

**Rule 126. Computation and Extension or Limitation of Time****126.01 Computation**

In computing any period of time prescribed or allowed by these rules, by order of court or by any applicable statute, the method of computation specified in Rule 6.01, Minnesota Rules of Civil Procedure, shall be used.

(Amended effective January 1, 2020.)

**126.02 Extension or Limitation of Time**

The appellate court for good cause shown may by order extend or limit the time prescribed by these rules or by its order for doing any act, and may permit an act to be done after the expiration of that time if the failure to act was excusable under the circumstances. The appellate court may not extend or limit the time for filing the notice of appeal or the time prescribed by law for securing review of a decision or an order of a court or an administrative agency, board, commission or officer, except as specifically authorized by law.

**126.03 Personal Leave Continuance**

**(a) Applicability.** This rule applies to all case types except cases on appeal that arise from:

- (1) Orders for protection under Minnesota Statutes, section 518B.01;
- (2) Harassment restraining orders under Minnesota Statutes, section 609.748;
- (3) Summary eviction cases under Minnesota Statutes, sections 504B.281 to 504B.371, and summary tenant cases under Minnesota Statutes, sections 504B.375 to 504B.471;
- (4) Criminal cases governed by Minnesota Rules of Criminal Procedure;
- (5) Commitment cases governed by the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Acts;
- (6) Juvenile delinquency and extended jurisdiction juvenile cases governed by Minnesota Rules of Juvenile Delinquency Procedure;
- (7) Juvenile protection cases governed by the Minnesota Rules of Juvenile Protective Procedure; and
- (8) Adoption cases governed by the Minnesota Rules of Adoption Procedure.

Nothing in this part (a) precludes an appellate court from determining in an exempt case that an attorney is otherwise entitled to a continuance based on the factors below.

**(b) Generally.** A timely application by a party's attorney ("Applicant") for a continuance of the parties' duties in preparing the record on appeal; briefing; oral argument; submissions for costs, disbursements, or attorneys' fees; or petitions for rehearing, is immediately and automatically granted in connection with any of the following by an Applicant substantially involved in the party's representation:

- (1) A health condition that makes the Applicant temporarily unable to represent the party;
- (2) The birth or adoption of a child regardless of the gender of the Applicant;
- (3) The Applicant's need to care for or attend to a spouse, household member, dependent, or family member who has a serious health condition; or

- (4) The death of an Applicant's family member or household member.

An objection to a personal leave continuance may be brought by motion under part (f) of this rule and Rule 127.

Consistent with Rule 126.02, a personal leave continuance is unavailable with respect to the time for filing the notice of appeal or the time prescribed by law for securing review of a decision or an order of a court or an administrative agency, board, commission or officer, except as specifically authorized by law.

**(c) Time for Making Request.** An application for a personal leave continuance shall be made within a reasonable time after the Applicant learns of the need for a continuance.

**(d) Length.** A personal leave continuance may be sought for a period of up to 90 days, as specified in the Continuance Application. An Applicant may seek a continuance of longer than 90 days by motion to the appellate court for good cause shown, under Rule 127.

**(e) Form of Continuance Application.** An Applicant applying for a personal leave continuance shall file a notice and accompanying declaration with the appellate court setting forth the following:

- (1) Affirming the Applicant is an attorney substantially involved in the party's representation;
- (2) That personal leave is required for one of the reasons set forth in paragraph (b)(1) - (4) above;
- (3) That the application is timely under paragraph (c);
- (4) The length of the continuance requested;
- (5) That the Applicant will remain substantially involved in the party's representation following any personal leave continuance;
- (6) That the client has given informed consent (as defined in Minnesota Rules of Professional Conduct 1.0(f)) to the continuance; and
- (7) That the continuance is sought in good faith and not merely for delay.

**(f) Objection to Continuance.**

**(1) Motion and Response; Deadlines.** A party objecting to a personal leave continuance shall bring a motion objecting to the leave within 14 days of the filing of the Continuance Application. The Applicant shall be permitted a response within 7 days of service of the motion objecting to the leave. The appellate court may reduce the time periods in this rule in the event of an emergency.

**(2) Burden of Proof; Determination.** A party objecting to a personal leave continuance shall bear the burden of demonstrating substantial prejudice or extraordinary circumstances that should preclude or limit the personal leave continuance. Upon proof of substantial prejudice or extraordinary circumstances, the appellate court may modify or deny the personal leave continuance. The appellate court shall modify or deny a personal leave continuance if it would impact a substantial right in the proceeding and alternative arrangements cannot be made to ensure the party is adequately represented in the Applicant's absence.

**(3) Decision Deadline; No Hearing.** The appellate court shall rule on the motion objecting to leave within 21 days of filing of the motion without hearing.

**(4) Leave Pending Decision; No Retroactive Application of Denial.** Leave shall continue during the pendency of the motion proceedings but no longer than the leave period sought in the Application. A denial of the leave shall not be made retroactive.

**(g) Deadlines.** Any deadline for preparing the record on appeal; briefing; submissions for costs, disbursements, or attorneys' fees; or petitions for rehearing affected by a personal leave continuance shall be deemed to run from the date the personal leave continuance expires unless otherwise ordered by the appellate court.

**(h) Settlement Efforts.** This rule is not meant to preclude or discourage the parties from agreeing to a continuance or alternative arrangement. If a continuance agreement is reached, the parties must file the agreement as a stipulation with reference to this rule.

(Added effective September 1, 2024.)

***Comment - 1983***

*This rule specifically incorporates the method of computation specified in Minn. R. Civ. P. 6.01 and 6.03.*

*Rule 126.02 requires the showing of good cause for an extension or limitation of time prescribed by the rules. To obtain relief from a failure to act within the time prescribed, it is necessary to establish that the failure was excusable under the circumstances. The appellate court may not extend or limit the time for filing the notice of appeal or for petitioning for review.*