

# **IN THE RIPLEY COUNTY CIRCUIT AND SUPERIOR COURTS LOCAL RULES OF THE RIPLEY CIRCUIT AND SUPERIOR COURTS**

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# **I. ADMINISTRATIVE RULES**

**LR69-AR-01**

## **CASE ASSIGNMENT AND LOCAL CASELOAD PLAN**

Unless otherwise required by statute, the Clerk of Ripley Circuit Court and Superior Courts and the Prosecuting Attorney of Ripley County, to the extent applicable, are directed to file the following types of cases in the following manner:

- A. All A, B, & C Felonies, all Level 1, 2, 3, 4, and 5 felonies, Murder and related Red Flag, Post Conviction Relief Petitions and Expungements, Juvenile CHINS, Juvenile Delinquent, Juvenile Status, Juvenile Paternity, Juvenile Miscellaneous, Juvenile Termination of Parental Rights, Mental Health, Adoptions, Miscellaneous Estates, Unsupervised Estates, Supervised Estates, Trusts, Guardianships, Grandparent Visitation, Reciprocal Support, Domestic Relations, Domestic Relations with Children, Domestic Relations without Children, Miscellaneous Civil, Civil Plenary, Civil Tort, Commercial Court Eligible, and alternating Miscellaneous Criminal and unrelated Red Flag in the Ripley Circuit Court.
- B. All Level 6 and "D" Felonies, Criminal Misdemeanors and related Red Flag, Post Conviction Relief Petitions and Expungements, Small Claims, Mortgage Foreclosure, Civil Collections, Miscellaneous, Protective Orders, Judicial Review of Administrative Agency Decisions, and alternating Miscellaneous Criminal and unrelated Red Flag, in the Ripley Superior Court. The Prosecuting Attorney may file infractions and ordinance violations in the Ripley Superior Court.
- C. In criminal cases, the most serious count filed shall determine the proper court.
- D. In the event the Prosecuting Attorney dismisses a criminal case and re-files against the same Defendant or files another case in another court involving the same subject matter and Defendant, the case shall be re-filed in the same Court in which the case was originally filed or immediately transferred to the Court in which the same subject matter is pending.
- E. In the event that a Defendant is charged with a Habitual Offender Enhancement wherein Circuit Court Judge Ryan J. King prosecuted said Defendant for an alleged predicate offense(s) and has recused ("recused Defendant") and the State has also filed a Motion to Join one or more other Defendant's case(s) together with the recused Defendant, then Superior Court Judge Jeffrey L. Sharp (or Special Judge from list) may preside over the Motion to Join Hearing(s) and objections thereto, and, if joined, any severance requests and related issues.

If Judge Sharp grants a Motion to Join two (2) or more cases and said cases remain joined and proceed to a joint trial, then Judge Sharp will continue to preside over the joined cases up to and through the joint trial and sentencing, if convicted, of all jointly tried co-defendants.

If a Motion for Joinder is denied or denied as to any Defendant's case; or the cases are later severed; or the cases do not otherwise proceed to a joint trial, then the Defendant(s) cases not proceeding to a joint trial with the recused Defendant's case shall, as a general matter, be transferred to Judge King for further proceedings and/or final disposition. However, if good cause exists, such as a Criminal Rule 4 issue and/or a jury having already been summonsed, Judge Sharp may dispose of said cases as necessary.

This subsection is to be construed so as to fulfill the purpose of allowing Defendant cases to be tried together so long as a Judge finds that doing so is appropriate, but also to ensure criminal cases are assigned as they otherwise would be, absent a joint trial, and pursuant to the case allocation plan.

