

# Continuance

Use these instructions & forms if:

- you need to request more time to get ready for a court hearing or trial.

This packet includes:

1. Instructions for a Continuance
2. Agreed Motion for a Continuance
3. Order on Motion for a Continuance

Note: You may not need all of the forms listed or you may need additional forms. Get more information at [www.TexasLawHelp.org](http://www.TexasLawHelp.org). Talk to a lawyer if you have questions.

## Texas Continuance Forms

- [Agreed Motion for Continuance](#)
- **Order on Motion for Continuance**

### Online Guided Forms - Interactive

#### [Motion for Continuance - GUIDED FORM](#)

## What is a continuance?

A continuance changes the date of a court hearing or trial to a later date. You can ask a judge for a continuance by filing a motion for continuance.

## What is a continuance hearing?

If the other side will not agree to a continuance, the judge will decide whether or not to give you a continuance at a separate hearing called a “continuance hearing.” It is your responsibility to notify the other side of the date and time of the continuance hearing.

If the other side agrees to the continuance, the judge will usually sign an order granting your continuance without a continuance hearing.

## Should I talk with a lawyer if I need a continuance?

Yes! If possible, talk with a lawyer in the county where the case was filed.

You can hire a lawyer just to:

- give you advice and review your continuance forms, -or-
- negotiate a continuance with the other side, -or-
- represent you at your continuance hearing.

You may also be able to talk with a lawyer for free at a legal clinic.

If you need help finding a lawyer, you can:

- Contact your local lawyer referral service, -or-
- Use our [Legal Help Finder](#) tool, -or-
- Check our [Legal Clinic Calendar](#).

## Will the judge give me a continuance?

A judge will give you a continuance if you can show good cause. “Good cause” means a very good reason for changing the date that is already set.

Reasons you may want to ask for a continuance include:

- You did not get enough notice of the hearing.
  - (The law says you must get at least 45 days’ notice of a final hearing, at least 10 days’ notice of an enforcement hearing and at least 3 days’ notice of most other hearings. Talk to a lawyer if you have questions about notice.)
- You need more time to hire a lawyer or apply for legal aid. (Bring the names of any lawyers or legal aid organizations you’ve spoken with about your case to your continuance hearing.)
- You need more time to get ready to represent yourself at a hearing.
- You need more time to get important evidence or subpoena an important witness.

It’s a good idea to talk with a lawyer in the county where the case was filed. The lawyer can tell you whether or not the judge is likely to give you a continuance.

## What if both sides agree to a continuance?

Follow these steps if both sides agree to a continuance.

### **Step 1: Fill out these forms.**

- ***Agreed Motion for Continuance***

This form tells the judge you need a continuance and the other side has agreed. Fill it out completely in blue or black ink and sign it.

- ***Order on Motion for Continuance***

You will ask the judge to sign this form to grant the continuance.

Fill it out completely in blue or black ink (*except for the judge’s signature*) and sign it.

Check **box a** on the order form. (**Box a** must be checked **before** you ask the other side and the judge to sign the order form.)

If you and the other party have agreed to reset the hearing or trial date to another date, you must also check **box b** and **box c**. Call the clerk to learn the dates available to reset the hearing or trial. Fill in the original hearing date and time, the new hearing date and time (agreed to by you and the other side) and the physical address of the courthouse.

**Step 2: Ask the other side to sign both forms.**

If the other side has a lawyer, ask the lawyer to sign.

**Note:** If the other side (or the other side's lawyer) will not sign both forms, the continuance is not agreed.

**Step 3: Turn in your motion form.**

Turn in your completed *Agreed Motion for Continuance* form at the clerk's office and get a file-stamped copy.

Ask the clerk when you can present your *Order on Motion for Continuance* to a judge. Tell the clerk the continuance is agreed.

**Step 4: Ask the judge to sign your order form.**

Follow the clerk's instructions on how to present your *Order on Motion for Continuance* to a judge.

If the judge signs your *Order on Motion for Continuance*, take the signed order back to the clerk's office. Turn it in and ask for a file-stamped copy. Ask the clerk whether you need to let anyone else at the courthouse know that the continuance has been granted. You may need to let the court administrator know of the change so the court's calendar can be updated.

**Step 5: Send a file-stamped copy of the order to the other side.**

Send a file-stamped copy of the signed *Order on Motion for Continuance* to the other side by email, fax or commercial delivery. Keep proof that you sent it. You must bring proof when you go to court on your new hearing date.

## How do I ask for a continuance if the other side will NOT agree?

### **Step 1: Schedule a continuance hearing.**

Call the clerk's office. Tell the clerk you want to schedule a hearing on a motion for continuance. The clerk will give you a date and time for the continuance hearing.

### **Step 2: Fill out these forms.**

#### • ***Motion for Continuance and Notice of Hearing***

Fill out this form completely in blue or black ink and sign it.

Remember to

- write why you need a continuance, (remember you must have a good reason)
- write the date and time of the hearing,
- write the full physical address of the court where the hearing will be held, and
- fill out and sign the *Certificate of Service*.

