

STATE OF NORTH CAROLINA
COUNTIES OF CHEROKEE, CLAY,
GRAHAM, HAYWOOD, JACKSON,
MACON, AND SWAIN

IN THE GENERAL COURT OF
JUSTICE 43RD JUDICIAL DISTRICT
DISTRICT COURT DIVISION

Administrative order

RE: District Court Local Rules of Criminal Procedure

I. General Rules

The policies set out below were adopted to conform to the Supreme Court of North Carolina's Case flow Management Plan, submitted to the General Assembly May 1, 1996, pursuant to Chapter 333 of the 1995 Session Laws, and to the recommendations of the Administrative Office of the Courts' District Court Model Continuance Policy Committee and pursuant to Chief Justice Paul Newby's Directives of 2021, addressing COVID Related Case Backlogs.

In order to ensure general uniformity throughout the 43rd Judicial District, the fair and efficient administration of justice, and to provide justice for our citizens without unnecessary delay and without undue waste of time and other resources of the Court, the litigants, and other case participants, with respect to

all Criminal District Court matters, the attached and following District Court Local Rules of Criminal Procedure are hereby adopted and effective for all District Court criminal proceedings on or after the date of the signing of this order.

The rules adopted herein supersede all previous orders relating to the administration of District Criminal Court. Any prior administrative order that is not addressed in these Local Rules will remain in full force and effect unless contrary to these Local Rules, and for those orders they are null and void. Any prior administrative order that is addressed or referred to in these Rules shall be read in conjunction with these Rules and are hereby incorporated as if fully set out.

II. Definitions

Clerk of Superior Court means the elected Clerk of Superior Court of any county in the Judicial District or any Deputy/Assistant Clerk appearing on the Clerk's behalf.

District Attorney means the elected District Attorney for the 43rd Prosecutorial District or any Assistant District Attorney appearing on the District Attorney's behalf.

Chief District Court Judge means the appointed Chief District Court Judge and/or any designee appointed by the Chief District Court Judge.

III. Dress Code and Court Decorum

- A. Attorneys are required to appear in court during all sessions in appropriate business attire. Casual dress is prohibited. See Rule 12 of the General Rules of Practice for the Superior and District Courts. Court personnel and non-lawyer court officers (clerks, probation officers, state agents, mediators, etc.), are to be dressed in proper business attire that complies with their agency's directives and policies.
- B. Attorneys shall refrain from wearing or displaying any political or campaign buttons, lapel stickers, patches, pins or like displays of support for any political candidate, political party, or political organization while in any courtroom. Such items are inconsistent with

the administration of justice and may demonstrate an appearance of impropriety and/or favoritism.

C. Attorneys are required to maintain the highest level of professionalism while in the courthouse or courtrooms.

D. An attorney's legal assistant and district attorney or public defender staff are hereby allowed inside the bar to assist an attorney in handling matters before the court. Private witnesses for the State and/or for the defendant are not allowed to sit inside the bar prior to the calling of their case for trial. This may give the appearance of impropriety and appear to give one side an unfair advantage. This doesn't include court staff, court officers, law enforcement officers, probation officers etc. Any exception or accommodation must be approved by the presiding district court judge.

E. An attorney should encourage his/her clients to silence their cell phones in the courtroom. Any request to record a proceeding in court must be

approved by the presiding district court judge pursuant to Rule 15 of the General Rules of Practice for the Superior and District Courts.

- F. Non-Attorney advocates are not allowed inside the bar, except upon specific authorization of the presiding judge.
- G. Anyone that is inappropriately dressed will be ordered to leave the courtroom and their matter will not be addressed until they appear in appropriate attire, unless otherwise handled by the presiding judge based on extraordinary circumstances. Hats/Head Coverings are prohibited, unless said hats/head coverings are associated with religious beliefs or verified medical reasons, are prohibited in the courtroom.
- H. The Policies of this section are enforceable by the Court's Contempt Powers

IV. Sessions of Criminal Court

- A. All criminal district courts in the 43rd Judicial District are created and scheduled by the Chief District Court Judge. Criminal sessions of district

court shall operate as designated by the Chief District Court Judge or his designee.

- B. B. Criminal sessions of court shall begin at 9:30 am and continue until the Court's business is concluded or until 5:00 pm, whichever occurs first.

The doors to the courtroom shall be open no later than 8:45 am to conduct business and meet with the Assistant District Attorney prior to the judge taking the bench. The purpose of doors opening at 8:45 am is to allow attorneys and self-represented litigants an opportunity to speak about their matters prior to the opening of court. Attorneys and self-represented litigants are expected to appear at or before 9:30 am and be adequately prepared to address their cases at that time. There shall be no calendar call in District Court.