#### **LR69-AR-02                      CONTINUANCES**

- A. All requests for continuances shall be made as soon as the reason therefore has been discovered or should have been discovered. All motions shall, except in the event of an emergency or in open court, be in writing and on file with the Court no later than ten (10) days prior to the scheduled matter unless the motion is accompanied by an affidavit that the reasons for the continuance have occurred within the ten (10) day period. Exceptions may be granted for matters scheduled with less than ten (10) days' notice.
- B. Each motion shall contain the reason for the requested continuance, that counsel has contacted opposing counsel and opposing counsel's response to the request and the amount of court time required for the hearing or trial. and shall be accompanied by sufficient copies of a Chronological Case Summary Entry which will allow the Court to notify all parties of rescheduling of the matter. Agreement of counsel does not necessarily mean the motion will be granted.
- C. The Court may require any written motion for continuance to be signed by the party requesting the continuance in addition to his or counsel and may require the motions to be served on the parties as well as the attorneys and on the victim or victim's family in a criminal case.
- D. The Court, in its discretion, may assess any costs and expenses necessarily incurred by the Court, the County or parties as a result of continuances or delays.

#### **LR69-AR-03                      COURTHOUSE SECURITY**

No person shall enter the Ripley County Courthouse carrying a deadly weapon of any kind or type, whether carried openly or concealed. This rule does not apply to law enforcement officers under Indiana Code 35-41-1-17 or federal enforcement officers.

#### **LR69-AR-04                      TRANSCRIPTS**

- A. A court reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the Court during any regular work hours, gap hours or overtime hours.
- B. A \$5.50 per page fee may be charged for county indigent transcript preparation.
- C. The court reporter shall submit directly to the county a claim for the preparation of the county indigent transcript.
- D. A \$5.50 per page fee may be charged for non-appellate transcript preparation.
- E. A \$2.25 per page fee may be charged for copies of transcripts.
- F. A \$2.25 per page fee may be charged for copies of exhibits to be included in the transcript.

- G. A minimum fee of \$50.00 per transcript preparation may be charged.
- H. Index and Table of Contents pages may be charged at the per page rate of \$5.50.
- I. An additional labor charge of \$25.00 per hour may be charged for time spent binding the transcript and exhibit volumes.
- J. An expedited fee of \$7.00 per page may be charged for an expedited transcript where the transcript must be prepared within five (5) working days.
- K. A reasonable charge for the office supplies required and utilized for the binding and electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, may be charged; the costs of these supplies will be established and published annually by the judges of the County.
- L. When a non-appellate transcript is requested, a party must make satisfactory arrangements with the court reporter for payment of the cost of the transcript. Payment for appellate transcripts shall be in accord with Appellate Rule 9 H.
- M. The court reporter shall report on an annual basis to the Indiana Office of Court Services, on forms prescribed by the Indiana Office of Court Services, all transcript fees (either county indigent, state indigent or private) received by the court reporter.
- O. If a court reporter elects to engage in private practice through 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 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:
  - 1. The reasonable market rate for the use of equipment, work space and supplies
  - 2. The method by which records are to be kept for the use of equipment, work space and supplies; and
  - 3. The methods by which the court reporter is to reimburse the court for the use of equipment, work space and supplies.
- P. If a court reporter elects to engage in private practice through recording a deposition and/or the preparing of a deposition transcript, that such private practice shall be conducted outside of regular working hours; and
- Q. The Court shall enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e., either monetary compensation or compensatory time off regular work hours.

1. No cameras or recording equipment will be permitted above the first floor of the Ripley County Courthouse and in no event will any video or still camera or recording device be permitted in the Courtroom at any time, without prior approval of the Court. News media requesting to record, televise, stream, and/or take pictures in compliance with Code of Conduct Rule 2.17, shall present verified news media credentials for the Court's consideration. No interviews will be conducted above the first floor of the Courthouse.

The Dearborn Superior Court No. 1 Veterans Treatment Court, hereinafter named the Southeastern Indiana Veterans Treatment Court, shall be available for all other courts in District 22 to refer cases to. If any referring district court identifies a potential United States Veteran with a pending felony or misdemeanor criminal charge, and the referring judge, prosecuting attorney, and defense attorney agree to the referral for potential placement in Veterans Court, then the referring judge, prosecuting attorney, or defense attorney shall contact the Veterans Court Coordinator to arrange assessments to determine eligibility and appropriateness.

