

**STATE OF INDIANA – COUNTY OF WELLS
IN THE WELLS CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed New Rule or Amendments to Local Court Rules
Notice of Proposed Amendment of Local Rule for a Caseload Allocation Plan
for the Courts of Record of Wells County
October 12, 2022**

In accordance with Trial Rule 81 and Administrative Rule 1(E) of the Indiana Court Rules, the Wells Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rules for the courts of record of Wells County, effective January 1, 2023. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Local Rules for caseload allocation plans pursuant to Administrative Rule 1(E) special judges selection and court reporter fees require Supreme Court approval and may not take effect until approved by the Supreme Court.

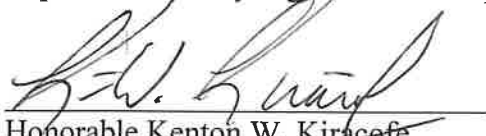
The time period for the bar and the public to comment shall begin on October 14, 2022, and shall close on November 14, 2022. The proposed amendments to the rule will be adopted, modified or rejected before December 14, 2022, and, if required, the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than December 21, 2022.

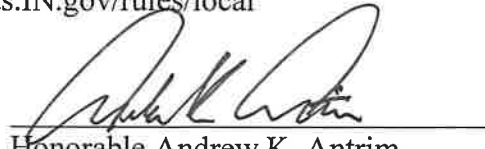
Comments by the bar and the public should be made in writing and mailed, or emailed, to:

Hon. Kenton W. Kiracofe, Judge of the Wells Circuit Court, Attn: Public Comment on Local Rules, Wells County Courthouse, 102 West Market Street, Bluffton, Indiana 46714; or 90c01j@wellscounty.org.

A paper copy of the proposed amended local rule(s) will be made available for viewing in the office of the Clerk of Wells County, Wells County Courthouse, 102 West Market Street, Bluffton, Indiana 46714, during normal business hours. Persons with Internet access may view the proposed amended local rule for Caseload Allocation Plan at the following websites:

<https://wellscounty.org/clerk> or <http://www.courts.IN.gov/rules/local>


Honorable Kenton W. Kiracofe
Judge, Wells Circuit Court


Honorable Andrew K. Antrim
Judge, Wells Superior Court

WELLS COUNTY LOCAL COURT RULES

Table of Contents

LR90-TR-79-01	Selection of a Special Judge Pursuant to Trial Rule 79(H)
LR90-CR2.2-01	Criminal Case Assignments
LR90-CR00-01	Bail in Domestic Violence Cases Filed in Wells Superior Court
LR90-CR00-02	Bail Bond Schedule for Wells Superior Court
LR90-CR00-03	Bail Bond Schedule for Wells Circuit Court
<u>LR90-CR00-04</u>	<u>Appointed Counsel – Termination of Representation</u>
<u>LR90-CR00-05</u>	<u>Appointed Counsel</u>
LR90-AR00-1	Failure to Appear
<u>LR90-AR00-2</u>	<u>Withdrawal of Appearance</u>
<u>LR90-AR00-3</u>	<u>Appointed Counsel – CHINS/Termination of Parental Rights - Termination of Representation</u>
LR90-AR01-1	Caseload Allocation Plan for Wells Circuit and Superior Courts
LR90-AR01-2	Sitting of Judges in Civil Cases
LR90-AR01-3	Facsimile Transmissions
LR90-AR15-1	Court Reporter Services
LR90-AR17-1	Audio and/or Video Recording of Court Proceedings
<u>LR90-AR18-1</u>	<u>Retention Periods for Evidence</u>
LR90-JR2-01	Jury Pool

LR90-JR4-01	Two-Tier Jury Notice and Summons Procedure
LR90-FL00-01	Families in Transition Program
LR90-FL00-02	Good Faith Mediation
<u>LR90-FL00-03</u>	<u>Financial Declarations, Child Support Obligation Worksheets</u>
<u>LR90-FL00-04</u>	<u>Temporary Restraining Orders</u>
<u>LR90-FL00-05</u>	<u>Interrogatories</u>
LR 90–AR19–1	Court Building Security

LR90-TR-79-01 Selection of a Special Judge Pursuant to TR 79(H)

Pursuant to TR 79(D) - Within seven (7) days of the notation on the Chronological Case Summary (CCS) of an order granting a change of judge or an order of disqualification, the parties may agree to the appointment of an eligible special judge. An eligible special judge is a judge, a full-time judicial officer, or a senior judge assigned to the Court. The agreement of the parties must be in writing and filed in the Court where the case is pending.

