

VIRGINIA BEACH CIRCUIT COURT FELONY DOCKET PROCEDURES

Effective Date: August 1, 2007. Revised April 2008.

1.0 Scheduling Initial Trial Date

1.01 The standard is that all initial trial dates be scheduled within 120 days of arrest unless a Class 1 felony or the lab report in a drug case has not been prepared.

1.02 If the initial trial date is not within 180 days of arrest, the matter must be scheduled for a Determination of Hearing Motion (DH Motion) for counsel to appear before a judge for approval of a trial date unless a Class 1 felony.

1.03 This time standard applies to all pending felony cases.

2.0 Scheduling Trial Date at Preliminary Hearing

2.01 At the preliminary hearing, counsel shall complete the Preliminary Hearing Form in the district court. Counsel shall (i) set a trial date for the trial in the circuit court or (ii) if counsel not able to agree on a trial date within 180 days of arrest, schedule a DH Motion on the circuit court Docket within 2 weeks of next grand jury, or (iii) if counsel for the defendant is not continuing to represent the defendant in the circuit court, set for a determination of counsel hearing in this court at the next Criminal Docket Call.

2.02 Criminal Docket Call is held twice a month on the Thursday after the grand jury.

3.0 Scheduling Trial Date at Criminal Docket Call

3.01 The Court enters the Docket Call Report prepared by the Commonwealth (this reports provides the next court date for all cases at docket call).

4.0 Determination of Counsel Docket (DC)

4.01 The DC docket is held daily to determine counsel. For those defendants in custody the duty judge will hear via a two-way electronic video and audio communication system in Courtroom 7 (§ 19.2-3.1).

- 4.02 If a defendant has been arrested on a direct indictment or failure to appear *capias* and posts bond, the bond shall be returnable to the court for a DC hearing.
- 4.03 If attorney appointed, the case may be continued 2 weeks to the DH docket.
- 4.04 If the defendant requests an opportunity to retain counsel, the court may continue on the DC docket for 3 weeks and enter Determination of Counsel Hearing Order. Any defendant on bond must appear on the scheduled DC date.
- 4.05 Prior to the DC date the court and/or commonwealth must receive written confirmation from any retained counsel. On the scheduled DC hearing, if no confirmation the defendant has retained an attorney, the court may revoke bond when circumstances warrant and/or appoint counsel (the court shall grant a further continuance only if the court determines that the defendant has made reasonable efforts to employ counsel per § 19.2-157, 19.2-158 and 19.2-162).

5.0 Determination of a Trial Date Docket (DH)

- 5.01 The commonwealth will provide the court the DH Order for entry. This order will provide (i) the trial date or (ii) a new DH date.
- 5.02 The DH may be continued for one week. If a trial has not been set by the next DH date then the Commonwealth shall place the case on the regular criminal docket for hearing before a judge upon notice to defendant's counsel.

6.0 Docket

- 6.01 The Commonwealth will print the daily docket. The court shall establish a maximum number of defendants on the felony docket. The clerk's office shall provide to the court and the commonwealth any dates to avoid setting any further matters unless approved by the court.

7.0 Trial, Guilty Plea, Revocation, Sentencing and Continuances

- 7.01 In any felony case scheduled for a bench or jury trial, the attorney for the commonwealth and counsel for the defendant shall confer prior to the trial date to confirm that the case

will be tried on the scheduled trial date or a continuance order must be submitted and approved by a judge prior to the trial date. This is to avoid having witnesses and jurors brought to court. The Commonwealth shall note on the docket any change of status of the case from a bench or jury trial to a guilty plea or continuance prior to submitting the docket to the clerk's office for assignment.

7.02 Upon a guilty plea referred for a presentence report, the judge taking the guilty plea shall determine at such guilty plea hearing whether counsel are requesting that the same judge hear the case at sentencing. Only after confirmation from the judge that she/he must hear the case will the commonwealth note on the docket that a particular judge is to hear the case.

7.03 In any case for which a particular judge must hear the trial, revocation or sentencing proceeding, the judge must confirm that he or she is available before scheduling the next hearing date and the judge shall advise the commonwealth that he/she is to be assigned the case. After confirmation from the judge, the commonwealth shall note on the docket that such judge is to hear the case.

7.04 A Continuance Order must be submitted on every continuance.