If a participant is accepted into the Veterans Treatment Court, the referring court shall maintain jurisdiction of the case, and hold the guilty plea and potential sentencing hearing. All court costs, fines, restitution, and probation fees shall be collected and received by the referring court. If a participant is accepted into the Southeastern Indiana Veterans Treatment Court, the Judge of the Dearborn Superior Court No. 1 shall oversee all of the participant's Veterans Treatment Court proceedings, hearings, incentives, sanctions, potential termination hearing and potential graduation hearing. The Judge of the Dearborn Superior Court No.1 shall have authority to issue arrest warrants when necessary for a sanction or termination. Sanctions involving incarceration shall be served inside the Dearborn County Law Enforcement Center. The schedule of fees set forth under Indiana Code 33-23-16-23 shall be applicable in the Southeastern Indiana Veterans Treatment Court and procedures of assessment and collection of fees pursuant to Problem Solving Court Rules Section 16 shall be followed and received by the Southeastern Indiana Veterans Treatment Court.

All guilty plea and sentencing hearings shall be held in the courtroom of the referring court. All other Veterans Treatment Court hearings shall be held in the Dearborn Superior Court No. 1 courtroom.

If the participant is terminated from Veterans Treatment Court, then the referring court shall maintain jurisdiction over the case and shall be responsible for sentencing. If the participant graduates from Veterans Treatment Court, then the referring court shall ensure that any appropriate dismissal of charges or imposition of the appropriate plea agreement terms of sentence are imposed.

**RULES FOR EVIDENCE HANDLING, RETENTION AND DISPOSITION****Retention Periods for Evidence Introduced in All Non-criminal Proceedings.**

All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

**Retention Periods for Evidence Introduced in Criminal Misdemeanor, Level 6 Felonies, Conspiracies, and Attempts.**

All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the court, three (3) years after the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

**Retention Periods for Evidence Introduced in Level 1-5 Felonies and Attempts.**

All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

**Retention Periods for Evidence Introduced in Murder, Life without Parole, and Death Penalty Cases.**

All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter should be retained for the lifetime of the defendant in cases where the defendant is found guilty.

**Biologically Contaminated Evidence**

A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the court may consider the issue and rule appropriately before trial. A party may show contaminated evidence or pass photographs of it to jurors, but no such evidence, however contained, shall be handled or passed to jurors or sent to the jury room.

## **Notification and Disposition**

In all cases, the court will notify all attorneys of record and/or parties, that the evidence will be destroyed by a date certain, if not retrieved before that date. Counsel and parties have a duty to keep the court informed of their current addresses and notice to the last current address shall be sufficient. At the time of removal, a detailed receipt shall be given to the court reporter by the party receiving and removing the evidence. The receipt will be made part of the court file.

In a criminal case, upon a dismissal or not guilty finding, the party submitting the evidence shall retrieve said evidence within thirty (30) days of case closure, unless otherwise ordered by the Court.

In all cases, evidence which is not taken back after notice shall be disposed of by the Sheriff or other law enforcement agency on the court's order. Said agency shall destroy the material if its possession is illegal or if it has negligible value. Anything of value should be auctioned by the Sheriff with proceeds going to the county general fund.

