

In the  
Indiana Supreme Court



IN THE MATTER OF )  
 )  
APPROVAL OF LOCAL RULES )  
 )  
FOR OWEN COUNTY )

Cause No. 60S00-0603-MS-110

**ORDER APPROVING AMENDMENT TO LOCAL RULES**

Pursuant to Ind. Trial Rule 81(D), the Hon. Frank M. Nardi, Judge of the Owen Circuit Court, requests this Court's approval of an amendment to Owen County Local Rule LR60-CR2.2-4. Judge Nardi also requests that the amendments become effective immediately.

Upon examination of the proposed rule amendments requested by the Owen Circuit Court, this Court finds that the proposed rule amendment to Local Rule LR60-CR2.2-4 complies with the requirements of Ind. Criminal Rule 2.2 and, accordingly, should be approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that Owen County Local Rule LR60-CR2.2-4, set forth as an attachment to this Order, is approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Frank M. Nardi, Owen Circuit Court, P.O. Box 86, Spencer, IN 47460-0086, and to the Clerk of the Owen Circuit Court.

The Clerk of the Owen Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Court, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 23<sup>rd</sup> day of March, 2006.

*RT Shepard*

Randall T. Shepard  
Chief Justice of Indiana



shall advise the court where the case is pending of the name of the next judge on the Assignment List of Judges. The Facilitator shall assign judges from the Assignment List of Judges in the following consecutive order: Owen Circuit Court; Lawrence Superior Court, Division 2; Monroe Circuit Court, Division 3; Monroe Circuit Court, Division 7; Lawrence Circuit Court; Monroe Circuit Court, Division 1; Greene Superior Court; Monroe Circuit Court, Division 2; Lawrence Superior Court, Division 1; Monroe Circuit Court, Division 4; Greene Circuit Court; Monroe Circuit Court, Division 5; and Monroe Circuit Court, Division 6. If the court seeking the appointment of a special judge pursuant to Trial Rule 79(H) is the Facilitator's Court, the Facilitator will appoint the next consecutive judge from the Assignment List, omitting such Facilitator's own name. After receiving the assignment of a special judge from the Facilitator, the Court seeking the assignment shall appoint such judge as special judge pursuant to Trial Rule 79(H).

- d. If no judge is eligible to serve as special judge or the particular circumstances of the case warrants selection of a special judge by the Indiana Supreme Court, such case shall be certified to the Indiana Supreme Court.

(Originally approved by Indiana Supreme Court on September 29, 1995)

#### LR60-CR2.2-1 Case Assignment

All felony, misdemeanor, infraction, and ordinance violations cases filed in Owen County, Indiana shall be assigned to the Owen Circuit Court. The Court shall assign all infractions and ordinance violations to the Referee of the Small Claims and Minor Offenses Division of this Court for the purposes of finding facts and making recommendations to this Court for disposition. The Court shall assign all misdemeanors and class B, C, and D felonies to the Referee of the Small Claims and Minor Offenses Division of this Court for purposes of initial and various pretrial hearings.

#### LR60-CR2.2-2 Transfer

There shall be no transfer or reassignment of any case to another court, except as provided in the event of a change of venue. The court, however, from time to time may assign a misdemeanor to the Referee of the Small Claims and Minor Offenses Division of this Court for purposes of conducting a trial and making findings of fact for this Court. The Court shall retain jurisdiction for purposes of ultimately deciding said case.

#### LR60-CR2.2-3 Refiling and Subsequent Filings

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the Court from which the dismissal was taken.

