

AMENDED PROCEDURE

FOR SETTING DATES AT ARRAIGNMENT & PRE-TRIAL

Purpose: Address issues surrounding speedy trial calculations and stay consistent with the Superior Court ruling, CrRLJ 3.3, BCrRLJ 4.5, Local Court Rules and policies.

ARRAIGNMENT

1. Retained Counsel, intend to retain counsel, specific OPD attorney appointed, or Pro Se:
 - A single pre-trial date will be set.
2. Office of Public Defense is appointed, but no specific attorney assigned:
 - The Court shall set a Pretrial and a Jury Trial date.

1st PRETRIAL

1. **Option 1** – Set actual, intended trial dates, which include setting Jury Trial, Trial Readiness, Pretrial Order (PTO) entry date, Discovery Satisfaction date, and an additional Pretrial date if desired. **Nature of defense, estimated length of trial, need for interpreters at trial will all be discussed at this time.**
2. **Option 2** – Continue the case by agreement, good cause, etc., and set new Pretrial date and a Provisional Jury Trial date.
 - a. No Pretrial Hearings will be reset/continued without specific agreement under CrRLJ 3.3(e)(3) and (f)(1) or by good cause provided by the party seeking the Continuance under CrRLJ 3.3(e)(3) and (f)(2) if the continuance results in the resetting of the trial date.
 - A record will need to be made in writing or on the record based on the moving party's reasons for requesting a continuance for good cause.
3. **Option 3** - Continue the case by agreement, good cause, etc., and set a new Pretrial date ONLY, without setting a provisional trial readiness and/or provisional trial date. A represented or Pro Se defendant may waive their right to set a specific or provisional Jury Trial date at the pre-trial hearing under CrRLJ 3.3(d)(1). Such waiver must be made in writing evidencing a knowing and voluntary waiver of the right to the initial setting of a trial date.

The waiver of setting a trial date under CrRLJ 3.3(d)(2) may occur at subsequent Pretrial settings, when a Pretrial date is being reset, in the same manner and consistent with the obligations when waiving the initial setting of a trial date set forth above.

- a. “At the Defendant’s Request”** is an insufficient basis, by itself, for finding good cause to reset a Pre-Trial Date. Additionally, a resetting “At Defendant’s Request” by itself is insufficient to toll speedy trial. If the intention of such a tolling is intended, that intention must be clearly understood by the defendant and made clear on the record either orally or in writing.
- b. “Good Cause”** for resetting of the Pre-Trial date is not needed if the parties are only continuing the Pre-trial date to a subsequent date that falls within the time already set for Trial and does not require the resetting of the current trial dates.
- c.** The Court may find “**Unavoidable Circumstances**” (i.e. an attorney shortage, or other such circumstance) as a valid reason to reset dates consistent with this policy but may only do so if such circumstances are sufficiently provided by either of the parties at any motion or request to find a continuance or resetting of dates. Such “Unavoidable Circumstances” will be documented by the Court either in writing or on the record at the time of the request.

FAILURE TO APPEAR

1. A failure to appear for any hearing where the defendant’s presence is required by State or Local Court Rule, will result in either a reset w/appropriate notice or a bench warrant will issue. Additionally, all existing set dates for the matter will be stricken and reset when the defendant next appears consistent with the above policies.

BENCH WARRANTS ISSUED FOR FTA’s

1. At the Preliminary Appearance following issuance of a bench warrant for failing to appear at a Pretrial, Trial Readiness or Jury Trial date
 - a.** A single Pretrial date will be set
 - b.** At that first Pretrial date, the Court will follow one of the above procedures/options at the request of the parties in setting further dates.

WAIVERS

1. Currently (subject to change), defendants will be allowed to sign appropriate documents (waivers, continuance forms, etc., and be excused from court ***only if*** an appropriate record is made in writing ***or*** on the record when the case is called by the parties, and ***only if*** the defendant has been cleared of having no other outstanding warrants or new charges consistent with prior policy.