## **LR69-AR-08                      SPECIAL JUDGE REASSIGNMENT**

In the event it becomes necessary to reassign a criminal case under AR 21, in the Ripley Circuit or Superior Court, the Clerk shall first reassign the case to the other sitting Ripley County Judge and if that Judge cannot serve, then the Clerk shall reassign the case on a rotating basis from the following list of judges in consecutive order:

1. Judge of the Dearborn-Ohio Circuit Court;
2. Magistrate of the Dearborn-Ohio Circuit Court;
3. Judge of the Dearborn Superior Court 1;
4. Judge of the Dearborn Superior Court 2;
5. Judge of the Decatur Circuit Court;
6. Judge of the Decatur Superior Court;
7. Magistrate of the Decatur Circuit/Superior Court;
8. Judge of the Franklin Circuit Court 1;
9. Judge of the Franklin Circuit Court 2;
10. Judge of the Jefferson Circuit Court;
11. Judge of the Jefferson Superior Court;
12. Magistrate of the Jefferson Circuit/Superior Court;
13. Judge of the Jennings Circuit Court;
14. Judge of the Jennings Superior Court;
15. Magistrate of the Jennings Circuit/Superior Court;
16. Judge of the Switzerland Circuit Court

## **II. TRIAL RULES**

### **LR69-TR-01**

### **SPECIAL JUDGE APPOINTMENT**

In the event it becomes necessary to appoint a special judge under Trial Rule 79(H), in the Ripley Circuit or Superior Courts, the Clerk shall first reassign the case to the other sitting Ripley County Judge and if that Judge cannot serve, then the Clerk shall reassign the case on a rotating basis from the following list of judges in consecutive order:

1. Judge of the Dearborn-Ohio Circuit Court;
2. Magistrate of the Dearborn-Ohio Circuit Court;
3. Judge of the Dearborn Superior Court 1;
4. Judge of the Dearborn Superior Court 2;
5. Judge of the Decatur Circuit Court;
6. Judge of the Decatur Superior Court;
7. Magistrate of the Decatur Circuit/Superior Court;
8. Judge of the Franklin Circuit Court 1;
9. Judge of the Franklin Circuit Court 2;
10. Judge of the Jefferson Circuit Court;
11. Judge of the Jefferson Superior Court;
12. Magistrate of the Jefferson Circuit/Superior Court;
13. Judge of the Jennings Circuit Court;
14. Judge of the Jennings Superior Court;
15. Magistrate of the Jennings Circuit/Superior Court;
16. Judge of the Switzerland Circuit Court

### **LR69-TR-02**

### **PREPARATION OF COURT DOCUMENTS**

- A. A party filing any type of motion shall, at the time of filing, submit a proposed order with sufficient copies and pre-addressed, stamped Clerk's envelopes to provide copies to all parties.
- B. The A motion for hearing, trial or continuance shall contain a statement estimating how much court time will be required for the hearing or trial.
- C. A party agreeing or directed by the Court to prepare an order, judgment or decree, shall do so in accord with the directives of the Court and Trial Rule 58(B). Proposed orders and judgment shall be on pages separate from the motion. Parties in Domestic Relations cases, (Domestic Relations with Children, Domestic Relations without Children), shall submit proposed Dissolution Decree and, in all cases calling for child support, a Child Support Income Withholding Order.
- D. All orders, judgments and decrees shall have, in the lower left-hand corner of the signature page, a distribution list with the name, and mailing address and/or email address of each party or attorney to receive a copy of the same.
- E. Every person filing a pleading that requires service shall clearly designate the manner of service, e.g. certified mail or Sheriff.



It shall be the duty of the debtor's bankruptcy attorney to file with the Court, a notice of bankruptcy, setting for the date of the bankruptcy filing, the bankruptcy court location and case number, and an affirmation that the opposing party has been duly listed on the bankruptcy petition.

In all cases in which the Court retains a continuing jurisdiction and retained legal counsel and client do not wish to continue representation, counsel shall, at the conclusion of the matter for which counsel was retained, submit a motion to withdraw from representation and a proposed order.

### **III. CRIMINAL RULES**

All plea agreements shall be submitted, in writing, to the Judge of the appropriate Court no later than twenty-one (21) days prior to the trial date.