#### LR60-CR2.2-4 Reassignment

In the event that it becomes necessary in the Owen Circuit Court to reassign a felony or misdemeanor case, the judges cases will be reassigned in consecutive order to these judges:

~~The following individuals shall serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Owen Circuit Court:~~ (1) The Honorable David Johnson, Greene Circuit Court; (2) The Honorable David Holt, Greene Superior Court; (3) The Honorable G. Thomas Gray, Morgan Superior Court 1, (4) The Honorable Robert Pell, Clay Circuit Court; (5) The Honorable Matthew Headley, Putnam Circuit Court; (6) The Honorable Mary Ellen Diekhoff, Monroe Circuit Court, Division 4. ~~By Order of adoption of these rules, the Indiana Supreme Court, pursuant to I.C. 33-2-1-7-8 temporarily transfers these named judges to the Owen Circuit Court for the purpose of reassignment of felony and misdemeanor cases.~~

#### LR60-CR2.2-5 Appointment of Special Judge

In the event that no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event that the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.

(This Rule has been modified. The original version was approved by the Indiana Supreme Court on June 19, 1995.)

#### LR60-CR-1 Bond schedule

Pursuant to Indiana law, the Court now establishes the following bond schedule which shall apply to all individuals arrested in Owen County, Indiana. The Court Orders that his Order shall supersede the Bond Schedule Order previously entered by this Court on August 14, 1989 in cause number 60C01-8908-MC-428 of this Court.

Said schedule shall not apply to any defendant arrested pursuant to a warrant issued by this Court and upon which the amount of bail Ordered by this Court is endorsed.

- I. An individual arrested for murder or for whom there is an arrest warrant pending in any other place shall not be admitted to bail without first appearing before this Court for purposes of a hearing regarding admission to bail.

II. An individual arrested for any offense shall not be admitted to bail until the following information regarding said individual has been obtained and certified by computer check of criminal records, Bureau of Motor Vehicle records, IDACS or NCIC, communications with any law enforcement officer or agency or any other means approved by the Sheriff of Owen County, Indiana.

1. Name
2. Current address
3. Date of birth
4. Identification (i.e. Social Security # or BMV #)
5. Whether there are any outstanding warrants for the arrest of said individual.
6. The criminal record, if any, of the individual arrested.

III.

(A). After the information required by section II has been obtained and subject to the exceptions and requirements provided in all other sections hereof, an individual arrested in Owen County, Indiana, shall be released upon the posting of bond pursuant to the following schedule:

<u>Offense</u>	<u>Indiana Resident</u>	<u>Out of State Resident</u>
Class A Felony	\$50,000	\$100,000
Class B Feony	\$30,000	\$ 60,000
Class C Felony	\$20,000	\$ 40,000
Class D Felony	\$10,000	\$ 20,000
Class A Misdemeanor	\$ 3,650	\$ 5,000
Class B Misdemeanor	\$ 1,500	\$ 3,000
Class C Misdemeanor	\$ 1,500	\$ 3,000

(B). For all crimes against the person, including, murder, all batteries, all sex crimes, kidnapping, confinement, robbery, invasion of privacy and criminal recklessness, the defendant shall not be released on any bond until he or she has appeared before the Judge or Referee of the Owen Circuit Court at which time the amount of bond shall be specified by the Court.

(C). For any individual arrested for a feonly who has 2 or more prior felony convictions, add \$100,000.00 to the bond specified in section III (A).

(D). For any individual arrested for a felony, who has 1 prior felony conviction, add \$20,000.00 to the bond specified in section III (A).

(E). For any individual arrested for any offense who is presently on bond out of any Court, who is subject to the terms and conditions of a suspended sentence or

who has a previous failure to appear conviction in any Court, add \$10,000.00 to the bond specified in section III (a).

(F). For any individual arrested for any offense which is on probation or parole out of any Court, said individual shall be held without bond until his initial appearance before the Court so that a determination can be made under I.C. 35-33-8-6.

IV. An individual arrested for the offense of public intoxication and who is intoxicated shall not be admitted to bail pursuant to section III (A) until a period of fourteen hours has elapsed since his or her arrest. (This section does not apply to individuals charged with Operating A Vehicle While Intoxicated).

V. An individual arrested for the offense of operating a motor vehicle while intoxicated shall not be admitted to bail pursuant to sections III (A) until the following respective period of time, based upon the breathalyzer results of said individual, has elapsed since his arrest.

