

DISTRICT COURT CONTINUANCE POLICY

TWENTY-SECOND A JUDICIAL DISTRICT

Effective January 1, 2014

RULE 1: MOTIONS FOR CONTINUANCE – CRIMINAL CASES

Criminal cases should be disposed at the earliest opportunity, including the first trial setting. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Requests for continuances that are made after 3 continuances from initial appearance shall be made before the presiding judge and will be granted only for extraordinary cause. (i.e. the parties may not agree to a continuance but must bring the matter before the presiding judge.) DWI cases are exempted from this policy. However, DWI cases will not be continued past twelve months from the initial setting except for extraordinary cause and those continuance request must come before the presiding judge.

1.1 Appropriate Court Official

Rulings on any request for continuance made on the day of court for the session in which the case is calendared shall be the responsibility of the presiding trial judge of that court. Motions for continuance made prior to the session of court during which the case is calendared shall be addressed to the judge scheduled to be in court on the respective court date. If the trial judge is unavailable then motions to continue may be brought before the Chief Judge for consideration. Notice to all parties shall be accomplished prior to the hearing but may be done by consent.

1.2 Court Conflicts

The various levels of court should work together to try to move cases as expeditiously as possible. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other matters.

1.3 Documentation of continuance

All orders for continuance shall be documented in or on the file, and shall include the name of the moving party and any objections to the continuance.

1.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

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All applications for continuance shall be made as soon as a conflict is identified, and all impacted – opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses – shall be notified as soon as possible by the moving party.

1.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

1.6 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- The opportunity to exercise the right to effective assistance of counsel;
- The age of the case and seriousness of the charge;
- The incarceration status of the defendant;
- The effect on children and spouses if the issue is continued and not resolved;
- The impact of a continuance on the safety of the parties or any other persons;
- The status of the trial calendar for the session;
- The number, moving party, and grounds for previous continuances;
- The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- The period of delay caused by the continuance requested;
- The presence of witnesses, including the defendant;
- The availability of witnesses for the present session, or for a future session;
- Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- The availability of counsel;
- Consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
- Any other factor that promotes the fair administration of justice.

1.7 Case Rescheduling

Upon granting a motion for continuance, the judge should reschedule the case, taking into consideration the availability of counsel, defendant, and witnesses.

1.8 Time Standards

All criminal and motor vehicle cases with exception of DWI should be disposed within 3 settings from the first appearance in District Court.