

Rule 4 Criminal Practice

- 4.01 Initial appearance in criminal arraignment session. Upon release of the defendant from the pretrial confinement, or upon the issuance of a summons, the clerk shall assign an arraignment date. At arraignment the defendant, or counsel, may enter one of the following pleas: (1) not guilty, and request a record trial; (2) not guilty, and request a jury trial (with the exception of minor misdemeanors); (3) no contest; or (4) guilty. If a not guilty plea is entered the defendant, or counsel, will be asked if the speedy trial provisions will be waived or not waived.

Prior to arraignment counsel for any defendant who has been notified by a summons may appear in the clerk's office, second floor, 375 South High Street, and complete the appropriate plea form. A plea requesting arraignment in absentia is conditional and is subject to compliance with Crim. Rule 10(B). If for some reason a request for a plea in absentia is not granted a reasonable continuance will be granted at defendant's request for defendant's appearance at arraignment. All pleas and demands will be made by the clerk in court on the arraignment date. No plea and/or demand will be accepted by telephone. No plea and/or demand will be accepted from defendant's counsel, when there is an active arrest warrant for defendant. After the initial arraignment, no changes in the plea and/or demand or continuance can be made without the written approval of the judge assigned to the case, with the exception of the defendant who is incarcerated in lieu of bond for failure to make a court appearance after having entered a not guilty plea, in which case the judge assigned to the criminal arraignment session may accept pleas of "guilty" or "no contest" unless the judge who issued the warrant specifically requests for the case to be referred back to his or her docket.

- 4.02 Criminal arraignment session. The judge so assigned shall arraign all persons charged with criminal offenses, and shall hear and dispose of all misdemeanor cases in which pleas of "guilty" or "no contest" are entered. Continuances within the session shall be made in accordance with Rule 1.02. The judge so assigned shall hear all motions addressed to the exceptions contained in Crim. R. 12(B)(2). The judge assigned to criminal arraignment session shall direct and control the misdemeanor violations bureau and the violations clerk on behalf of the court.
- 4.03 Individual assignment to the judge assigned to criminal arraignment session. The judge assigned to criminal arraignment session shall assign to his individual assignment docket the following types of cases: (1) those pending determination of the competence to stand trial of a defendant who has entered a plea of "not guilty by reason of insanity," (2) those pending completion of a presentence investigation, (3) those pending release of the defendant who has been ordered to a state hospital after a finding of guilt.
- 4.04 Misdemeanor violation bureau. The misdemeanor violation bureau is established and the clerk of courts is appointed to be the violations clerk, to collect fines, give receipts therefor and render accounts of the bureau.

The schedule of fines and costs which shall be charged by the violations bureau are established and are published as schedule 4.05, "Fines and Costs in Misdemeanor Cases." The violations bureau will display prominently at the windows of its public counter, a court-approved statement of defendant's rights and schedule of fines. Upon a defendant's entry of a "not guilty" plea, the clerk shall assist the defendant in the preparation of a record demand form, or, where allowed and demanded, a jury demand form.

- 4.05 Preliminary hearing session. Preliminary hearings in felony cases will be conducted in preliminary hearing session within the time limits provided by law. Questions relating to admissibility of evidence pursuant to Crim. R. 5 will be decided at preliminary hearing. Motions and memoranda addressed to such admissibility will be referred to this particular session. Continuance within the session shall be made in accordance with Rule 1.02. If a finding is made pursuant to Crim. R. 5(B)(4)(b), the judge shall make certification to general session upon the form provided by the assignment commissioner.
- 4.06 Continuances in criminal cases. Continuances allowed shall be to a date certain. For purposes of speedy trial determination, counsel shall be held to have consented to such continuance if such continuance is obtained upon that counsel's request or with that counsel's agreement.
- 4.07 Pretrial procedure. When a pretrial conference is ordered the following persons are required to attend: The prosecutor assigned to the case, trial counsel, the defendant, the arresting officer or the complaining witness. It is the duty of respective counsel to enforce the appearance of the defendant or the prosecution witness.

The Columbus Police Department, the Franklin County Sheriff's Department, the Ohio State Highway Patrol, and any other law enforcement agency, person, firm or corporation who regularly appears in court may submit a request to designate one or more of its members, or to designate one or more individuals, as permanent representative to attend pretrials in criminal and traffic cases in this court. If the court approves the representative, he may attend a pretrial in place of the arresting officer or prosecuting witness and the arresting officer or prosecuting witness is then not required to attend unless requested to do so by the

court. A law enforcement agency, person, firm or corporation shall make the request for designation to the administrative judge, in writing, setting forth (1) the name or names of the persons to be designated; (2) a statement that the person so designated has full authority, on behalf of the agency, person, firm or corporation, to settle the pending matter; and (3) a statement that if the designated person on behalf of a person, firm or corporation does not appear at the pretrial, the person, firm or corporation, will pay the costs of such prosecution to the clerk of courts. Such designation shall only be effective when approved, in writing, by the administrative judge and may be revoked after notice to the police

agency, person, firm or corporation. No witness fee shall be paid to any representative appearing in accordance with this rule.

