



Family Law: Get a Continuance of Your Hearing

Should I read this?

Read this if you have been served with a motion in a family law case that was filed in a Washington state superior court.

What will I learn?

We explain what to do if you do not think you have enough time to get ready for or go to a hearing.

What is a continuance?

It puts off (delays) a court hearing date to a later day.

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.

Can I ask for a continuance on my own?

It depends.

It is easier to get a continuance for a hearing on a motion than for a trial.

Talk with a lawyer 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?

In most family law cases in Washington, if you are served with a motion, you must file a written response. There is usually a deadline by which to do so. The most common reason is you do not think you can file a written response in time.

Local court rules say what your deadline to file and serve your written response is. Try to talk to a lawyer. If you cannot, try the court clerk, family law facilitator or law librarian. You can also check the [Administrative Office of the Court's website](#). The local rules may be there:

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

What is “good cause” to get a continuance?

Here are some examples:

- **You did not get enough notice of the hearing. Example:** You should have been served seven days before a hearing. But you were only served three days before. You should tell the judge that and ask for a continuance

How much notice you should get of your hearing depends on the type of case and county where the case is filed. A lawyer or court facilitator can tell you the right number of days.
- **You are still trying to get legal advice.** You should tell the judge why you have not been able to get advice yet. (**Examples:** You live outside Washington. 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 a temporary disability, cannot read, or have problems with reading, writing or understanding.**
- **You do not speak English as your first language.** You need more time to find someone to translate the papers served on you 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:** This is a custody case. The other party said things about you that are not true. You 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 do one of these:

- Get the other party to agree.
- Go to court to ask for a continuance.

Find out the local rules for continuances. Talk to a lawyer before your hearing, or ask the court clerk, facilitator, or law librarian. Or check the Superior Court's website. The local rules may be there:

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

Continuance by Agreement

1. Contact the other party or their lawyer. Ask if they will agree to a continuance. If the other party has a lawyer, you **must** contact the lawyer.

❖ If a restraining order says you and the other party cannot have contact, or you think it would be dangerous for you to talk to them, do not try to get a continuance by agreement. Follow the instructions in **Continuance by Court Order**, below.

2. If you contact the other party or lawyer by phone, follow up with a letter, fax, or email.
3. If the other party or lawyer agrees to a continuance, ask them to put it in writing (letter, fax, or email). It should say the new hearing date, if possible.
4. The other party or lawyer must tell the court they want the hearing continued. Call the court clerk. Make sure this has happened. Ask the clerk if there is a new hearing date.

The other party might only agree to a continuance if you agree to certain things before the next hearing. If the things are reasonable (or a judge would think so), you can agree. 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.** It should say why you need the continuance. Explain how you can better present 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 not getting the continuance will harm you or someone else. If you asked the other party to agree to a continuance and they refused, put that. Attach any letters, faxes or emails you sent the other party and any response you got.
- 2. File your original declaration asking for a continuance with the court clerk.** File an extra copy for the judge. Ask the clerk how. Keep a copy for your records. Have someone who is eighteen or older 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 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 to the hearing.
- 3. Get ready for the hearing.** Make notes about what to say. Be ready to present your case if the judge does not agree to continue your hearing.
- 4. Go to the hearing.** Try to arrive early. When the judge calls your name, say you are there and you are asking for a continuance. The judge may ask you why. A judge who agrees to grant a continuance will usually also set (schedule) 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 fill out a written order for the judge to sign that says when the next hearing is, when your response is due, and anything else the judge orders. (**Examples:** a parent will visit with a child, 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 the judge denies your request for a continuance,** write down the reasons why. If you think you had a good reason for asking for the continuance, talk to a lawyer right away. You have a short time to appeal the decision.

Get Legal Help

Outside King County: Call the CLEAR Hotline at 1-888-201-1014 weekdays from 9:15 a.m. - 12:15 p.m.

In King County: Call 211 for referral to a legal services provider weekdays from 8:00 am – 6:00 pm.

Persons 60 and Over can call CLEAR*Sr at 1-888-387-7111 (statewide).

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using a relay service of your choice.

Apply online with [CLEAR*Online](https://nwjustice.org/get-legal-help) - nwjustice.org/get-legal-help

CLEAR and 211 will provide a free interpreter.

Visit WashingtonLawHelp.org. It has free information about Washington laws, do-it-yourself court forms, videos about legal issues and a legal help directory.

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 [*Their Attorney*]:

As I explained today, I need a continuance of the hearing on [*DATE*]. I am asking for a continuance because [*GIVE REASON*]. Please let me know by [*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