- C. In extenuating circumstances, should a need arise for a court session to extend beyond 5:00 pm, the presiding judge shall consult with the court staff/personnel affected to ensure that there will not be any undue hardship placed on court staff. If, due to time constraints, the presiding

judge is involved in a trial at the time the courthouse closes, and the judge doesn't feel that the matter will be concluded in a reasonable amount of time, the presiding judge may, at his or her discretion, continue the matter to another criminal session of court to conclude the matter.

V. Case Calendaring

- A. The Clerk of Superior Court shall ensure that all matters that occur in court are updated in the appropriate electronic criminal system repository so that the calendars reflect the proper and most recent information. For example, the calendar should reflect if an attorney has been appointed or retained, or if the defendant has signed a waiver and an accurate number of prior continuances.
- B. The Clerk of Superior Court, in conjunction with the District Attorney, Police Chiefs, and Sheriffs, shall work together to ensure equal balance of law enforcement officers on any given court date. It is the intent of this provision, that the District Attorney, the Clerk, and Law Enforcement

Agencies will work together to ensure efficiency and balance on any criminal docket for the fair and efficient administration of justice. In counties having more than one criminal date each month, officers shall be assigned a minimum of one day per month to be available for trial. In counties having one criminal date each month, officers shall be assigned at least one day every other month to be available for trial. Officer court dates should be given to the Office of the District Attorney and the respective county Clerk of Superior Court by each law enforcement agency in the district within three weeks of the release of the six-month calendar by the Chief District Court Judge.

- C. It shall be the responsibility of the District Attorney's office to ensure that all prosecuting witnesses have notice of court dates and that subpoenas are issued in a timely manner to ensure cases can be disposed of without undue delay.
- D. It shall be the responsibility of the District Attorney's office to issue an Application and Writ of Habeas Corpus Ad Prosequendum (Writ) for any

defendant that is incarcerated in a county detention facility or a North Carolina Prison facility in a timely manner to ensure cases can be disposed of efficiently and without undue delay. A copy of said Writ shall be placed in the court file as verification of the request.

VI. Continuances In District Court Criminal Cases

Criminal cases should be disposed of at the earliest possible setting with a goal of disposing of cases within 180 days of the first court date.

- A. Assistant District Attorney and Defendants, by and through counsel or directly if self-represented, may continue a criminal District Court case by agreement without Court approval no more than three (3) times and to a date not later than 180 days after the initial court date.
- B. All agreed upon continuances allowed under this section shall be documented in writing either in or on the court file in a method to be determined by the District Attorney in consultation with the Clerk of Superior Court. The writing shall identify the moving party.

- C. If the defendant is requesting to be excused from appearing in court, this request shall require the prior written approval of the presiding judge.
- D. All motions or requests made after the third continuance or that would result in a continuance to a date later than 180 days from the initial court date, shall be made in writing and presented to and ruled upon by the presiding judge.
- E. Except for Driving While Impaired (DWI) cases requiring a blood analysis, any criminal District Court case calendared after the third continuance or on a date later than 180 days after the initial court date, whichever occurs first, shall be considered as set for trial and further continuances will only be granted by the presiding judge for compelling reasons that affect the fundamental fairness of the trial process.
- F. Factors to be considered by the Court when deciding whether to grant or deny a motion to continue should include the following:
 - 1. The opportunity to exercise the right to effective assistance of counsel.

2. The age of the case and seriousness of the charge.
3. The incarceration status of the Defendant
4. The impact on witnesses for both the State and the Defendant if the case is continued and not resolved
5. The number of previous continuances for each party
6. The period of delay caused by the continuance requested
7. Whether the basis of the motion is the existence of a legitimate conflict with another court setting.
8. The consideration of the financial consequences to the public, the parties, or witnesses if the case is continued.
9. Any other factor that promotes the fair administration of justice.

VII. Appearances by Attorneys

- A. An attorney making an appearance in any criminal/infraction proceeding in District Court, is considered to have made a general appearance unless the appearance is limited in writing pursuant to N.C.G.S. 15A-141. Any conflict that arises between an attorney and

his/her client should be addressed by the filing of a Motion to Withdraw pursuant to N.C.G.S. 15A-144 and may be granted upon a showing of good cause. Attorneys who seek to withdraw must do so as soon as practicable to ensure new counsel can efficiently and effectively resolve the matter. An allowed withdrawal of an attorney in a case will not guarantee a continuance of the case(s).