If the selection of a special judge is not agreed upon, then the remaining full-time ~~judge~~ judicial officer in the county shall be named as special judge. If that judge cannot serve, then the Court shall appoint a special judge on a rotating basis from the remaining full-time ~~judges~~ judicial officer within the district as follows: Adams Circuit Court, Adams Superior Court, Huntington Circuit Court, Huntington Superior Court, Wabash Circuit Court, and Wabash Superior Court. If that judge cannot serve, then the ~~Clerk~~ Court shall continue the appointment process until a special judge is selected.

If no ~~judge~~ full-time judicial officer is eligible to serve as special judge, or if the particular circumstances of the case warrants the selection of a special judge by the Indiana Supreme Court, then the Court shall certify that fact to the Indiana Supreme Court.

(Amended effective January 1, 2013; as further amended effective January 1, 2018)

LR90-CR2.2-01 Criminal Case Assignments

(A) Case Assignment

For crimes allegedly committed on or before June 30, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Class C felony or greater shall be assigned to the Wells Circuit Court. All misdemeanor criminal cases not associated with a felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

For crimes allegedly committed on or after July 1, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Level 5 felony or greater shall be assigned to the Wells Circuit Court. All criminal misdemeanor cases not associated with a Level 5 charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

Any case wherein there is a charge against a person who has one or more charges pending in the Wells Circuit Court, said case shall be filed in Circuit Court, regardless of the level of the charges to be filed in the new case. Any case pending in the Wells Superior Court at the time of the filing of a new case in Circuit Court, said case shall be transferred to Circuit Court immediately after the filing of the new case.

Criminal Non-support;

Any case wherein there is a charge of criminal non-support, said case shall be assigned to the court which, at the time of the filing, has jurisdiction of the matter in which the support obligation is established. If neither court established the support obligation upon which the charge is predicated, the case shall be filed in accordance with the rules previously set forth. It is the objective of this provision to eliminate two courts addressing the same party and related issues.

Invasion of Privacy:

Any case wherein there is a charge of invasion of privacy under I.C. 35-46-1-15.1 (as it now reads or may be amended in the future) with respect to an underlying order issued by the Wells Circuit Court or the Wells Superior Court, said case shall be filed in the court in which the underlying order was issued. If neither court has entered such an order, the case shall be filed in accordance with the rules previously set forth.

(B) Refiling and Subsequent Filings

When the State of Indiana dismisses a criminal cause and later chooses to refile the cause or to refile another charge related to the incident which was the basis for the original charge, the case shall be assigned to the court from which the original dismissal was taken.

(C) Reassignment

Where a change of judge is granted pursuant to Ind. Criminal Rule 12(B) or an order of disqualification or recusal is entered, the case shall be reassigned pursuant to the Ind. Criminal Rule 13(C) as follows:

1. When the presiding judge of Wells Circuit Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Superior Court.
2. When the presiding judge of Wells Superior Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Circuit Court.
3. In the event that a reassignment cannot be accomplished as set forth above, the Court shall appoint a Special Judge from the following list, comprising ~~courts contiguous to and within the same administrative district as Wells County~~ full-time judicial officers within the same administrative district as Wells County.

The Judge of the Adams Circuit Court
The Judge of the Adams Superior Court
The Judge of the Huntington Circuit Court
The Judge of the Huntington Superior Court
The Judge of the Wabash Circuit Court
The Judge of the Wabash Superior Court

The ~~Clerk Court~~ shall select the first judge for the first case requiring assignment after adoption of these rules and selecting each judge thereafter on a rotational basis and in order of their placement on this list.

(D) Sitting of the Judges

The judge of the Wells Circuit Court may sit as judge of the Wells Superior Court in all criminal matters when the judge of the Wells Superior Court is unavailable without further request or consent. The judge of the Wells Superior Court may sit as judge of the Wells Circuit Court in all criminal matters when the judge of the Wells Circuit Court is unavailable without further request or consent.

