

**LOCAL RULES
OF THE
POSEY CIRCUIT AND SUPERIOR COURTS**

(Amended Effective August 1, 2017)

LR65-CR2.2-01 Rule for the Assignment of Criminal Cases in the Posey Circuit and Superior Courts

The Clerk of the Courts of Posey County shall assign criminal cases between the Courts of Posey County as follows:

(A) Felony Cases. Except for any criminal offense charged under I.C. 9-30-5 or I.C. 9-30-10, if a named defendant is on felony probation or has a pending felony case in the Posey Circuit or Posey Superior Court, the case shall be assigned to the court in which the defendant is on felony probation or in which the prior case is pending. Criminal Grand Jury proceedings shall be held in the Posey Circuit Court and any criminal indictment returned filed in the Posey Circuit Court. All other felony cases (MR, FA, FB, FC, FD, F1, F2, F3, F4, F5, and F6) shall be randomly assigned to the Posey Circuit and Superior Courts in accordance with LR65-AR1-03. If more than one defendant is charged in a separate cause number for acts arising out of the same incident or course of conduct, all cases so related shall be assigned to a single court determined randomly in accordance with LR65-AR1-03. The random assignment of related cases shall apply even though one or more of the defendants charged is on probation or has a pending felony case. If an indictment or information contains felony and misdemeanor charges, the case shall be considered a felony case.

(B) Misdemeanor Cases. Misdemeanor cases (CM) shall be assigned to the Posey Superior Court.

(C) OVWI and Habitual Traffic Violator Cases. All criminal offenses under I.C. 9-30-5 and I.C. 9-30-10 shall be assigned to the Posey Superior Court, including any such case in which the Defendant is on probation or has a prior case pending in the Posey Circuit Court.

(D) Post Conviction Relief. Post Conviction Relief Petitions (PC) shall be assigned to the court in which judgment of conviction was entered.

LR65-AR1-02 Rules for Assignment of Civil Cases in the Posey Circuit and Superior Courts

Civil cases shall be assigned between Posey Circuit and Superior Courts as follows:

(A) Mental Health (MH), Juvenile CHINS (JC), Juvenile Delinquency (JD), Juvenile Status (JS), Juvenile Miscellaneous (JM), Juvenile Termination of Parental Rights (JT), Juvenile Paternity (JP), Reciprocal Support (RS), Adoption (AD), Estate Supervised (ES), Estate Unsupervised (EU), Guardianship (GU), Trust (TR), Petition for Change of Name (MI), and Election Recount (MI) shall be assigned to the Posey Circuit Court.

(B) Expungement (XP), Small Claim (SC), Traffic Violation and other Infractions (IF), Local Ordinance Violation (OV), and Petitions for Protective Order (PO) shall be assigned to the Posey Superior Court.

(C) Domestic Relations with Children (DC), Domestic Relations with No Children (DN), Civil Plenary (CP), Civil Collection (CC), Mortgage Foreclosure (MF), Civil Tort (CT), and all other Miscellaneous Civil (MI) cases shall be randomly assigned to the courts in accordance with LR65-AR1-03.

(Amended effective August 1, 2017)

LR65-AR1-03 Rule for Random Assignment of Felony and Civil Cases

The Clerk of the Courts of Posey County shall devise and utilize a plan for the random and equal assignment of all other felony and civil cases required by these rules to be assigned at random to the Posey Circuit and Superior Courts.

In the event a special judge is required under Trial Rule 79(H) in civil cases or under Criminal Rule 13 in criminal cases, the procedures set forth in the District 26 Rule on Special Judge Selection, as set forth below, shall be followed.

**District 26 Rule on Special Judge Selection
TR 79(H), CR 13**

In any District 26 circuit or superior court: 1) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all civil or juvenile proceedings, if the parties shall fail to timely file an agreement in writing to an eligible special judge, or the judge so selected by the parties declines acceptance of the appointment as special judge (all as provided by TR 79 (D)); or 2) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all criminal cases (see CR 12, 13); in all such cases (civil, juvenile and criminal) the appointment of an eligible special judge shall be made pursuant to this District 26 Rule:

1. The case shall be randomly assigned to one of the other judges or full-time judicial officers in the county of origin by the same process in which the case was initially assigned. This process shall be continued until qualification of a special judge or until each judge or full-time judicial officer in the county in which the case originated has been disqualified or been excused from service by the Indiana Supreme Court. If all judges or full-time judicial officers in the county in which the case originated shall disqualify or be excused from service by the Indiana Supreme Court, the judge exercising jurisdiction pending selection of a special judge shall refer the case to the Administrator of the Vanderburgh Superior Court (“Administrator”) for assignment of a special judge. The Administrator shall assign a civil case to a judge or full-time judicial officer eligible for such service pursuant to TR 79(J) and serving in a District 26 court outside the county in which the case originated, or are from a contiguous county outside District 26 and have agreed to serve as special judge in the court where the case is pending. The Administrator shall assign a criminal case to a judge or full-time judicial officer from contiguous counties and counties within District 26. The assignment shall be made as set forth in paragraph 2.

