

# Indiana Rules of Court

## Jury Rules

**Effective January 1, 2003**

*Including Amendments Received Through January 1, 2008*

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## **RULE 1 SCOPE**

These rules shall govern petit jury assembly, selection, and management in all courts of the State of Indiana. Rules 2 through 10 shall govern grand jury assembly and selection.

## **RULE 2 JURY POOL**

The judges of the trial courts shall administer the jury assembly process. The judges may appoint clerical personnel to aid in the administration of the jury system. Any person appointed to administer the jury assembly process is a jury administrator. The jury administrator shall compile the jury pool annually by selecting names from lists approved by the Supreme Court. In compiling the jury pool, the jury administrator shall avoid duplication of names.

*Amended July 1, 2005, effective Jan. 1, 2006.*

## **RULE 3 RANDOM DRAW**

The jury administrator shall randomly draw names from the jury pool as needed to establish jury panels for jury selection. Prospective jurors shall not be drawn from bystanders or any source except the jury pool.

## **RULE 4 NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE**

Not later than seven (7) days after the date of the drawing of names from the jury pool, the jury administrator shall mail to each person whose name is drawn a juror qualification form, and notice of the period during which any service may be performed. The judges of the courts of record in the county shall select, by local rule, one of the following procedures for summoning jurors:

(a) Single tier notice and summons. The jury administrator may send a summons at the same time the jury qualification form and notice is mailed. If so, the jury administrator shall send the jury qualification form and summons to prospective jurors at least six (6) weeks before jury service.

(b) Two tier notice and summons. The jury administrator may send summons at a later time. If the jury administrator sends the jury qualification form and notice first, the jury administrator shall summon prospective jurors at least one (1) week before service.

The summons shall include the following information: directions to court, parking, public transportation, compensation, attire, meals, and how to obtain auxiliary aids and services required by the Americans with Disabilities Act. The judge may direct the jury administrator to include a questionnaire to be completed by each prospective juror.

A judge may order prospective jurors to appear upon less notice when, in the course of jury selection, it becomes apparent that additional prospective jurors are required in order to complete jury selection.

A judge may authorize the jury administrator to use technological programs for receiving responses to juror qualification forms or to supplement information provided to jurors in the notice of selection and summons. The judge may authorize automated telephone services or web-based programs which include appropriate verification, such as juror identification numbers, PIN numbers, and passwords. The judge must ensure that jurors who are unable or unwilling to use these technological programs are able

to complete the proper forms and receive the above-required information by contacting the jury administrator.

*Amended July 1, 2005, effective Jan. 1, 2006.*

## **RULE 5 DISQUALIFICATION**

The court shall determine if the prospective jurors are qualified to serve, or, if disabled but otherwise qualified, could serve with reasonable accommodation. In order to serve as a juror, a person shall state under oath or affirmation that he or she is:

- (a) a citizen of the United States;
- (b) at least eighteen (18) years of age;
- (c) a resident of the summoning county;
- (d) able to read, speak, and understand, the English language;
- (e) not suffering from a physical or mental disability that prevents him or her from rendering satisfactory jury service;
- (f) not under a guardianship appointment because of mental incapacity;
- (g) not a person who has had rights to vote revoked by reason of a felony conviction and whose rights to vote have not been restored; and
- (h) not a law enforcement officer, if the trial is for a criminal case.

Persons who are not eligible for jury service shall not serve. Upon timely advance request from the prospective juror, the court may excuse from reporting for jury service any person whose bona fide religious conviction and affiliation with a religion prevents the prospective juror from performing jury service.

*Amended Aug. 15, 2006, effective Jan. 1, 2007.*

## **RULE 6 EXEMPTION**

A person who has completed a term of jury service in the twenty-four (24) months preceding the date of the person's summons may claim exemption from jury service.

*Amended Sep. 30, 2004, effective Jan. 1, 2005; amended Aug. 15, 2006, effective Jan. 1, 2007.*

**RULE 7 DEFERRAL**

The judge or judge's designee may authorize deferral of jury service for up to one (1) year upon a showing of hardship, extreme inconvenience, or necessity.