<u>Breathalyzer Result</u>	<u>Hours which must elapse Between arrest and release Pursuant to Section III (A)</u>
.10	4 hours
.11	4 hours 40 minutes
.12	5 hours 20 minutes
.13	6 hours
.14	6 hours 40 minutes
.15	7 hours 20 minutes
.16	8 hours
.17	8 hours 40 minutes
.18	9 hours 20 minutes
.19	10 hours
.20	10 hours 40 minutes
.21	11 hours 20 minutes
.22	12 hours
.23	12 hours 40 minutes
.24 and above or refusal to submit to breathalyzer	14 hours

VI. Ten Percent Cash Bond

(A). Any individual charged with a misdemeanor may post a 10% cash bond without prior approval of the Court provided that the defendant and the person posting said bond execute a Personal Appearance Bond With Ten Percent Cash Deposit form as specified by this Court.

(B). No individual charged with a felony may post a 10% cash bond unless the Court first approves the posting of such a bond. In the event that the Court approves such a bond, the defendant and the person posting the bond shall execute a Personal Appearance Bond With Ten Percent Cash Deposit form as specified by this Court.

(C). When a defendant and the person posting the bond have executed the Personal Appearance Bond With Ten Percent Cash Deposit form, the said form shall be delivered to the Clerk of this Court with the amount of the bond. When the conditions of the bond have been performed and when so Ordered by this Court, the Clerk of this Court shall retain ten percent (10%) of the deposit for administrative fees (which shall not exceed \$50.00), shall deduct the amount of any judgment for fines, Court costs, restitution, public defender fees or probation users fees and apply the same to the payment of said judgments and shall return the balance remaining, to the defendant or person who posted said bond.

VII. All bonds will be reviewed by this Court at the first Court appearance of the defendant.

VIII. When bond is posted as provided herein, the Sheriff of Owen County, Indiana, or his designated employee, shall cause the defendant to sign a promise to appear in the Owen Circuit Court. Three copies of such promise to appear shall be prepared. The original, with a copy of said bond attached, shall be filed with the Clerk of the Owen Circuit Court. The Sheriff shall deliver one copy of said promise to appear to the defendant, a second copy to the Prosecuting Attorney and shall retain one copy in the files of the Owen County Sheriff's Department.

#### LR60-CR-2 DISCOVERY IN CRIMINAL CASES

In all criminal cases pending in this Court, the parties shall conduct discovery in the following manner, unless the Court specifically Orders otherwise:

#### ORDER REGARDING DISCOVERY

The Court Orders the parties to this cause to comply with the following Orders regarding the conduct of the proceedings in this cause:

1. The State of Indiana shall provide discovery of all information, documents, exhibits, and materials, which are discoverable under Indiana law to a defendant, who is represented by an attorney, within 30 days of the initial hearing, and shall supplement such discovery until determination of the charges pending against the defendant. The State of Indiana shall offer to provide such discovery to a defendant proceeding pro se at or by the initial pretrial conference.

2. The defendant shall provide discovery of all information, documents, exhibits and materials, which are discoverable under Indiana law to the Owen County Prosecuting Attorney within 30 days after the State of Indiana has provided its discovery.
3. If the defendant objects to providing discovery, the defendant must file a written objection with the Court within 20 days after the initial hearing.
4. The parties shall conduct a pretrial conference on the date scheduled by the Court. The defendant shall attend all pretrial conferences and other hearings scheduled herein by the Court.
5. The State of Indiana shall file a report of said pretrial conference, which report shall include a report of the status of discovery, whether an offer has been tendered by the State to the defendant and the date a response is due to the State, and any request for action by the Court to continue or schedule hearings.
6. The Court specifies that a deadline for plea agreements shall be 14 days before the commencement of any jury trial and ten days before any bench trial.

