

## **CHAPTER HEADINGS**

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Hello. This video is about a special kind of case heard in Maryland circuit courts called a mandamus. You may also have heard it referred to as a Petition for a Writ of Mandamus. This is a special kind of case heard in Maryland circuit courts. It is used to ask the court to order a state or local government agency to take an action. In this video, you will learn what mandamus is and when it may be appropriate for you.

These cases are complicated. While this video will help you understand Mandamus better, it cannot prepare you to file one on your own. At the end of the video, I will give you some suggestions for next steps if you want to move forward.

First, let's define mandamus.

### **Chapter Heading: What is Mandamus?**

It is a Latin word that means "we command." When the court grants mandamus, it commands a government employee or officer to take an action. For example, mandamus is sometimes used to direct the Motor Vehicle Administration to issue or correct a car title.

A mandamus, also known as A writ of mandamus is called an extraordinary remedy or a remedy of last resort. This means it can only be used when there are no other legal procedures available. For example, in many cases the law allows you to appeal a government agency's decision. If you have this option and have not taken this step, mandamus is not for you. Follow the appeals process first.

Another thing you should know is that there are two different kinds of mandamus: Conventional and administrative. As we go a little deeper, let's first talk about Conventional Mandamus.

### **Chapter Heading: Conventional Mandamus**

Use conventional mandamus if you want a public official to do something they are required to do as part of their job. If someone is required to do something as part of their job, it is called a ministerial function. An example of a ministerial function is a land records clerk recording a deed. If the deed meets the legal requirements and any applicable fees are paid, the clerk must record the deed as part of his or her job.

If the function you want the court to order the public official to perform is “discretionary,” a mandamus is not the right document to file. A discretionary function is something that a public official may choose to do or not. The public official may also use his or her “discretion” or good judgment to decide how best to do the task. For example, when a public official makes a hiring decision, he or she is performing a discretionary function. The court will not review a discretionary function.

So, remember a conventional petition for a writ of mandamus can only be used to ask the court to order a public official to perform a ministerial task he or she is required to perform by law.

Next, let’s talk about administrative mandamus.

### **Chapter Heading: Administrative Mandamus**

You may file for an administrative mandamus if you want the court to review the decision of an administrative agency where the law does not provide a review process. This is not as commonly used since most decisions by administrative agencies do have an appeal process you can follow. Be sure you have explored all your legal options before filing an administrative mandamus.

Let’s move on and discuss how to start a mandamus case.

### **Chapter Heading: How to Start A Mandamus Case**

You must begin by writing a complaint. This is a complex piece of legal writing that lays out the factual and legal basis of your case. The court does not have forms or templates to help you in this step. If you intend to write a complaint yourself, consider visiting a staffed law library. A law librarian should be able to refer you to a sample complaint as well as a list of requirements for this document. Visit [mdcourts.gov/ccl](http://mdcourts.gov/ccl) for hours and locations.

Now let’s talk about what happens after you file.

### **Chapter Heading: What happens after you file**

The court will hold a hearing. A judge will preside. Court rules of procedure and evidence will apply. You are responsible for presenting evidence and legal arguments that prove your position. Either side may request that the case be decided by a jury. If the court finds in your favor, the court will issue an order directing the government agency to act within a certain time.

Ok, we have covered a lot of material. Let’s review.

### **Chapter Heading: Let’s Review**

Filing a mandamus case is complicated. Before you file, be sure that you have considered the following: Are there are other legal options available? Is your case an administrative or conventional mandamus? If it’s conventional, is the the act you want the government official to do ministerial? or is it discretionary? If you need help understanding these concepts, consider, as I said earlier visiting a law library and asking a law librarian to refer you to further reading. A list of services and locations is at [mdcourts.gov/ccl](http://mdcourts.gov/ccl). Lawyers at the Maryland Court Help Centers can also answer questions about this process for free. They can be reached by calling 410-260-1392, or online at [mdcourts.gov/helpcenter](http://mdcourts.gov/helpcenter).

Thanks for watching. I hope this has been helpful.