



COURT ADMINISTRATOR'S OFFICE
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FRANKLIN/FULTON COUNTIES

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Memorandum

To: All Practicing Attorneys in Franklin County and Local Law Enforcement Agencies

From: Andrew Everetts, Deputy Court Administrator

Subject: Continuance Requests for Preliminary Hearings

CC: President Judge Carol L. Van Horn, District Attorney Matthew Fogal, Chief Public Defender Ian Brink, Magisterial District Judges – 39th Judicial District Franklin County Branch

Date:

As a result of discussion at the Criminal Justice Advisory Board Case Flow Committee, consensus was reached on the need to remind everyone of the need to comply with Pa.R.Crim.P. Rule 106.

Effective immediately all continuances requested by attorneys, affiants and defendants for Preliminary Hearings must be submitted in writing, by email or by fax to the issuing Magisterial District Judge. The issuing Magisterial District Judge will either grant or deny the request after conferring with the District Attorney and/or Defense Attorney.

I have attached Pa.R.Crim.P. Rule 106 regarding Continuances in Summary and Court Cases. The staff of each Magisterial District Office will complete the necessary paperwork and notify the Central Court Coordinator by forwarding the appropriate paperwork.

Thank you for your cooperation.

Pa.R.Crim.P. Rule 106

Rule 106. Continuances in Summary and Court Cases

Currentness

(A) The court or issuing authority may, in the interests of justice, grant a continuance, on its own motion, or on the motion of either party.

(B) When the matter is before an issuing authority, the issuing authority shall record on the transcript the identity of the moving party and the reasons for granting or denying the continuance.

(C) When the matter is in the court of common pleas, the judge shall on the record identify the moving party and state of record the reasons for granting or denying the continuance. The judge also shall indicate on the record to which party the period of delay caused by the continuance shall be attributed and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with [Rule 600](#).

(D) A motion for continuance on behalf of the defendant shall be made not later than 48 hours before the time set for the proceeding. A later motion shall be entertained only when the opportunity therefor did not previously exist, or the defendant was not aware of the grounds for the motion, or the interests of justice require it.

(E) When a continuance is granted, the notice of the new date, time, and location of the proceeding shall be served on the parties as provided in these rules.

Comment: For the procedures for filing and service of court orders and notices in general, see [Rule 114](#). For the procedures for service of the continuance of a preliminary hearing, see [Rule 542\(G\)\(2\)](#).

Credits

Note: Rule 301 adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; renumbered Rule 106 and amended March 1, 2000, effective April 1, 2001; amended October 1, 2012, effective July 1, 2013.

[Notes of Decisions \(80\)](#)

Rules Crim. Proc., Rule 106, 42 Pa.C.S.A., PA ST RCRP Rule 106

Current with amendments received through Sept. 15, 2014