#### • ***Order on Motion for Continuance***

Fill out this form completely in blue or black ink (except for the judge's signature).

### **Step 3: Turn in your motion form.**

Turn in your completed *Motion for Continuance and Notice of Hearing* form at the clerk's office and get a copy for both you and the other side. The clerk will "file-stamp" your forms with the date and time and return the copies to you.

### **Step 4: Send a file-stamped copy of your motion to the other side.**

Send a file-stamped copy of the *Motion for Continuance and Notice of Hearing* to the other side. Send it on the same day you get the

continuance hearing date. If the other side has a lawyer, send it to the lawyer instead of directly to the other side.

Send it

- by fax, or
- by email, or
- by commercial deliver service (such as FedEx or UPS), or
- by personal delivery, or
- by certified mail, return receipt requested and regular mail. (This way may take too long.)

Keep proof that you sent the *Motion for Continuance and Notice of Hearing* to the other side. You must bring proof to your continuance hearing.

#### **Step 5: Go to the continuance hearing.**

Be ready to explain to the judge why you need a continuance. Bring proof that you sent the *Motion for Continuance and Notice of Hearing* to the other side. Bring the *Order on Motion for Continuance* for the judge to sign. Remember, the judge may or may not give you a continuance.

### **What if I just found out about a hearing?**

The law says that you must receive at least 3 days' notice of a hearing. If you just found out about a hearing, fill out a *Motion for Continuance and Notice of Hearing* form and bring it with you to the hearing. If you have time, send a copy of the motion to the other side. If the other side has a lawyer send it to the lawyer. **DO NOT SKIP THE HEARING.**

### **What if the judge does not give me a continuance?**

The judge may not give you a continuance. You must have a plan to go forward on the original hearing date if the judge does not give you a continuance.

### **Where can I read the law about asking for a continuance?**

Read the law here: **Texas Rules of Civil Procedure, Rules 251 – 254.**

**Cause Number** \_\_\_\_\_

Complete this section so that it looks exactly like the Petition filed in your case.

In the (check one):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Court Number

- District Court
- County Court at Law

\_\_\_\_\_ County, Texas

## Agreed Motion for Continuance

Print your answers.

1. My name is: \_\_\_\_\_  
*First Middle Last*

2. I am the  Petitioner  Respondent in this case.

3. This case is presently set for a hearing or trial on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.  
*month day year*

4. I ask the Court to change the date of the hearing or trial to a later date because:

(Write why you need a continuance.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 5. The other party or parties in this case have agreed to this continuance as evidenced by the signature(s) below.
- 6. This continuance is not sought solely for delay but that justice may be done.
- 7. I ask the Court to grant my Motion for Continuance.

Respectfully submitted,

▶ \_\_\_\_\_  
*Your Signature* \_\_\_\_\_  
*Date*  
\_\_\_\_\_ \_\_\_\_\_  
*( )*  
\_\_\_\_\_ \_\_\_\_\_  
*Phone*  
\_\_\_\_\_  
*Mailing Address* \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
*City State Zip*  
\_\_\_\_\_  
*Email Address* \_\_\_\_\_  
*Fax Number (if available)*

**By my signature below, I confirm that I agree to this Motion for Continuance.**

▶ \_\_\_\_\_  
*Signature of Other Party or Attorney for Other Party* \_\_\_\_\_  
*Date*

## Declaration

(Texas Civil Practice & Remedies Code 132.002)

My full name is: \_\_\_\_\_,

my date of birth is: \_\_\_\_/\_\_\_\_/\_\_\_\_, and

my address is: \_\_\_\_\_,

and \_\_\_\_\_.  
*Country*

I declare **under penalty of perjury** that: 1) I am the person asking for a continuance, 2) I have read this Motion for Continuance, and 3) the statements in this Motion for Continuance are within my personal knowledge and are true and correct.

Executed (*formally signed*) in \_\_\_\_\_ County, Texas on this date: \_\_\_\_\_.



\_\_\_\_\_  
*Signature of Party Asking for Continuance*

## Certificate of Service

I certify that I delivered a copy of this document to each party in this case, or if a party is represented by a lawyer to the party's lawyer, by: (*Check one.*)

Hand delivery to the other party or parties: \_\_\_\_\_

Hand delivery to the other party's lawyer: \_\_\_\_\_

Email to this email address: \_\_\_\_\_

Certified mail, return receipt requested to this address: (**Note:** *This method may take too long.*)  
\_\_\_\_\_

Commercial delivery service (for example FedEx) to this address:  
\_\_\_\_\_

Fax to fax #: \_\_\_\_\_

Electronic service through the electronic filing manager. (**Note:** *The method is required if you electronically file (e-file) this document and the email address of your spouse or your spouse's attorney is on file with the electronic file manager.*)



\_\_\_\_\_  
*Signature of Party Asking for Continuance*

\_\_\_\_\_  
*Date*

