

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

**IN RE: AMENDMENT OF CARBON COUNTY :
 LOCAL RULE OF CRIMINAL :
 PROCEDURE CARB.R.CRIM.P. : NO. CP-13-AD-0000014-2023
 106 CONTINUANCES IN SUMMARY :
 AND COURT CASES (FORMS) :**

ADMINISTRATIVE ORDER NO. 11-2023

AND NOW, this 17th day of November, 2023, in order to ensure that all necessary information to rule on a Motion for Continuance of a criminal matter is provided, it is hereby

ORDERED and DECREED, that Carbon County Court of Common Pleas Local Rule of Criminal Procedure CARB.R.Crim.P. 106 governing criminal Continuances in Summary and Court Cases is **AMENDED¹** as indicated, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. A copy of the Continuance form and Rule 600 Waiver are attached for easy reference.

The Carbon County District Court Administrator is **ORDERED and DIRECTED** to do the following with the Administrative Order and Rule:

1. E-mail one (1) copy with the Administrative Office of Pennsylvania Courts to adminrules@pacourts.us
2. Mail one (1) copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* to PA Code and Bulletin, Legislative Reference Bureau, 647 Main Capitol Building, Harrisburg, PA 17120 and e-mail one (1) copy in Microsoft Word format to bulletin@palrb.us
3. Publish this local rule on the www.carboncourts.com website within 30 days after the publication in the *Pennsylvania Bulletin*.
4. File one (1) copy in the Carbon County Clerk of Court's Office
5. E-mail one (1) copy for publication in the Carbon County Law Journal.
6. Forward one (1) copy to the Carbon County Law Library

BY THE COURT:


ROGER N. NANOVIC, P.J.

¹ This Administrative Order replaces Administrative Order #9-2015.

RULE 106 CONTINUANCES IN SUMMARY AND COURT CASES

(a) All Motions for Continuance shall be filed at least two (2) working days before the scheduled event. Motions shall be filed pursuant to Pa.R.Crim.P. 575 or can be filed by utilizing the attached form titled Motion for Continuance - Criminal. All continuances must indicate the case number, defendant's name, type of event being continued, date of the event being continued and number of previous continuances. A Rule 600 speedy trial waiver must be attached if the defendant consents to this motion for continuance. The moving party shall secure the signature or indicate the position of the opposing party.

(b) When a Motion for Continuance is requested because of counsel's attachment in another Court, a copy of the attachment shall accompany the Motion for Continuance. If the reason for filing a continuance is that the defendant is ill, receiving medical treatment or in rehabilitation, the attorney/pro se party must provide documentation from the treating physician or other qualified person documenting the defendant's illness or treatment, and, in the case of defendant's rehabilitation, a written statement from the facility at which the defendant is receiving treatment, confirming admission and continued care at such facility.

(c) When a defendant has two or more cases scheduled for the same date and time, only one continuance motion/form listing all the case numbers is required to be filed. When a continuance is requested for events scheduled for different dates or at different times, a separate continuance motion/form must be filed for each event.

(d) Upon filing the motion/form in the Clerk of Courts Office, concurrent service of the Motion/Form for Continuance shall be pursuant to Pa.R.Crim.P. 576.

(e) Any motion filed that is not in compliance with this rule shall be entertained only if the opportunity to timely file it did not exist previously, the defendant was not aware of the grounds for the motion, or the interests of justice so require.

Failure of any motion/form for continuance to comply with this rule shall be grounds for denying the requested continuance.