LR60-AR1(E)-1 Evaluation of Workload Information

The Judge of the Owen Circuit Court and the Referee of the Small Claims and Minor Offenses Division of the Owen Circuit Court shall meet and evaluate their respective caseloads on January 10<sup>th</sup> of each year and June 10<sup>th</sup> of each year to determine whether any disparity in their respective caseloads requires adjustment and allocation of judicial resources. At the present time the Small Claims, Traffic, and Misdemeanor Division processes all Small Claims, Infractions, predisposition hearings for all misdemeanors and certain felonies. The Circuit Court processes all criminal cases at the guilty plea, trial, and disposition phase as well as all other types of cases. At the present time, the caseload is distributed proportionately and appropriately after considering the types of cases, the quantity of cases and the respective hours in which each Court is in session. The Judge of the Owen Circuit Court and the Referee of the Small Claims and Minor Offenses Division of the Owen Circuit Court will meet and discuss their respective caseloads from time to time throughout the year and adjust caseloads as necessary to reduce backlog and delays in Court disposition.

LR60-AR1(E)-2 Remedies in regard to Disproportionate Caseload

1. If the Judge of the Owen Circuit Court and the Referee of the Small Claims and Minor Offenses Division of the Owen Circuit Court determine a disparity in caseload, the Court will address the issue in the following fashion:
  - a. The Court will use appointments of Judges Pro-tempore to allow time for research and disposition of cases not otherwise available due to congestion in the docket.
  - b. The Court will request assistance of a Senior Judge to allow the Referee and Circuit Court Judge time to address matters under advisement and otherwise reduce the delay in case backlog.

- c. In the event that provisions (a) and (b) are not adequate to address the problem, the Court will proceed under the regional plan approved for Administrative District 10 and request the services of another Judge in said District.

(This rule has been modified. The original rule was approved by the Indiana Supreme Court on September 30, 1999.)

LR60-AR15-1 Court reporters

The Court, being duly advised, now adopts the following local Court Rule regarding Administrative Rule 15. Court Reporters. In regard to the work of the Court Reporter of the Owen Circuit Court, the Court now adopts the following local Court rule:

1. The Owen Circuit Court shall designate one Court Reporter to act as the Official Court Reporter for preparation of transcript purposes, who shall be paid an annual salary approved by the Owen County Council and who shall have the responsibilities of a Court Reporter under Indiana law. The annual salary paid to the Official Court Reporter shall compensate her for all normal working hours as approved by the Owen County Board of Commissioners and adopted by this Court and shall be paid in compliance with all State and Federal Labor laws effective at the time of employment.
2. The Court Orders that any transcript prepared for an indigent party for which payment is the responsibility of Owen County, shall be charged at the rate of \$4.00 per page.
3. The Court Orders that in regard to the preparation of a county indigent transcript, the Court Reporter shall submit a claim for these expenses directly to Owen County.
4. The Court Orders that the charge for a State indigent transcript, shall be a maximum of \$4.00 per page.
5. The Court Orders that the maximum per page fee for a private transcript to be charged by the Owen Circuit Court Court Reporter shall be \$4.00 per page.
6. The Court Orders that the maximum per page fee for an appellate transcript shall be \$4.00 per page.
7. The Court Orders that the minimum fee for preparation of a transcript which is nine pages or less in length shall be the sum of \$35.00.
8. The Court Orders that the Court Reporter may charge an additional hourly labor charge for time spent binding the transcripts and binding the exhibits.

This labor charge shall be equivalent to the Court Reporter's hourly compensation rate.

