

Trial by Written Declaration Checklist

[VC §40902; CRC 4.210]

- Extending due date.** If the clerk receives a defendant's initial written request for a trial by written declaration by the appearance date indicated on the notice to appear, the clerk must, within 15 calendar days after receiving the initial request, extend the appearance date 25 calendar days and give or mail to the defendant notice of the extended due date on a *Request for Trial by Written Declaration* (form TR-205), with a copy of the *Instructions to Defendant* (form TR-200) and any other required forms. [CRC 4.210(b)(2).] "Due date" means the last date on which the defendant's appearance is timely. [CRC 4.210(b)(1).]
- Election.** Defendant must file form TR-205 with the clerk by the appearance date indicated on the notice to appear or by the extended due date. Unless the defendant's request was made on the election form, form TR-205 must be filed in addition to the initial written request. [CRC 4.210(b)(3).]
- Bail.** Defendant must deposit bail with the clerk by the appearance date indicated on the notice to appear or the extended due date. [CRC 4.210(b)(4).]
- Instructions to arresting officer.** If the clerk receives the defendant's *Request for Trial by Written Declaration* (form TR-205) and bail by the due date, the clerk must deliver or mail to the arresting officer's agency the *Notice and Instructions to Arresting Officer* (form TR-210) and the *Officer's Declaration* (form TR-235), along with a copy of the notice to appear and a specified return date for receiving the officer's declaration. After receipt of the officer's declaration, or at the close of the officer's return date if no officer's declaration is filed, the clerk must submit the case file with all declarations and other evidence to the court for decision. [CRC 4.210(b)(5).]
- Court decision.** After you decide the case and return the file and decision, the clerk must immediately deliver or mail the *Decision and Notice of Decision* (form TR-215) to the defendant and arresting agency. [CRC 4.210(b)(6).]
- New trial.** If the defendant files a *Request for New Trial (Trial de Novo)* (form TR-220) within 20 calendar days after the date of delivery or mailing of the notice of decision, the clerk must set a trial date that is within 45 calendar days of receipt the request. The clerk must deliver or mail to the defendant and to the arresting officer's agency the *Order and Notice to Defendant of New Trial* (form TR-225). If the defendant's request is not received on time, no trial de novo is held and the case is closed. [CRC 4.210(b)(7).]

- **Case and time standard.** The clerk must mail the decision and notice of decision within 90 calendar days after the due date. Acts for which no specific time is stated must be performed promptly so that the decision and notice of decision can be mailed on time by the clerk. Failure of the clerk or the court to comply with any time limit does not void or invalidate the decision unless prejudice to the defendant is shown.
- **Noncompliance.** If the defendant does not comply with CRC 4.210 (including submitting the required bail amount, signing and filing all required forms, and complying with time limits and due dates), the court may deny a trial by written declaration and proceed as otherwise provided by statute and court rules. [CRC 4.210(e).]
- **Fines, assessments, or penalties.** You are not limited to imposing a monetary penalty in the amount of the bail the defendant has deposited with the clerk unless this amount is the maximum and the only lawful penalty. [CRC 4.210(g).]