CARBON COUNTY COURTS
MOTION FOR CONTINUANCE - CRIMINAL

- I. Motion is hereby made to continue the (circle one): Trial Hearing JSC Argument
Pre-Trial Conference ARD Plea Sentencing in the following case:

COMMONWEALTH OF PENNSYLVANIA

NO. _____
DATE SCHEDULED _____ TIME: _____

VS

NO. OF PREVIOUS CONTINUANCES:
by Commonwealth _____ by Defendant _____

Any Outstanding Bench Warrants (circle) Y N

- II. The Motion is made for the following reasons (include reason for late filing – less than 2 full working days before scheduled event, if applicable*):

_____ Vacation	_____ Illness of Atty.	_____ Negotiating Settlement*
_____ Expert Unavailable	_____ Record Incomplete*	_____ Illness of Party/Material Witness*
_____ Late Sub of Atty.	_____ Conflict - Atty.	_____ Party/Material Witness Unavailable*
_____ Atty. Unavailable*	_____ Other _____	

*Please Explain: _____
(Attach copy of order of attachment elsewhere, if applicable; Attach documentation required by Carb.R.Crim.P. 106(b)).

III. Certificate of Service:

I certify that as the moving party, I am serving a copy of this continuance this _____ day of _____, 20__ to the following:

_____ District Attorney Office via _____
Carbon County Courthouse
Jim Thorpe, PA 18229

_____ Defense Counsel via _____

_____ Court Administration via _____
Carbon County Courthouse
Jim Thorpe PA 18229

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Name (PRINTED) of Moving Counsel/Pro se Party

Signature of Moving Counsel/Pro se Party

Date

Representing

- IV. Defendant _____ consents _____ does not consent to the continuance request. If consented to, attached hereto and made a part hereof is a duly executed waiver of defendant's right to a speedy trial under Pa.R.Crim.P. No. 600.

- V. Motion is not opposed ____; opposed ____ for the following reason: _____

Name (PRINTED) of Other Counsel/Pro se Party

Signature of Other Counsel/Pro se Party

Date

Representing

**RULE 600 – SPEEDY TRIAL
WAIVER**

Initial the applicable answers:

1. Do you understand that Rule 600 of the Pennsylvania Rules of Criminal Procedure (Rule 600) requires that your trial begin no later than 180 and/or 365 days from the date on which the criminal complaint charging you with this/these offense(s) was filed with the Magisterial District Judge?

Yes _____ No _____

2. Do you understand that, with certain exceptions set forth later in this form, if your trial does not begin within the mandatory 180 and/or 365 days period, you may petition the Court to dismiss the charge(s) against you with prejudice and obtain a Court Order ending this prosecution against you for all time?

Yes _____ No _____

3. Do you understand that any periods of time at any stage of these proceedings in which you or your lawyer were unavailable, and the periods of any continuances in excess of 30 days requested by you or your lawyer at any stage of these proceedings are not counted as part of the time for beginning your trial – that these time periods are excluded from the calculation of the 180 and/or 365 days?

Yes _____ No _____

4. Do you understand that Rule 600 allows the Commonwealth of Pennsylvania at any time prior to the expiration of the period for commencement of trial to apply for and receive an extension of the period when, despite due diligence by the Commonwealth, your trial cannot begin within the 180 and/or 365 days or any previously extended time period?

Yes _____ No _____

5. Do you understand that by
(requesting)
(agreeing to)
(not opposing)

this continuance you are giving up any right which you might otherwise have under Rule 600 to obtain a dismissal of the charges(s) against you for failure to comply with that Rule; that you will not be able to complain that you were denied a speedy trial because of the time consumed by this continuance; and that your trial will be considered timely even if the 180 and/or 365 days or any extension thereof would otherwise have run out before the end of the last day of the next trial session, so long as your trial begins either on or before the expiration of the actual or extended date set by Rule 600, whichever date is latest?

Yes _____ No _____

6. _____ I have reviewed this "Waiver", the Continuance Form and my Rights to a Speedy Trial with my attorney.

_____ I do not have an attorney and I do not wish to consult with one concerning this "Waiver", the Continuance Form or my Rights to a Speedy Trial.

Signature of Defendant

Date

I hereby certify that I have reviewed this Waiver, the Continuance Form and the Defendant's Rights to a Speedy Trial with the Defendant prior to our signing these forms. If I have executed the above on my client's behalf, my client has authorized me to do so.

Signature of Defendant's Attorney

Date