ALL persons involved in the case—defendant, victim, complainant, witnesses—MUST attend the trial.

Will my child have a criminal record?

The charges will appear on your child's record as a charge that was dismissed. In order to eliminate any record of arrest, you must petition the Court for an expungement of the child's record. While there is no filing fee for this civil petition, you will be required to obtain a certified copy of your Delaware criminal record from the State Bureau of Identification and there is a fee for this certified record. An expungement may be granted by a Judicial Officer, after the arbitration period has lapsed and your child has complied with the conditions of arbitration. If the charge goes through formal case processing before a Judicial Officer and there is a delinquency finding, an expungement may not be granted for up to three years.

For more information about juvenile charge expungements, see 1022-FAQ Expungement of a Juvenile Record – A Guide to Expungement of a Juvenile Record in the Family Court.

NOTE: If you have a prior record of arrest or another charge has been filed against you recently, please notify the Court immediately as you may not be eligible for the Arbitration Program.