

RULE 3.240 | CHANGE OF VENUE

(a) Grounds for Motion. The state or the defendant may move for a change of venue on the ground that a fair and impartial trial cannot be had in the county where the case is pending for any reason other than the interest and prejudice of the trial judge.

(b) Contents of Motion. Every motion for change of venue shall be in writing and be accompanied by:

- (1) affidavits of the movant and 2 or more other persons setting forth facts on which the motion is based; and
- (2) a certificate by the movant's counsel that the motion is made in good faith.

(c) Time for Filing. A motion for change of venue shall be filed no less than 10 days before the time the case is called for trial unless good cause is shown for failure to file within such time.

(d) Action on Motion. The court shall consider the affidavits filed by all parties and receive evidence on every issue of fact necessary to its decision. If the court grants the motion it shall make an order removing the cause to the court having jurisdiction to try such offense in some other convenient county where a fair and impartial trial can be had.

(e) Defendant in Custody. If the defendant is in custody, the order shall direct that the defendant be forthwith delivered to the custody of the sheriff of the county to which the cause is removed.

(f) Transmittal of Documents. The clerk shall enter on the minutes the order of removal and transmit to the court to which the cause is removed a certified copy of the order of removal and of the record and proceedings and of the undertakings of the witnesses and the accused.

(g) Attendance by Witnesses. When the cause is removed to another court, witnesses who have been lawfully subpoenaed or ordered to appear at the trial shall, on notice of such removal, attend the court to which the cause is removed at the time specified in the order of removal. A witness who refuses to obey a duly served subpoena may be adjudged in contempt of court.

(h) Multiple Defendants. If there are several defendants and an order is made removing the cause on the application of one or more but not all of them, the other defendants shall be tried and all proceedings had against them in the county in which the cause is pending in all respects as if no order of removal had been made as to any defendant.

(i) Action of Receiving Court.

The court to which the cause is removed shall proceed to trial and judgment therein as if the cause had originated in that court. If it is necessary to have any of the original pleadings or other documents before that court, the court from which the cause is removed shall at any time on application of the prosecuting attorney or the defendant order such documents or pleadings to be transmitted by the clerk, a certified copy thereof being retained.

(j) Prosecuting Attorney's Obligation. The prosecuting attorney of the court to which the cause is removed may amend the information, or file a new information, and such new information shall be entitled in the county in which the trial is had, but the allegations as to the place of commission of the crime shall refer to the county in which the crime was actually committed.

Committee Notes

1968 Adoption. (a) through (d) substantially same as sections 911.02 through 911.05, Florida Statutes. Language is simplified and requirement pertaining to cases in criminal courts of record that removal be to adjoining county is omitted. Modern communications and distribution of television and press makes old requirements impractical. Designation of county left to discretion of the trial judge. (e) through (i) same as corresponding sections 911.06 through 911.10, Florida Statutes.

1972 Amendment. Same as prior rule.

