

LOCAL RULE 29

CRIMINAL CASES

29.1 The Rules of Practice for Civil Cases apply to all criminal proceedings, except where clearly inapplicable. This includes the Court excluding witnesses or evidence not disclosed in the discovery process by either party in a timely fashion to be determined at the discretion of the Judge.

29.2 When the amount of bail has been fixed in a criminal case before it reached this Court and either the State or the defendant desire to modify the amount or conditions thereof, such party shall make application to the Court. Notice thereof shall be given the adverse party and after submission to the Court, the action approved by the Court shall be by Entry.

29.3 Indigent Defendants

- A. Appointments of counsel for indigent defendants will be made from a list of the independent contracting public defenders. Should conflicts make them unavailable then the Court may appoint an attorney from a list of qualified attorneys who desire and are willing to undertake such defense. Any attorney desiring such appointments shall so indicate to the Assignment Commissioner of this Court.
- B. Before counsel is appointed, each alleged indigent defendant must file a Financial Disclosure/Affidavit of Indigency setting forth the facts thereof, and the amount of any payment made and to whom for legal representation in the matter to date. To access the Financial Disclosure/Affidavit of Indigency go to:

www.opd.ohio.gov
 - **OPD Resource**
 - **Forms**
 - **Indigent Defense Reimbursement Forms**
 - **OPD 206R Financial disclosure/Affidavit Form**
- C. A schedule of fees for the defense of indigent persons has been established by resolution of the Board of County Commissioners pursuant to Section 2941.52 of the Ohio Revised Code.
- D. The Assignment Commissioner shall maintain a copy of the current schedule of the Ohio Public Defender Indigent Client Eligibility Guidelines on file at all times.
- E. All requests by private counsel for payment of fees on indigent defendant cases shall be made within thirty (30) days after the filing of the final Entry.

29.4 Post Conviction

- A. Post-conviction petitions for a determination of a prisoner's constitutional rights shall be filed and docketed by the clerk in the original case in which the defendant was sentenced.
- B. Upon the filing of such a petition, the clerk shall issue written notice upon the prosecuting attorney.
- C. Upon the filing of a waiver or of the return of the notice, the clerk shall deliver all the papers in the case to the Judge.
- D. The clerk shall deliver the post-conviction petition to the Court one day after it has been filed.

29.5 Criminal Assignments

Criminal cases will be assigned for hearing or trial by the Criminal Assignment Commissioner. Such cases shall be assigned as nearly as practicable in consecutive order according to date of arraignment unless otherwise directed by the Judge. Said cases will be assigned new dates the same date requested. The Court will use a Journal Entry on Pre-trial.

29.6 Pre-trial Motions

All Pre-trial Motions shall be governed by Rule 12(C) of the Ohio Rules of Criminal Procedure. Motions not filed within the time set forth in Local Rule 12 will not be heard nor decided except at the discretion of the Judge. An assignment for trial will not be continued because of the filing of such a motion.

29.7 Requests for Discovery

The defendant shall make his request for discovery (pursuant to Rules 7(E) and 16 of the Ohio Rules of Criminal Procedure), if such discovery is desired, within seven (7) days after arraignment. Upon the filing of a request for discovery by the defendant, the State shall respond to such request prior to or at the first pre-trial. The defendant shall respond to any Motion for Discovery by the State prior to or at the second pre-trial. The Court may, in its discretion, extend the time periods herein upon written application and for good cause shown. Each party shall comply with Rule 16 of the Ohio Rules of Criminal Procedure.

29.8 Continuance

All requests for continuances shall be made by written motion supported by an affidavit showing undue hardship at least ten (10) days prior to the trial date. Notice of the filing of such motion shall be served upon opposing counsel who may forthwith file an affidavit in opposition. If the defendant has no counsel and a Motion for Continuance is filed by the Prosecuting Attorney, such notice shall be served on the defendant. The motion shall be submitted upon the affidavit or upon oral hearing as the Judge may direct.

29.9 Bail Forfeiture

Notice of bail forfeiture shall be sent by the clerk to the defendant and to the surety in such form as may be approved by the Court from time to time. The defendant and surety shall on or before the date set forth show good cause why Judgment should not be entered against them. The clerk shall promptly present such affidavit to the Judge. No oral hearing shall be had thereon unless requested in writing and granted by the Judge. After Judgment is entered against the defendant and surety, no surety shall be released nor shall any penalty be released or remitted, except upon the filing of a written verified application filed with the clerk in the case in question, setting forth in detail the reasons why a release or reduction should be granted. The clerk shall bring the application to the attention of the Judge who shall consider the matter and make final determination upon such application. An order reflecting that determination shall be entered by the Judge.

29.10 Inactive Criminal Cases

Criminal cases in which further proceedings are not presently possible shall be considered closed for statistical purposes and shall not be subject to dismissal for want of prosecution. A case shall be removed from such list when the defendant is available and proceedings resumed or when such case is dismissed. Cases to which this Rule is applicable shall include those in which the defendant is not competent to stand trial, is confined in a penal institution in another state, has not been served or cannot be found, or against whom a warrant has been issued for the defendant's arrest due to failure to appear.