- A. Bail for A, B, C, or D Felonies, all Level 1, 2, 3, 4, 5, and 6 Felonies, murder and any probation violations for those offenses shall be fixed at the initial hearing or by order of the Court.
- B. Bail for the following offenses is fixed according to the following schedule:

Misdemeanors	\$500.00
Probation violation of Class A, B or C Misdemeanors, other than commission of an additional offense	\$500.00

In the event that an individual is incarcerated and has pending criminal charges or is on probation, the Courts consider that factor to increase the risk of the individual's non-appearance and, accordingly, fixes bail at an amount equal to the bail fixed above, times the number of pending cases.

- C. Individuals arrested for Domestic Battery shall not be let to bail less than forty-eight (48) hours from the time of arrest unless otherwise ordered by the Court.
- D. Bail shall be posted by the defendant only and accepted by cash.
- E. The Clerk of the Courts shall collect an administrative fee on each bail bond in the amount of \$50.00 plus a \$5.00 Special Death Benefit fee pursuant to I.C. 35-33-8-3.2.

- F. Any defendant arrested without a warrant shall be released on his own recognizance forty-eight (48) hours after his arrest unless a Judge of the Circuit Court or Superior Court has issued a finding within forty-eight (48) hours of the arrest that probable cause existed for the arrest.

### **LR69-CR-03 PRE-SENTENCE AND PRE-DISPOSITIONAL REPORTS**

All pre-sentence investigations and pre-dispositional reports shall be submitted to the Court, counsel and/or the parties no later than five (5) days prior to the sentencing or dispositional hearing.

## **JURY RULES**

### **LR69-JR-01 JURY SELECTION**

Jury selection for the Ripley Circuit Court and the Ripley Superior Court shall be conducted pursuant to the Indiana Jury Rules in effect January 1, 2019. Jury selection shall be administered as directed by the Courts for Ripley County by members of the Court staff and such other jury administrators as appointed by the Courts.

### **LR69-JR-02 JURY SAFETY AND PRIVACY**

Juror questionnaires shall be handled in accordance with Jury Rule 10 and Indiana Administrative Rule 9(G)(1)(b)(xii). Thus, juror questionnaires shall not be re-copied, duplicated or distributed by counsel or the parties, and shall be returned to the Court at the conclusion of trial in order to safeguard juror privacy.

## **V. FAMILY RULES**

### **LR69-FL-01 TRANSPARENTING CLASS**

In any dissolution of marriage, paternity or legal separation proceeding where there remain minor children born of the marriage or relationship, both the father and mother shall complete the Transparenting Class or equivalent program approved by the Court within sixty (60) days after the filing of the petition and file with the Court a certification of completion. Each party shall bear their own costs for the program with an allowance for waiver. No final hearing will be scheduled until both certificates are on file with the Court. Failure to complete the program within the required time period shall be punishable by contempt. Completion of the program shall not be waived except in unusual circumstances approved by the Court. The parties are directed to contact the Transparenting Class within ten (10) days of service of summons at (513)405-6198 to make an appointment to attend the program. Counsel for petitioner is responsible for notification of their clients of the requirements of this rule.

