

**4th Judicial District
Implied Consents
Business Rules and Procedures**

Replaces Business Rules and Procedures dated 07-11-11

Background

Hennepin County District Court policy requires the disposition of Petitioner's criminal DWI case before scheduling the Implied Consent hearing. On the day the criminal case is resolved, Petitioner must file a scheduling order identifying the issues at the Implied Consent hearing. At that time, a hearing will be scheduled. Failure to file the scheduling order will result in dismissal of the Implied Consent Petition.

Most Implied Consent will fall into one of the following groupings:

- Criminal case filed and drivers' license temporarily reinstated
- Criminal case filed and request for temporary reinstatement of drivers' license denied by Chief Judge
- No criminal case filed within 45 days of the Implied Consent and drivers' license has been temporarily reinstated
- No criminal case filed within 45 days of the Implied Consent; no request for temporary reinstatement of drivers' license made by petitioner

The rules and procedures shown below pertain to the groupings listed above.

Initial Setting of Implied Consent Hearing After Resolution of the Criminal Case (drivers' license has been temporarily reinstated or 60 days requirement has been waived.)

1. All hearings will be scheduled within 21-60 days of the date of the scheduling order. If a party is not available during the 21-60 day time period or there are no dates available within 60 days, Court Administration will schedule for the first available date and the attorney can then follow the continuance procedure.

Temporary Reinstatement of Drivers' License Denied by the Chief Judge

1. The Chief Judge's clerk will set an IC hearing date as soon as possible with at least 3 weeks' notice. The hearing date must be within 60 days of the date the IC petition was filed.
2. Court Administration Continuance Policies: In addition to the policies shown below;
 - a. If a continuance is requested by the petitioner, the new hearing date must either be within 60 days of the date the IC petition was filed or the petitioner must waive the 60 day requirement. If the petitioner waives the 60 day requirement the IC hearing will be continued until resolution of the criminal case.
 - b. If a continuance is requested by the Attorney General (AG), the new hearing date must either be within 60 days of the date the IC petition was filed or the AG must address the status of the petitioner's driver's license.
3. The Court's Continuance Policy: If a case has been continued once per side, and if the AG has previously given the petitioner a temporary reinstatement, the court should deny any further continuance requests absent good cause. The pendency of a criminal case is not, in itself, good cause unless petitioner waives the 60 day requirement.

No Criminal Case Was Filed within 45 days of the Filing of the IC Petition

1. Weekly, Civil Filing will run a report to identify these cases.
2. If the petitioner's driver's license has been temporarily reinstated by the Chief Judge, Civil Filing will set an IC hearing date within 21-60 days of the date of the report.
3. If the petitioner has not requested a temporary reinstatement of their driver's license, Civil Filing will set an IC hearing date within 60 days of the date the IC petition was filed with as much advance notice as possible. Civil Filing will grant continuances pursuant to applicable policies and rules.

4. If a criminal case is filed after a hearing date is scheduled and the petitioner is either temporarily reinstated or waives the 60 days requirement the hearing will be continued until resolution of the criminal case.
5. If a case has been continued once per side, and if the Petitioner's license has been temporarily reinstated, the court should deny any further continuance requests absent good cause. The imminent or possible filing of a criminal case is not, in itself, good cause.

The following rules and procedures apply once an IC hearing date has been set unless otherwise noted above.

Court Administration Authority to Grant Requests for Continuances

1. Civil Filing may grant one continuance per side if requested at least 1 week prior to the hearing date. The continuance may be up to 4 weeks in length.
2. Civil Filing will give the requesting party available hearing dates within the next 4 weeks and instruct the party to contact the other side to agree on a date.
3. If a party wants a) a continuance longer than 4 weeks or b) more than one continuance, c) can't agree on a date within 4 weeks or d) a continuance with less than 1 week notice, the requesting party must file a Notice of Motion and Motion and pay the motion fee. The motion will be heard on a regularly scheduled Implied Consent (IC) calendar, if time permits. If time does not permit, the motion will be heard by the judge assigned to hear the Implied Consent calendar that week and the motion hearing must be at least one day before the scheduled Implied Consent hearing to allow parties to notify witnesses if the continuance is granted.
4. Civil Filing may grant ONE additional continuances of up to 4 weeks upon stipulation or letter agreement.

Notice to Remove or Order to Recuse Filed Day of Hearing

1. Administration will attempt to find a replacement judge to hear the case. If one is not available, Civil Filing will schedule the case for hearing on the first available date 21 days out. No exceptions for scheduling conflicts will be granted unless a written agreement by the parties is filed.

If Assigned Judge is Unable to Finish Hearing Calendar

1. Remaining cases will be scheduled on the judge's own calendar for a Tuesday (all day) or a Thursday afternoon as the Attorney General will be here at those times for the regularly scheduled calendar.

The following general policies apply as noted.

Criminal Case Resolved but No IC Hearing Date Has Been Set

1. As time permits, if the IC petition was pending when the criminal case was resolved by plea or conviction, and no scheduling order was filed, Civil Filing will prepare an Order for Dismissal for consideration by the Chief Judge or designee. If an IC petition is dismissed for failure to file a scheduling order, Petitioner may seek to have the dismissal vacated, for good cause, by filing a Notice of Motion and Motion and paying the motion fee. The motion will be scheduled and heard on the regular schedule IC calendar.
2. If the criminal case was dismissed, Civil Filing will schedule an IC hearing date as soon as possible with at least 3 weeks' notice.
3. If the IC petition was filed after the criminal case was resolved (sentenced or dismissed), Civil Filing will set an IC hearing date as soon as possible with at least 3 weeks' notice.
4. If a case has been continued once per side, and if the Petitioner's license has been temporarily reinstated, the court should deny any further continuance requests absent good cause.

Bench Warrant Issued in the Criminal Case

1. When the case comes to the attention of Civil Filing, Civil Filing will enter a disposition of “Closed Administratively.”
2. If the petitioner’s driver’s license had been temporarily reinstated, Civil Filing will notify the Chief Judge who may order revocation of the temporary stay.
3. If the criminal case is eventually resolved and an IC hearing is needed, Civil Filing will reopen the case and set an IC hearing date.