

Family Law: How to get a Continuance of Your Hearing

What is a continuance?

It puts off (postpones) a court hearing date to a later day. If you do not think you have enough time to get ready for or go to a hearing, or to meet a deadline to file something before a hearing, you may want to ask for a continuance. Use this publication if:

- You have been served with a motion in a family law case AND
- You need to ask the court to continue the hearing

To get a continuance for a trial, you must usually:

- File a motion with the court
- Serve the other party

You must explain why you need the continuance. You will also almost always have to show good cause. “Good cause” means a very good reason for not being able to get ready for your case or go to your trial on the scheduled date.

Getting a trial continuance can be complicated. Talk with a lawyer and read your local court rules before filing a motion for a trial continuance. Most counties have their own rules about when and how you can get a trial continuance.

Why would I want the judge to continue a hearing?

The most common reason is you do not think you can file a written response in time. Talk with a lawyer about whether you need to file a

written response in your case. In most family law cases in Washington, if you are served with a motion, you have to file a written response. There is usually a deadline by which to do so. Local court rules will say what your deadline to file and serve your written response is. If you cannot contact a lawyer before your hearing to talk about the local rules, try the court clerk, facilitator or law librarian. You can also check the [Administrative Office of the Court’s website](http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=local).

The local rules may be there:

http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=local.

You usually need a good reason to get a continuance. Here are some:

- **You did not get served enough days before the hearing.** The number of days you are supposed to be served before your hearing depends on the type of case and county where the case is filed. If you do not know how many days before the hearing you were supposed to be served, check with a lawyer or court facilitator. **Example:** You were supposed to be served seven days before a hearing. You were only served three days before the hearing. You should tell the judge¹ that and ask for a continuance.

¹ You may have a commissioner or a judge at your hearing, depending on where your case is filed.

- **You need more time to get ready because you could not get legal advice yet.** You should tell the judge the specific reasons you have not been able to get advice yet. **Examples:** You live outside Washington, or you have contacted several places for help but have not been able to talk to a lawyer yet. You would explain what steps you have taken to try to get help. Tell the judge if you have an appointment to meet with a lawyer or legal services.
- You need more time to respond because you have a disability or are temporarily disabled, cannot read, or have problems with reading, writing or understanding.
- You do not speak English as your first language and need more time to find someone to translate the papers you were served and prepare your response. (You are entitled to have an interpreter at any court hearing if you do not speak English as a first language.)
- **You cannot get the evidence you need** by the date your response is due. **Example:** There is a dispute over the parenting plan. The other party has said things about you that are not true. You may need more time to get declarations from other people and school, medical, and/or criminal records.

How do I get a hearing continued?

You must either:

- Get the other party to agree OR

- Go to court to ask for a continuance

Find out what the local rules for continuances are by talking to a lawyer before your hearing; or asking the court clerk, facilitator, or law librarian. Or check the Superior Court's website. The local rules may be there: http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=local.

Continuance by Agreement

1. Contact the other party or their lawyer to find out if the other party will agree to a continuance.² If the other party has a lawyer, you **must** contact the lawyer.
2. If you contact the other party or lawyer by phone, follow up with a letter, fax, or email stating you asked for a continuance.³
3. If the other party or lawyer agrees to a continuance, ask them to put something in writing (letter, fax, or email) confirming this. It should also say the new hearing date, if possible.
4. The other party or lawyer must tell the court they want the hearing continued.

² If there is a restraining order that says you and the other party cannot have contact or you think it would be dangerous for you to talk to the other party for some reason, do not contact the other party. Just ask the judge for a continuance.

³ Do this even if you call the other party or the other party's lawyer and you cannot reach agreement about a continuance. If the other party's lawyer shows up at the hearing, the other party can try to argue that you should have to pay their attorney fees for that hearing because you did not try to change the hearing date earlier.

Call the court clerk. Make sure the other party has told the court the hearing is continued. Ask the clerk whether if a new hearing date has been set.

Sometimes the other party will only agree to a continuance if you agree to certain things before the next hearing. If you think the conditions are reasonable (or that a judge would think they are reasonable), you may agree to them. If you do not agree to the other party's conditions or the new proposed hearing date, you **MUST** go to court to ask for a continuance.

Continuance by Court Order

If you have time before the hearing and can make it to the courthouse, you should:

1. File a declaration with the court asking for a continuance. In your declaration, tell the judge why you need the continuance. Explain how you will be able to do a better job presenting the evidence in your case if you have more time. Explain some of what you want to tell the court (in case you do not get a continuance). Explain why you think you or someone else will be harmed if you do not get the continuance. If you asked the other party to agree to a continuance and they refused, tell the judge. Attach any letters, faxes or emails you sent the other party and any written response you got from them
2. File your original declaration requesting a continuance with the court clerk. File an extra copy for the judge. The clerk can explain how to file

an extra copy for the judge. Someone (not you) who is eighteen or older must serve the other party or lawyer with your declaration. That person should also fill out a **Proof of Mailing or Hand Delivery** form, FL All Family 112, available at <http://www.courts.wa.gov/forms>, to prove the other party was served. You must file the Proof of Mailing or Hand Delivery with the court clerk, or at least bring it with you to the hearing. Keep a copy of the declaration for your records. Bring it with you to the hearing.

3. Get ready for the hearing. Make notes about what you want to tell the judge. Be ready to present your case if the judge does not agree to continue your hearing.⁴
4. Go to the hearing. You must arrive on time or a few minutes before the hearing. When the judge calls out your name, tell him/her you are present and you are asking for a continuance. The judge may ask you to explain why. If the judge agrees to grant a continuance, s/he will usually also set a new hearing date at that hearing. If you only have a few days before the next hearing, ask the judge when your response is due. You or the other party should prepare a written order for the judge to sign that says when the next

⁴ Some counties regularly grant continuances, especially when it is the first hearing in the case. Others do not. Talk to a lawyer in your county about how likely it is that you would get a continuance.

hearing is, when your response is due, and anything else the judge orders. (**Examples:** that a parent will visit with a child, that one of the parties can live in the family home, and so on.) Get a copy of the signed order before you leave the courthouse.

5. If your request for a continuance is denied, write down the reasons the judge gives for denying the request. If you think you had a good reason for asking for the continuance and your request was denied, contact an attorney immediately. You have a short time to appeal the decision.

What if I need legal help?

- **Apply online with [CLEAR*Online](https://nwjustice.org/get-legal-help) - <https://nwjustice.org/get-legal-help>**
or
- **Call CLEAR at 1-888-201-1014**

CLEAR is Washington’s toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

Outside King County: Call 1-888-201-1014 weekdays from 9:15 a.m. until 12:15 p.m.

King County: Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274). You can also get information on legal service providers in King County through 211’s website at www.resourcehouse.com/win211/.

Persons 60 and Over: Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Free legal education publications, videos and self-help packets covering many legal issues are available at www.washingtonlawhelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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Sample Letter

Dear [Other Party] or [Opposing Party Attorney]:

As I explained today, I need a continuance of the hearing on [DATE]. I am asking for a continuance because [PROVIDE REASON]. Please let me know by [ENTER DATE] if you will agree to a continuance. If you agree, please send me a letter, fax, or email that says that you agree to the continuance.

Thank you for considering my request.

Sincerely,

YOUR NAME

ATTACH Blank motion and declaration for request for continuance