CHAPTER 29-19
CONTINUANCE

29-19-01. Definition of continuance.

A continuance, within the meaning of this chapter, is the postponement of a cause for any period of time.

29-19-02. Right to speedy trial.

In a criminal prosecution, the state and the defendant each shall have the right to a speedy trial. The right to a speedy trial in a criminal case in which the charging instrument contains a charge of a felony offense under section 19-03.1-23 or under chapter 12.1-20 is for the trial to begin within ninety days of the date the party elects this right. The prosecution and the defendant shall elect this right within fourteen days following the arraignment. The court may allow the trial to begin later than ninety days of the arraignment for good cause.

29-19-03. Court may grant continuance.

The court, upon a showing of sufficient cause therefor by either party, may direct the trial of a cause to be postponed to another day in the same term or to the next term.

29-19-04. Cause for postponement.

Any cause that would be considered adequate for a postponement of a civil action is sufficient in a criminal action.

29-19-05. When application for continuance to be made.

An application for a continuance may be made when a criminal action is called for trial, or at any time previous thereto.

29-19-06. Application for continuance on ground of absent witness.

An application for a continuance on the ground that a witness is absent must show:

1. That the applicant has used due diligence to prepare for the trial;
2. The nature of the diligence used;
3. The name and residence of the absent witness;
4. What the applicant expects or believes such witness would testify were that witness present and orally examined in court;
5. That the testimony of the witness is material;
6. The nature of any document wanted and where the same may be found;
7. That the same facts cannot be satisfactorily shown by other evidence; and
8. That the witness is not absent through the connivance or counsel of the applicant.

29-19-07. Application for continuance on ground defendant or attorney is member of assembly - Grounds.

An application for a continuance on the ground that the defendant or the defendant's attorney of record is a member of either house of the legislative assembly must show:

1. That the legislative assembly then is, or at the time of trial, will be in session;
2. If made by the attorney, that the person has been the attorney of record for the defendant for more than fifteen days prior to the making of the application;
3. That the applicant is a member of one of the houses of the legislative assembly;
4. That the applicant then is, or at the beginning of the term of court in which said action is pending will be, actually engaged in the person's duties in the assembly; and
5. That the applicant's attendance is necessary to a fair and proper trial of said action.

Service of the application must be made at least ten days before the opening of the term of court at which such action is pending. The case may not be tried over the objection of the defendant within ten days after the adjournment of the legislative assembly.

29-19-08. Application for continuance to be in writing - Contents.

An application for a continuance must be in writing unless otherwise ordered by the court. Such application must specify the ground or grounds upon which it is based and must be filed by the state's attorney or counsel for the defendant, as the case may be.

29-19-09. Hearing of application and action thereon.

The party applying for a continuance may file affidavits in support of that application and counter affidavits may be received or denied as the court may direct.

29-19-10. Entry of reasons for continuance in minutes of court.

Whenever a continuance is granted, the reasons therefor must be entered in the minutes of the court.

29-19-11. Continuance when there are several defendants.

When there are several defendants and a continuance is granted on the application of one or more but not of all defendants, the trial of the other defendants must proceed unless the court otherwise directs.