**How to Pursue a Class I Misdemeanor**

This section details the procedures needed to pursue a Class 1 misdemeanor for violations of public health statutes, state regulations or conditions of a permit (§[130A-25(a)](https://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130A-25), see also §[14-3(a)](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-3.html) which provides that any unclassified misdemeanor is considered a Class 1 misdemeanor).

1. Decide whether to seek a criminal charge: Discuss the facts with your county attorney and a prosecutor before seeking a criminal charge.
2. Typical steps for pursuing a Class 1 misdemeanor:
   1. Appear before a judicial official (usually a magistrate) in the county where the

violation occurred.

* 1. Bring a copy of the statute, rule, or ordinance allegedly violated.
  2. Testify under oath before the judicial official.
     1. Reliable hearsay evidence is admissible when a judicial official determines whether there is probable cause to charge an offense. Therefore, all witnesses need not testify when a judicial official decides whether to issue a criminal charge.
     2. Other witnesses also may testify under oath.
     3. Make sure the judicial official lists all witnesses on the criminal

pleading to facilitate the issuance of subpoenas.

1. Specify a type of criminal pleading, which is a document that charges a person with a criminal offense or infraction.
   1. Arrest warrant.
      1. May charge a felony or misdemeanor and requires the defendant’s

arrest.

* + 1. Is issued by a judicial official, usually a magistrate.
  1. Criminal summons.
     1. May charge a felony, misdemeanor, or infraction and is served on the defendant, but the defendant is not arrested. Instead, the defendant is ordered to appear in court on a specific date.
     2. Is issued by a judicial official, usually a magistrate.
  2. Citation.
     1. May charge a misdemeanor or an infraction.
     2. May be issued only by a law enforcement officer or other authorized person. The citation informs the defendant to appear in court on a specific date. The defendant is not arrested.
  3. Magistrate’s order.
     1. May charge a felony or a misdemeanor.
     2. Is issued by a judicial official, usually a magistrate, and only when a law enforcement officer has arrested a defendant without a warrant.
  4. Statement of charges
     1. May charge misdemeanor or infraction.
     2. May be issued by the prosecutor, before arraignment in district court, to amend the original charge, to substitute another charge for the original charge, or to add new charges with the original charge.
  5. Indictment.
     1. Prepared by a prosecutor and issued by a grand jury. An indictment/information is required for a felony charge. (Superior)

1. Select proper language in charging offense: Special language for charging violations of city or county ordinance (§ 160A-77 through -79; § 153A-50).
2. Prepare the case before a trial:
   1. Discuss, if possible, the case with a prosecutor before the date of trial.
   2. Prepare a one-page statement summarizing what you and other witnesses will testify about in the case.
   3. Prepare, if useful, a diagram.
   4. Obtain, if necessary, certified copies of local ordinances and rules.
3. Seek a trial in district court for a misdemeanor charge.
   1. Procedure:
      1. Arraignment is when a defendant enters a plea of guilty, no contest

(requires consent of the prosecutor and judge), or not guilty.

* + - 1. Before trial, remind the prosecutor to check if the offense is correctly charged if you are uncertain.
    1. Trial:
       1. A criminal trial in district court is always tried before a district court judge without a jury. The judge decides whether the defendant is guilty or not guilty of the charge.
       2. If necessary, prove local ordinances and rules by certified copies.
       3. Judicial notice must be taken of state rules (§ 150B-64). However, bring a copy of the rules to court.