*Amended Sep. 30, 2004, effective Jan. 1, 2005.*

**RULE 8 DOCUMENTATION**

The facts supporting juror disqualifications, exemptions, and deferrals shall be recorded under oath or affirmation. No disqualification, exemption, or deferral shall be authorized unless the facts support it. These records shall be kept for a minimum of two (2) years.

**RULE 9 TERM OF JURY SERVICE**

(a) A person who appears for service as a petit juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service by reporting to the courthouse and being recorded as present for jury service and not deferred but is not selected and sworn as a juror completes the person's service when jury selection is completed; provided, however, jurors who are called for jury service are eligible to serve in any court in that county on the day summoned.

(b) A person who:

- (1) serves as a juror; or
- (2) serves until jury selection is completed, but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons in the jury pool for that year have been called for jury duty.

(c) A person who serves until jury selection is completed, but is not chosen to serve as a juror may be placed back in the jury pool and eligible for additional terms of service upon making a written request to the court.

*Amended Sep. 30, 2004, effective Jan. 1, 2005.*

**RULE 10 JUROR SAFETY AND PRIVACY**

Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The court shall maintain that confidentiality to an extent consistent with the constitutional and statutory rights of the parties.

**RULE 11 JURY ORIENTATION**

Trial courts shall provide prospective jurors with orientation prior to the selection process so they may understand their role in our legal system. Jury orientation shall include a standard presentation recommended by the Indiana Judicial Conference.

**RULE 12 RECORD SHALL BE MADE**

Unless otherwise agreed by the parties, jury selection shall be recorded including all sidebar conferences.

**RULE 13 JURY PANEL: OATH OR AFFIRMATION BY PROSPECTIVE JURORS**

The jury panel consists of those prospective jurors who answered their summons by reporting for jury service. The judge shall administer the following to the prospective jurors of the jury panel: "Do you swear or affirm that you will honestly answer any question asked of you during jury selection?"

**RULE 14 INTRODUCTION TO CASE**

(a) After welcoming the jury panel, the judge shall introduce the panel to the case. Unless sufficiently covered by the jury orientation, the judge's introduction to the case shall include at least the following:

- (1) Introduction of the participants;
- (2) The nature of the case;
- (3) The applicable standard of proof;
- (4) The applicable burden(s) of proof;
- (5) The presumption of innocence in a criminal case;
- (6) The appropriate means by which jurors may address their private concerns to the judge;
- (7) The appropriate standard of juror conduct;
- (8) The anticipated course of proceedings during trial; and
- (9) The rules regarding challenges.

(b) To facilitate the jury panel's understanding of the case, with the court's consent the parties may present brief statements of the facts and issues (mini opening statements) to be determined by the jury.

*Amended Aug. 15, 2006, effective Jan. 1, 2007.*

**RULE 15 EXAMINATION OF THE JURY PANEL**

Examination of jurors shall be governed by Trial Rule 47(D).

**RULE 16 NUMBER OF JURORS**

(a) In all criminal cases, if the defendant is charged with: murder, a Class A, B, or C felony, including any enhancement(s), the jury shall consist of twelve (12) persons, unless the parties and the court agree to a lesser number of jurors. If the defendant is charged with any other crime, the jury shall consist of six (6) persons. The court shall determine the number of alternate jurors to be seated. The verdict shall be unanimous.

(b) In all civil cases, the jury shall consist of six (6) persons, unless the parties agree to a lesser number of jurors before the jury is selected. The verdict shall be unanimous, unless the parties stipulate before the verdict is announced that a verdict or finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury. The number of alternate jurors shall be governed by Trial Rule 47(B).

**RULE 17 CHALLENGE FOR CAUSE**

(a) In both civil and criminal cases the parties shall make all challenges for cause before the jury is sworn to try the case, or upon a showing of good cause for the delay, before the jury retires to deliberate. The court shall sustain a challenge for cause if the prospective juror:

- (1) is disqualified under rule 5;
- (2) served as a juror in that same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict;
- (3) will be unable to comprehend the evidence and the instructions of the court due to any reason including defective sight or hearing, or inadequate English language communication skills;
- (4) has formed or expressed an opinion about the outcome of the case, and is unable to set that opinion aside and render an impartial verdict based upon the law and the evidence;
- (5) was a member of a jury that previously considered the same dispute involving one or more of the same parties;
- (6) is related within the fifth degree to the parties, their attorneys, or any witness subpoenaed in the case;
- (7) has a personal interest in the result of the trial;
- (8) is biased or prejudiced for or against a party to the case; or
- (9) is a person who has been subpoenaed in good faith as a witness in the case.