- B. An attorney may make a general appearance on any criminal matter in district court, but the defendant must be present unless previously excused by the presiding judge in consultation with the Office of the District Attorney. Defendant shall be excused from appearance with a filed motion to continue, consented to by the District Attorney, and signed by the presiding judge prior to the court date.
- C. Attorneys that have matters pending in more than one tribunal shall notify the presiding judge and district attorney of their conflict before court starts and their anticipated arrival time to resolve their pending matters. Attorneys are encouraged to indicate whether their matter is

for plea, trial, or motion to continue in order to promote efficiency and to properly utilize court time. Notice shall be sent in writing, meaning fax, email, or text message, to the Court. All attorneys shall utilize Rule 3.1 of the General Rules of Practice for District and Superior Courts, which outlines guidelines for resolving scheduling conflicts.

- D. Attorneys appointed to represent indigent defendants are encouraged to make contact with their newly appointed client as soon as practicable and follow the appointment plan of the North Carolina Commission of Indigent Defense Representation and appointment plan of the 43rd Prosecutorial District.
- E. The clerk is to ensure that the electronic file accurately reflects the name of any attorney who makes a general appearance, a limited appearance, or who has been court appointed to represent a criminal defendant. If an attorney is subsequently allowed to withdraw, the clerk shall replace the name of the withdrawing attorney and replace it with the new attorney's name if applicable.

F. In all matters before District Court, if the Defendant has obtained counsel and counsel has filed a notice of appearance and a waiver of court appointed counsel, the Defendant shall be excused from the first appearance.

VIII. Interpreter requests

- A. The Language Access Coordinator assigned for each County shall be the point of contact for all requests regarding Interpreter needs.
- B. If the Language Access Coordinator (LAC) has not received a written request for language services for an identified court matter, then a Spanish court interpreter will not be scheduled.
- C. C. Court personnel shall utilize the telephonic interpreting service for short matters such as inquiry regarding counsel or first appearance matters.
- D. Court interpreters shall only be scheduled for covered court proceedings by the LAC. If the LAC did not schedule the court interpreter, the court interpreter will not be paid by NCAOC for services rendered in covered court

proceedings. The court interpreter is prohibited from seeking payment for these services elsewhere.

E. Attorneys should identify the language access needs of their cases prior to the scheduled court date so they can submit the Request to the LAC with at least 10 days advance notice. Failure to provide sufficient time to secure a qualified interpreter may result in a delay or postponement of the court proceeding if a qualified interpreter is not available.

F. The request for an interpreter shall be submitted by court personnel when court personnel become aware of a language access need when no attorneys are involved.

G. A Request for Spoken Foreign Language Court Interpreter must be submitted for each court appearance when the parties are expected to be present.

IX. Motion to Strike an Order for Arrest/FTA/Called and Failed/Forfeiture

A. Motions not made in open court must be made in writing on the preferred local form or AOC form.

B. The Motion to Strike must be completely and properly filled out or risk having the Motion summarily denied. All documentation to support the Motion must be filed with the motion and presented to the district attorney and the appropriate judge. The clerk shall not place motions to strike into the judge's queue unless the motion is signed by an assistant district attorney.

X. Entry of Judgment

At the time Entry of Judgment, the Defendant shall provide to the court all relevant information required. Such information shall include, but not be limited to, Jail Credit and attorney fees. The State shall provide the court information regarding Restitution, Victim impact statements, or any other information relevant to Entry of Judgment.

XI. Fee applications

A. When a district court criminal matter is disposed of by trial or plea, an appointed attorney shall submit a fee application with the amount of hours to be submitted and calculate the total amount of costs, fines, and fees to be

accessed at the time judgment is entered. Fee apps shall be filled out completely, legibly with the attorney's name clearly printed, signed, and scanned upright upon the conclusion of the case.

- B. A signed verified affidavit or signed timesheet shall be attached to any fee app that is submitted for 10 hours or more. A detailed time sheet under this provision, may be redacted to the extent necessary to preserve confidentiality between an attorney and client, and under no circumstance should an attorney divulge attorney/client privileged information without express permission from said client.

XII. Enforcement of Rules (Pursuant to Rule 22 of the General Rules of Practice for the Superior and District Courts)

Unless there is uniformity in enforcement of these Rules & Policies, they will be ineffective, and in order to ensure general uniformity throughout this judicial district, all trial judges should make every attempt to observe and enforce these local rules.

8/12/2026 3:21:18 PM

ENTERED AND EFFECTIVE AS OF MARCH 16, 2026.



The Honorable Donna F. Forga
Chief District Court Judge