9. The Court Orders that the Official Court Reporter of this Court report on an annual basis to the Indiana Supreme Court Division of State Court Administration, on forms prescribed by the Division, all transcript fees either County indigent, State indigent or private received by the Court Reporter.
10. The Court Orders that the Official Court Reporter of the Owen Circuit Court shall not engage in any private practice of recording a deposition and/or preparing a deposition.
11. In regard to the use of the Court's equipment, the Court Orders that the Official Court Reporter of the Owen Circuit Court shall be allowed to use county equipment entrusted to the Owen Circuit Court for purposes of preparing any transcripts which the Court Reporter is required to prepare under the Court Reporter's duties as a Court Reporter.
12. In regard to any compensation for gap or overtime hours, the Court Orders that the Official Court Reporter of the Owen Circuit court, shall be entitled to compensatory time from her employment for any hours worked between the county specified hours of 35 hours per week and a full time week of 40 hours. that in regard to any overtime hours, to-wit: hours in excess of 40 hours per week or any gap hours, the Court Reporter shall be paid overtime pay of time and an half of her regular hourly salary. In regard to any compensatory time that is due and owing to the Court Reporter, the Court Reporter shall be entitled to be paid for said compensatory time or compensatory time off from work at the Court Reporter's choice with the exception that all compensatory time for any calendar year shall be either paid or used by December 1<sup>st</sup> of each year with the discretion of the Court and the Court Reporter to agree to an accrual or saving of a certain balance of compensatory time for the Court Reporter's use as deemed appropriate.

LR60-TR63-1 Appointment of Referee as Judge Pro Tempore

In the absence or unavailability of the presiding Judge of the Owen Circuit Court, the Referee of the Small Claims and Minor Offenses Division of the Owen Circuit Court is automatically appointed as Judge Pro Tempore during such absence or unavailability.

LR60-FL-1 Required parenting class in dissolution of marriage cases.

In all dissolution of marriage cases involving minor children, the parties shall at their own expense attend and complete the Children Cope With Divorce program of the Visiting Nurse Service, Inc. prior to entry of the decree dissolving the marriage of the parties. Upon application to the Court, the Court may at its discretion waive this requirement or allow participation in an equivalent program. Each party shall be individually responsible for complying with this requirement and providing proof of compliance with the Court.

LR60-FL-2 Family Court, Family Court Rules

The Owen Circuit Court operates a Family Court Project, which has been approved by the Indiana Supreme Court. The Owen Circuit Court hereby adopts the Family Court Project Rules, which have been approved by the Indiana Supreme Court.

LR60-FL-2A Definitions

**Family Court** "Family Court" is the court or courts before which cases involving a family or household are linked together for purposes of case coordination. The individual cases maintain their separate integrity and separate docket number, but may be give a common family court designation. The individual cases may all be transferred to one judge or may remain in the separate courts in which they were originally filed.

**Family Court Proceeding A** "Family Court Proceeding" is comprised of the individual cases of the family or household which have been assigned to Family Court.

LR60-FL-2B Exercise of Jurisdiction

The Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child In Need of Services, Delinquency, Status, and Paternity) involving the family.

LR60-FL-2C Concurrent hearings

The Family Court may, in the court's discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. The rule applies only when the cases are pending before the same judicial officer.

LR60-FL-2D Designation of Family Court case and change of judge for cause

Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76.

Within ten (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.

A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court proceeding after the initial selection of cases, shall be granted only for cause.

If a special judge is appointed, all current and future cases in the Family Court proceeding may be assigned to the special judge.

#### LR-60-FL-2E Judicial notice and access to records

Notice of Case Assignment Within a reasonable time after a case is assigned to Family Court, the court shall provide to all parties in the Family Court proceeding a list of all cases that have been assigned to that Family Court proceeding.

Judicial Notice Any court having jurisdiction over a case assigned to Family Court may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court.

If a court takes judicial notice of:

- (a) a court order, the court shall provide a copy of that court order; or
- (b) a CCS or CCS entry(s), the court shall provide a copy of the entire CCS.

The court shall provide copies of the order or CCS to the parties to the case at or before the time judicial notice is taken.

Access to Records Parties to a Family Court proceeding shall have access to all cases within the Family Court Proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.

#### LR60-JV-1 Detention of juveniles, surrender of license

As a condition of release of any juvenile who is taken into custody by any law enforcement officer for a delinquent act, the juvenile's driver's license or permit shall be surrendered and delivered to the Owen Circuit Court.

All Ordered this \_\_\_\_ day of March, 2006.

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FRANK M. NARDI, JUDGE  
OWEN CIRCUIT COURT