(b) In criminal cases the court shall sustain a challenge for cause if the prospective juror:

- (1) was a member of the grand jury that issued the indictment;
- (2) is a defendant in a pending criminal case;
- (3) in a case in which the death penalty is sought, is not qualified to serve in a death penalty case under law; or
- (4) has formed or expressed an opinion about the outcome of the case which appears to be founded upon
  - a. a conversation with a witness to the transaction;
  - b. reading or hearing witness testimony or a report of witness testimony.

(c) In civil cases the court shall sustain a challenge for cause if the prospective juror is interested in another suit, begun or contemplated, involving the same or a similar matter.

#### **RULE 18 NUMBER OF PEREMPTORY CHALLENGES**

(a) In criminal cases the defendant and prosecution each may challenge peremptorily:

- (1) twenty (20) jurors in prosecutions where the death penalty or life without parole is sought;
- (2) ten (10) jurors when neither the death penalty nor life without parole is sought in prosecutions for murder, and Class A, B, or C felonies, including enhancements; and
- (3) five (5) jurors in prosecutions for all other crimes.

When several defendants are tried together, they must join their challenges.

(b) In civil cases each side may challenge peremptorily three (3) jurors.

(c) In selection of alternate jurors in both civil and criminal cases:

- (1) one (1) peremptory challenge shall be allowed to each side in both criminal and civil cases for every two (2) alternate jurors to be seated;
- (2) the additional peremptory challenges under this subsection may be used only in selecting alternate jurors; and
- (3) peremptory challenges authorized for selection of jurors may not be used in selecting alternate jurors.

(d) If it appears to the court that a particular peremptory challenge may have been used in a constitutionally impermissible manner, the court upon its own initiative may (a) inform the parties of the reasons for its concern, (b) require the party exercising the challenge to explain its reasons for the challenge, and (c) deny the challenge if the proffered basis is constitutionally impermissible.

*Amended Aug. 15, 2006, effective Jan. 1, 2007.*

**RULE 19 OATH OR AFFIRMATION OF THE JURY**

After the jury has been selected, but before commencement of the trial, the judge shall administer the following to the jury, including alternate jurors:

“Do each of you swear or affirm that you will well and truly try the matter in issue between the parties, and give a true verdict according to the law and evidence?”

**RULE 20 PRELIMINARY INSTRUCTIONS**

(a) The court shall instruct the jury before opening statements by reading the appropriate instructions which shall include at least the following:

- (1) the issues for trial;
- (2) the applicable burdens of proof;
- (3) the credibility of witnesses and the manner of weighing the testimony to be received;
- (4) that each juror may take notes during the trial and paper shall be provided, but note taking shall not interfere with the attention to the testimony;
- (5) the personal knowledge procedure under Rule 24;
- (6) the order in which the case will proceed;
- (7) that jurors, including alternates, may seek to ask questions of the witnesses by submission of questions in writing.
- (8) that jurors, including alternates, are permitted to discuss the evidence among themselves in the jury room during recesses from trial when all are present, as long as they reserve judgment about the outcome of the case until deliberations commence. The court shall admonish jurors not to discuss the case with anyone other than fellow jurors during the trial.

(b) It is assumed that the court will cover other matters in the preliminary instructions.

(c) The court shall provide each juror with the written instructions while the court reads them.

*Amended Sep. 30, 2004, effective Jan. 1, 2005; amended Sep. 10, 2007; effective Jan. 1, 2008.*

**RULE 21 OPENING STATEMENT**

(a) In criminal cases, the prosecution shall state briefly the evidence that supports its case. The defense may then state briefly the evidence in support of the defense, but has the right to decline to make an opening statement.