- A. **Requirement:** In all relevant family law matters, including dissolutions, legal separations, paternity and post decree support or maintenance proceedings, the moving party shall prepare and serve a Financial Declaration Form on the opposing party or their counsel within thirty (30) days of the date of the filing of the action. The responding party shall prepare and serve a Financial Declaration Form (available from the clerk's office) within twenty (20) days after receipt of service of the moving party's declaration.
- B. **Exceptions:** The Financial Declaration Form need not be exchanged nor settlement conference conducted if:
1. The parties agree in writing to waive exchange;
  2. The parties have executed a written agreement which settles all financial issues.;
  3. The proceeding is one in which the service is by publication and there is no response;
  4. The proceeding is post-decree and concerns issues without financial implications. Provided, however, when the proceeding is post-decree and concerns only an arrearage, the alleged delinquent party shall complete the entire Form, while the support recipient need complete merely that portion thereof which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation); or,
  5. Where the gross marital estate in a dissolution or legal separation is \$5,000.00 or less.
- C. **Admissibility:** Subject to specific evidentiary challenges, the Financial Declaration shall be admissible into evidence upon filing and shall comply with Indiana Administrative Rule 9 and Indiana Rule of Trial Procedure 5(G),
- D. **Supporting Documents:** For the purpose of providing a full and complete verification of income, assets, liabilities and values, each party shall attach to the Financial Declaration Form all information reasonably required and reasonably available. At the minimum, this shall include income tax returns and supporting documentation and current wage records. "Reasonably available" means material which may be obtained by letter accompanied with an authorization but does not mean material that must be subpoenaed or is in the possession of the other party. The Court may require either party to supplement such Financial Declaration with appraisals, bank records, and other evidence to support the values set out therein.
- E. **Financial Declaration-Mandatory Discovery:** The exchange of Forms constitutes mandatory discovery. Thus, **INDIANA TRIAL RULE 37** sanctions apply. Additionally, pursuant to **INDIANA TRIAL RULE 26(e)(2) and (3)**, the Form shall be supplemented if additional material becomes available.
- F. **Settlement Conference:** Within ninety (90) days of the date of filing conduct and verify to the Court that a settlement conference between the parties and counsel has been conducted and report to the Court any stipulations or agreement which have arisen from the settlement conference. This section of the rule shall not apply unless both parties are

represented by counsel.

G. **Child Support:** In all matters involving support, each party shall submit to the Court a completed Child Support Obligation Worksheet, adopted as part of the Indiana Child Support Rules and Guidelines, with supporting documentation within sixty (60) days of the filing of the petition,

H. **Forms:** The Financial Declaration Form and Child Support Obligation Worksheet is available from the Clerk.

#### **LR69-FL-03                      PRO SE LITIGANTS FOR DISSOLUTION OF MARRIAGE**

The Clerk shall distribute a notice provided by the Court to all persons filing a pro se petition for dissolution of marriage together with a copy of LR69-02 and Financial Declaration Form and, if applicable, LR69- FL-01 with a Child Support Obligation worksheet and Child Support Guidelines along with a copy of the Indiana Supreme Court Parenting Time Guidelines.

#### **LR69-FL-04                      EX PARTE EMERGENCY CUSTODY OR EX PARTE GUARDIANSHIPS OF MINOR CHILDREN**

Whether in the context of a dissolution of marriage, paternity, guardianship, or any other proceeding, where one is seeking ex parte or emergency custody of a child or ex parte emergency guardianship of a minor child, the following minimum information will be required:

1. A sworn verified motion or petition signed by the person seeking relief.
2. The full name, physical and mailing address of the petitioner or movant, and their relationship to the child or children for whom they are seeking custody or guardianship.
3. The full name, date of birth, and age of the child or children for whom custody or guardianship is being sought.
4. The length of time the child or children have been in the petitioner's or movant's physical custody, and a brief description of the circumstances as to how such physical custody occurred. If the child or children are in another's physical custody, the same information is required including that person's relationship to the child or children.
5. The name and physical, and mailing, address of every other person who has legal or physical custody of the child or claims such right, including, but not limited to, the biological mother, the biological father, or putative father(s). If it is claimed an address is unknown, then the Court shall be advised what efforts have been undertaken to locate said person and their last known physical and mailing address.
6. If any other interested party is represented by counsel, or known to have counsel, what efforts have been undertaken to advise other counsel of the pending ex parte request and other counsel's response.
7. A complete copy of the most recent custody order in effect, if any.
8. A statement whether the person seeking emergency ex parte custody or guardianship has had their visitation or custodial rights to any of said child or children limited, restricted, or

suspended in any way by prior court order.

9. The existence of any pending CHINS proceeding, or equivalent out-of-state proceeding, other involvement by a child welfare agency and whether custody proceedings or guardianship proceedings regarding the child or children are pending in or have been filed in another court and, if so, sufficient information to apprise the court of the place and nature of the proceedings.