

Farm Management

Criminal laws vs. civil laws

In the U.S., there are two types of laws: criminal and civil. Of course, criminal laws establish those acts and conduct which our society deems unacceptable, and the penalties for those who engage in such acts and conduct. Civil penalties are a much broader set of laws and apply to everything from commerce, business and property to marriage, taxes and utilities.

These two types of laws are handled

Country Counsel

By ROBERT MOORE

very differently by the judicial system. The differences between criminal and civil laws are sometimes misunderstood, especially in situations where a person finds himself or herself in conflict with another person.

One common misunderstanding relates to who may initiate a criminal action against a person. Criminal prosecutions can only be initiated by certain government officials, most notably municipal, county and federal prosecuting attorneys. Private citizens cannot initiate criminal charges against another person. A person who is subject to a criminal act usually contacts law enforcement, who then works

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with the prosecuting attorney to initiate criminal charges against the offender. People also may contact the prosecuting attorney directly to urge criminal charges be initiated, but should work through law enforcement agencies as much as possible.

Ultimately, the decision to initiate criminal prosecution is made by the prosecuting attorney or other prosecuting government entity. This decision is discretionary and is typically based upon available evidence of a crime, severity of the crime and likelihood of proving the crime. Serious criminal offenses cannot be initiated by the prosecutor until approved by a grand jury.

Anyone can sue

Civil laws are very broad in both their purpose and application to individuals. The civil laws that relate to lawsuits between individuals are most often confused with criminal laws. Civil law controls who and how lawsuits are filed and adjudicated by people. Civil lawsuits are initiated by individuals against other individuals and do not involve government prosecutors. In essence, anyone can sue anyone.

Consider the following example to illustrate the difference between criminal and civil laws. Joe and Bill are neighboring landowners with a common drainage tile running through their properties. The tile has become blocked on Joe's property, causing Bill's property to not properly drain. Joe has refused to repair the tile or let Bill on his property to repair the tile.

This matter is a civil matter and not a criminal matter. There is no criminal statute that makes a refusal to fix drainage tile on one's property a criminal offense. If Bill goes to the county prosecutor and asks for criminal charges to be filed against Joe, Bill's request will be denied because there is no criminal law that Joe is violating. Bill must file a civil lawsuit in the county common pleas court to force Joe to have the tile fixed. Bill and Joe will have their day in court to explain to a judge or jury why each is in the right.

Call law enforcement

Using the same facts, assume Bill becomes frustrated with Joe and physically assaults him. Joe files a complaint with the sheriff, who provides the report to the county prosecutor. The county prosecutor believes there is enough evidence and cause to file charges against Bill for assault. This criminal action is against Bill on behalf of the state. Joe did not and cannot initiate the criminal action, and his only participation may be as a witness/victim.

A person who feels he may be subject to a criminal action by another should contact the appropriate law enforcement agency. If the person is mistaken and the action is actually a civil matter, the law enforcement agency will refuse to become involved and suggest the issue be addressed in a civil lawsuit. If a person finds himself subject to either a criminal prosecution or a civil lawsuit, he should seek legal counsel immediately. Both criminal and civil court rules of procedure are complex.



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