(b) In civil cases, the party with the burden of going forward may briefly state the evidence that supports its case. The adverse party may then briefly state the evidence in support of its case.

**RULE 22 PRESENTATION OF EVIDENCE**

Unless the court otherwise directs, the party with the burden of going forward shall produce evidence first, followed by presentation of evidence by the adverse party.

The parties may then respectively offer rebuttal evidence only, unless the court, for good cause shown, permits them to offer evidence upon their original case.

**RULE 23 JUROR TRIAL BOOKS**

In both criminal and civil cases, the court may authorize the use of juror trial books to aid jurors in performing their duties.

Juror trial books may contain:

- (a) all given instructions;
- (b) information regarding the anticipated trial schedule;
- (c) witness lists; and
- (d) copies of exhibits admitted for trial.

**RULE 24 PROCEDURE FOR JUROR WITH PERSONAL KNOWLEDGE IN CRIMINAL CASES**

If the court receives information that a juror has personal knowledge about the case, the court shall examine the juror under oath in the presence of the parties and outside the presence of the other jurors concerning that knowledge.

If the court finds that the juror has personal knowledge of a material fact, the juror shall be excused, and the court shall replace that juror with an alternate. If there is no alternate juror, then the court shall discharge the jury without prejudice, unless the parties agree to submit the cause to the remaining jurors.

**RULE 25 JURY VIEW**

When the court determines it is proper, the court may order the jury to view:

- (a) the real or personal property which is the subject of the case; or
- (b) the place in which a material fact occurred.

The place shall be shown to the jury by a person appointed by the court for that purpose. While the jury is absent for the view, no person, other than the person appointed to show the place to the jury, shall speak to the jury on any subject connected with the trial. Counsel for the parties shall have the right to accompany the jury but shall not speak to the jury.

**RULE 26 FINAL INSTRUCTIONS**

The court shall read appropriate final instructions, providing each juror with written instructions before the court reads them. Jurors shall retain the written instructions during deliberations. The court may, in its discretion, give some or all final instructions before final arguments, and some or all final instructions after final arguments.

**RULE 27 FINAL ARGUMENTS**

When the evidence is concluded, the parties may, by agreement in open court, submit the case without argument to the court or jury trying the case.

If the parties argue the case to the jury, the party with the burden of going forward shall open and close the argument. The party which opens the argument must disclose in the opening all the points relied on in the case. If, in the closing, the party which closes refers to any new point or fact not disclosed in the opening, the adverse party has the right to reply to the new point or fact. The adverse party's reply then closes the argument in the case.

If the party with the burden of going forward declines to open the argument, the adverse party may then argue its case. In criminal cases, if the defense declines to argue its case after the prosecution has made opening argument, then that shall be the only argument allowed in the case.

In criminal cases, the party with the burden of going forward is the prosecution. In civil cases, the party with the burden of going forward is the plaintiff.

## **RULE 28 ASSISTING JURORS AT AN IMPASSE**

If the jury advises the court that it has reached an impasse in its deliberations, the court may, but only in the presence of counsel, and, in a criminal case the parties, inquire of the jurors to determine whether and how the court and counsel can assist them in their deliberative process. After receiving the jurors' response, if any, the court, after consultation with counsel, may direct that further proceedings occur as appropriate.

## **RULE 29 SEPARATION DURING DELIBERATION**

(a) The court, in its discretion may permit the jury in civil cases to separate during deliberations. However, before the jurors are permitted to separate, the court shall instruct them that while they are separated, they shall:

- (1) not discuss the case among themselves or with anyone else;
- (2) not talk to the attorneys, parties, or witnesses;
- (3) not express any opinion about the case; and
- (4) not listen to or read any outside or media accounts of the trial.

(b) The court shall not permit the jury to separate during deliberation in criminal cases unless all parties consent to the separation and the instructions found in section "a" of this rule are given.

## **RULE 30 JUDGE TO READ THE VERDICT**

When the jury has agreed upon its verdict, the foreperson shall sign the appropriate verdict form. When returned into court, the judge shall read the verdict. The court or either party may poll the jury. If a juror dissents from the verdict, the jury shall again be sent out to deliberate.