2. The Administrator shall maintain a current list of District 26 judges and full-time judicial officers eligible pursuant to TR 79(J) for appointment as special judge in civil cases, and a current list of judges and full-time judicial officers from contiguous counties and counties within District 26 for appointment as special judge in criminal cases (“Civil and Criminal Cases Special Judge Lists”). Upon referral of a case for assignment of a special judge, the Administrator shall immediately assign a judge or full-time judicial officer from either the civil or criminal Special Judge List seriatim and notify the court where the case is pending of the assignment.

The judicial officer exercising jurisdiction shall enter an order of appointment and notify the judicial officer so selected of the order of appointment. As required by TR 79 (H) or CR 13, the judicial officer appointed to serve under this paragraph 2 must accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79 or CR 13, or excused from service by the Indiana Supreme Court. If the appointed judicial officer is disqualified, ineligible, or excused from service, the Administrator shall again assign from the Special Judge List seriatim. This process shall continue until jurisdiction vests in a special judge so selected. If no judicial officer in District 26 shall qualify, the case shall be referred to the Indiana Supreme Court for appointment of a special judge.

3. As provided by TR 79(H) or CR 13, the order of appointment made pursuant to this District 26 rule by the court in which the case is pending shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.
4. Any judicial officer assigned by the Administrator as special judge who is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79(J), or excused from service by the Indiana Supreme Court, shall remain on the list in the same numeric place from which assigned. The first such judicial officer assigned who does not serve shall accordingly be the first assigned to the next case referred to the Administrator for assignment of a special judge. Unless unavoidable, all District 26 judges and full-time judicial officers eligible for service as a special judge pursuant to TR 79(J) shall serve as a special judge before the Administrator may twice assign the same person from the Special Judge List as a special judge.

LR65-CR2.2-05 Transfer of Cases

The judge of the Posey Circuit or Superior Court may transfer any case to the Posey Superior or Circuit Court, as the case may be, with the permission of the judge of the Court to which the case is to be transferred.

LR65-TR6-06 Extension of Time to Answer Complaint

A thirty (30)-day extension of time to answer the original or any amended complaint in a civil action shall be effective without separate order of the court upon filing of a notice of such extension by the answering party on or before the original answer date.

LR65-TR16-07 Pre-Pretrial Conferences

In all Posey Circuit or Superior Court matters, except original dissolution actions and post-dissolution matters, children in need of services, protective orders, juvenile cases, criminal cases, election recounts and other such statutorily prescribed proceedings and emergency matters, small claim, civil collection, and mortgage foreclosure cases; within 30 days after the issues are closed, the party that initiated the cause shall schedule a pre-pretrial conference with all counsel of record and all pro-se litigants as follows:

(A) This pre-pretrial shall be held in person, or with prior court permission, electronically, within 60 days after the issues are closed.

(B) All attorneys and all litigants shall attend this pre-pretrial. If the location for the pre-pretrial conference cannot be agreed upon, the same shall be held in the court facilities where the case is pending. The judge will not be involved in this pre-pretrial.

(C) The parties and their counsel shall discuss settlement and other Trial Rule 16 matters. A written report shall be prepared, signed by all counsel and pro-se litigants, and shall be filed within 14 days after conclusion of the pre-pretrial.

(D) If all issues are not settled during this pre-pretrial, the parties shall engage in mediation. The parties may agree upon a mediator who is willing to serve or the parties may contact the court to name a panel. The parties shall equally share the costs of mediation unless otherwise determined during the mediation. Plaintiff's counsel shall file a certificate with the court indicating the initial date of mediation and the mediator agreed upon by the parties.

LR65-TR16-08**Original and Post-Dissolution and Paternity Actions**

The following requirements apply in all original and post- dissolution or paternity matters.

(A) In all original domestic relations and paternity actions, except those finalized by a timely agreed summary decree, the parties shall in good faith, conduct an in person pre-pre-trial conference, either at the court or another agreed upon location, during which all issues shall be discussed. In all cases involving minor children, the parties shall attend and pay for the “Trans Parenting” seminar before the final hearing.

(B) As a condition precedent to filing any post-dissolution or paternity matter, the party seeking relief shall make a good faith effort to resolve the matter by seeking an out-of-court resolution and if the matter is not resolved, the party seeking relief shall file a specific verified pleading that the party has, within thirty (30) days prior to seeking relief, made such an effort setting forth the specific actions taken to resolve the matter.

(C) If all issues are not settled at the pre-pre-trial or pre-modification contact required by paragraphs (A) and (B), the parties shall enter into mediation with a mediator agreed upon by the parties or appointed by the court. The Parties shall each pay one-half of the mediation costs unless otherwise ordered. The party, or the party’s attorney, initiating an original action or seeking modification post original decree or judgment, has the obligation to initiate any pre-pre-trial, pre-filing out-of-court contact, or mediation.

(D) These rules do not apply to protection order actions and may be waived in dissolution and paternity matters upon order of the court for good cause shown.

LR65-TR16-9 Guardian Ad Litem

In all cases where the appointment of a Guardian Ad Litem is required by law, the court will appoint an attorney in good standing in the Indiana Bar whose fees and expenses shall be paid by the party or parties initiating the action and/or, if necessary, from public funds at the prevailing pauper attorney rate.