The arresting officer or the permanent representative should bring to a pretrial all of the following materials in the possession of or available to such person which relates to the case:

1. Any written or recorded statement of the defendant or co-defendant, or a summary of any such oral statement.
2. Any prior criminal record of the defendant, and in a traffic case, the prior traffic record of the defendant. A statewide record summary or printout is preferred.
3. Documents or tangible objects which may be material to the defense or used at the trial, or which were obtained from or belong to the defendant.
4. Reports of tests or examinations made in connection with the case; accident reports, and in OMVI cases, calibration information and alcohol influence reports.
5. A written list of the names and addresses of all known witnesses intended to be called at trial, together with any record of prior felony convictions of any such witnesses.
6. A written statement of all known evidence favorable to the defendant and material either to guilt or punishment.

On application to the court made before pretrial, the substitution of photographs or copies may be permitted.

No provision of this rule shall be construed to limit or otherwise modify the requirements and procedures prescribed by Rule 16 of the Ohio Rules of Criminal Procedure.

4.08 Probable cause hearing in misdemeanor cases. In any case in which the defendant is held in pretrial confinement or in significant restraint upon pretrial liberty, and is not entitled to a preliminary hearing, the judge assigned to criminal arraignment session shall review the complaint and its exhibits at the initial appearance, in order to determine if there was probable cause for the arrest. Probable cause is defined as that combination of facts and circumstances sufficient to warrant a prudent man in believing that the suspect had committed or was committing an offense.

It may or may not be sufficient to state an offense in the language of the applicable statute or ordinance. The judge will exercise discretion in granting the most appropriate of the following:

1. Probable cause found; continue restraint pending trial.
2. Defendant released, case continued to specific date for showing of probable cause.
3. Restraint allowed for 24 hours for prosecuting attorney to show cause why the case should not be dismissed.
4. Case dismissed; defendant released.

4.09 Bail in misdemeanor cases. Any judge of this court may at the option of that judge:

1. Order an arrest warrant withdrawn and a summons issued to a stated address, or
2. Set any bail which is proper in the situation known to the judge pursuant to the considerations listed in Crim. R. 46(F).
3. In those cases assigned to a judge pursuant to Rule 1.01, no judge shall set aside the bail set by the judge to whom the case is assigned, except in the absence of such judge, and then only the duty judge or the administrative judge, in that order.

4.10 Bail in felony and serious cases. No bail shall be set in a felony case unless the judge setting that bail has the benefit of a report of the pretrial release program, except in an emergency, as defined by the judge setting the bail.

Bail in felony cases and any case covered by the Victim=s Rights law shall be set in public session in courtroom 4D except as follows:

1. By application to the judge assigned to courtroom 4D from 4:30 p.m. on Friday until 4:29 p.m. on the next following Friday; or in the absence of such judge;
2. By application to the judge assigned to courtroom 4C, during the same hours; or in the absence of the judges assigned to courtrooms 4D and 4C;
3. By application to the duty judge, during the same hours; or in the absence of the judges assigned to courtrooms 4D and 4C and the duty judge;
4. By any judge of this court.

Judges setting bail in felony cases shall not consider the monetary amount suggested by any lawyer or police officer, and all such bail shall be set pursuant to the considerations of

Crim. R. 46(F). Bail shall be set in protection order cases, pursuant to the considerations of R.C. 2919.25(A) and R.C. 2903.212.

- 4.11 Defendant=s option of paying fine, fees and costs in certain misdemeanor cases or being slated. Any person arrested (ordered-in) for failure to appear at a designated time for arraignment, trial or enforcement of sentence on a minor misdemeanor for which the fine, fees and costs are prescribed in a published schedule adopted by this court, has the option of either immediately and voluntarily paying such fine and any fees and costs which have accrued in the case, or of being slated. The person shall be advised of this option by the arresting officer at the time of arrest. If the person elects to make such payment he shall be escorted by the arresting officer to the office of the clerk of courts and, on making such payment, he shall be released from custody. If the person elects not to make such payment or states that he is unable to do so, he shall be slated and processed at the Franklin County Jail.
- 4.12 Approval of Search Warrants and Issuance of Investigative Subpoenas_
- (A) Approval of a search warrant shall be considered by this court as follows:
- (1) By application to the duty judge, or in the absence of such judge;
 - (2) By application to the judge assigned to courtroom 4D, or in the absence of such judge;
 - (3) By application to the judge assigned to courtroom 4C, or in the absence of such judge;
 - (4) By application to any judge of this court.
- (B) Requests for search warrants and investigative subpoenas may be submitted electronically. Any search warrant or investigative subpoena submitted by electronic means must comply with the Court's guidelines for electronic search warrants and investigative subpoenas.