LR65-AR15-10 Court Reporters

Section 1 - Definitions The following definitions shall apply under this local rule 11.

(1) A **Court Reporter** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing and transcribing electronic data.

(3) **Work Space** means that portion of the court's facilities dedicated to each court reporter including, but not limited to, actual space in the courtroom and any designated office space.

(4) **Page** means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) **Regular hours worked** means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.

(7) **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) **Overtime hours worked** means those hours worked in excess of forty (40) hours per workweek.

(9) **Work week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) **Court** means the particular court for which the court reporter performs services. **Court** may also mean all of the courts in Posey County.

(11) **County indigent transcript** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) **Private transcript** means a transcript, including, but not limited to, a deposition transcript and a transcript requested by a party who is not indigent, that is paid for by a private party.

(14) **Minimum fee** means the minimum amount a Court Reporter may charge for a transcript which does not add up to \$40.00 (ten pages or less). The minimum fee may not be charged in addition to the per-page fee.

(15) **Labor fee** is a fee that Court Reporters may charge for the amount of time spent binding the transcript and exhibit binders which is to be figured at an approximate hourly rate based upon the Court Reporter's annual court compensation.

(16) **Office supplies** are the supplies required and utilized for the binding and electronic transmission of the transcripts. The Court Reporter may be reimbursed for the office supplies pursuant to a Schedule of Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(17) **Expedited transcripts** are transcripts that have been requested to be completed by court reporters with a completion date within 30 days from the date ordered.

Section 2 - Salaries and Per Page Fees

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00, including pages prepared for the Index and Table of Contents plus \$4.00 per first page for each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies. The Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts that are not prepared during regular work hours.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00 including pages prepared for the Index and Table of Contents, plus \$4.00 per first page for each exhibit and \$2.00 for each additional page of each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies. Monies shall be paid directly to the court reporter if done during non-regular work hours, or the monies shall be paid directly to the court for any transcripts that are prepared during regular work hours.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00 including pages prepared for the Index and Table of Contents, plus \$4.00 per first page for each exhibit and \$2.00 for each additional page of each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies.

(5) A court reporter shall charge \$1.00 per page for each copy of a transcript.

(6) If a court reporter is requested to prepare a non-indigent transcript, all such work shall be done “off the clock” and generally all such transcripts are to be transcribed outside of regular working hours. Hours worked on transcript preparation for non-indigent transcripts do not count towards “hours worked” for calculation of eligibility for overtime compensation. With the judge’s prior approval, a court reporter may transcribe a non-indigent transcript during the regular work day if the court reporter substitutes any leave time, including compensatory time already earned, for those hours spent during the regular work day transcribing the non-indigent transcript. By doing so, although physically present, the court reporter will be “off the clock.”

(7) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent (transcripts not prepared during regular work hours) or private transcripts to the Indiana Supreme Court Division of State Court Administration. The report shall be made on forms prescribed by the Division of State Court Administration.

(8) Each court reporter may charge a \$14.00 hourly labor fee for the time spent binding the transcript and the exhibits.

(9) Each court reporter may charge for office supplies required and utilized for the binding and electronic transmission of the transcript pursuant to the Schedule of Cost of Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(10) Each court reporter may charge a minimum transcript fee of \$40.00 for transcripts of ten (10) pages or less. No other fees may be charged if a minimum transcript fee is charged.

(11) The maximum per page fee a court reporter may charge for the preparation of a private or county expedited transcript with the completion date of within 30 days shall be twice the amount of a nonexpedited private transcript plus office supply costs pursuant to the schedule of transcript and binding fees.

Section 3 - Private Practice

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must at a minimum designate the following:

- (a) The reasonable market rate for the use of equipment, workspace and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript (“private practice”), all such private practice shall be done “off the clock” and generally all such transcripts are to be transcribed outside of regular working hours. Hours in private practice do not count towards “hours worked” for calculation of eligibility for overtime compensation. With the judge’s prior approval, a court reporter may work in private practice during the regular work day if the court reporter substitutes any leave time, including compensatory time already earned, for those hours spent during the regular work day in private practice. By doing so, even if physically present, the court reporter will be “off the clock.”

Section 4 – Schedule of Cost of Transcript Supplies

The following are the prices court reporters in Posey County’s courts are allowed to charge for the use of each of the following items in the preparation of transcripts:

Compact disk and plastic case (priced together)	\$2.50 for each one used
3.5 Diskette and plastic cover (priced together)	\$1.50 for each one used
Binders (per each binder that is used for a transcript)	\$1.50 for each one used
Labels to identify exhibits	\$0.10 for each one used
Film and cost of development	Actual cost with receipt plus thirty-three (33%) percent
Plastic sleeves for exhibits	\$0.15 for each one used

Any other supplies used will be charged at the cost to the court reporter plus thirty-three (33%) percent.

LR65-TR79-11 Relief from Local Rules

A court, upon its own motion, or upon good cause shown, on a case-by-case basis, may by specific order provide relief from the operation of these local rules.