(E) Supreme Court Appointment

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

(As amended effective July 1, 2014; and further amended effective January 1, 2018)

LR90-CR00-01 Bail in Domestic Violence Cases Filed in Wells Superior Court

Inasmuch as Article I, Section 17 of the Indiana Constitution provides that all criminal offenses other than murder or treason shall be bailable, the Wells Superior Court now establishes the following procedures and bond schedule for Domestic Violence Offenses filed in Wells Superior Court:

1. All prior orders of Wells Superior Court establishing bonds are hereby set aside insofar as they may be in conflict with this Rule.
2. For purposes of this Rule, Domestic Violence Offenses shall include the following:
 - a. Domestic Battery, as a ~~Class-D~~ Level 6 felony or Class A Misdemeanor.
 - b. Battery of a spouse, intimate partner (as defined by 18 U.S. Code, sec. 2266) or a child as a ~~Class-D~~ Level 6 felony or a Class A Misdemeanor.
 - c. Invasion of Privacy involving a spouse or intimate partner.
 - d. Stalking.
 - e. Telephone Harassment involving a spouse or intimate partner.
 - f. Residential Entry of a spouse's or intimate partner's residence.
3. The initial bond for the above listed Domestic Violence Offenses shall be \$25,000 and shall be posted by a surety or 100% cash. No ten percent cash bond shall be posted.

4. Unless, at the initial hearing of the Defendant or at a subsequent bond reduction hearing if one is held, the alleged victim of the offense is present or there is proof that the alleged victim has been notified of the hearing and unless the State provided at such hearing clear and convincing evidence that the Defendant poses a risk to the physical safety of another person or the community (I.C. 35-33-8-5) the Court shall, upon request of the Defendant, reduce the Defendant's bond to the amount the Court's standard bond schedule requires for the class of offense had it not been a Domestic Violence Offense. The Court may also add additional conditions of release to the bond, including, but not limited to:

- a. Anger management counseling.
- b. Substance abuse counseling.
- c. Electronic monitoring.
- d. GPS tracking.
- e. Juris monitors.
- f. No contact or no violent contact protective order.
- g. Prohibition of possession of firearms.
- h. Periodic reporting to a probation officer.

5. In determining whether, or to what extent, the Defendant's bond should be reduced, the Court may consider one or more of the following factors:

- a. Any history of domestic violence as documented by police reports and/or convictions.
- b. Whether the frequency or severity of violence appears to be escalating.
- c. Threats of retaliation either directly toward the victim or indirectly toward the children.
- d. Use or threatened use of a weapon.
- e. Defendant's prior criminal history.
- f. Danger posed to the public, including threats to victim's family or co-workers.
- g. Defendant's alleged use or possession ~~or~~ of alcohol or a controlled substance.
- h. Defendant's access to the victim.
- i. Defendant's mental and physical health.
- j. Defendant's threats of suicide

LR90-CR00-02**Bail Bond Schedule for Wells Superior Court**

(A) In all criminal cases filed in Wells Superior Court except Domestic Violence Offenses as defined in LR90-CR00-01, a defendant who has not failed to appear in the past may execute a bail bond by depositing cash in an amount equal to ten percent (10%) of the aggregate bond. In such case, the following conditions shall apply to said bond:

1. An administrative fee of ten percent (10%) or fifty dollars (\$50), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana;
2. The bond must be posted in the name of the defendant;
3. The bond is considered a personal asset of the defendant; and
4. Upon conviction, the bond shall be available for payment of court costs, restitution, fine, court-ordered fees, and reimbursement of public defender fees to the county, in the above order of priority. Any balance remaining shall be refunded to the defendant.

(B) Except as provided in LR 90-CR00-02, in all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or prior to June 30, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Habitual Offender	\$50,000.00
Class A Felony	\$30,000.00
Class B Felony	\$20,000.00
Habitual D Felony Offender	\$15,000.00
Class C Felony	\$10,000.00
Class D Felony	\$5,000.00
Class A Misdemeanor	\$1,500.00
Class B Misdemeanor	\$1,000.00
Class C Misdemeanor	\$500.00

In all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or after July 1, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Level 1 Felony	\$30,000.00
Level 2 or 3 Felony	\$20,000.00
Level 4 or 5 Felony	\$10,000.00
Level 6 Felony	\$5,000.00
Class A Misdemeanor	\$1,500.00
Class B Misdemeanor	\$1,000.00
Class C Misdemeanor	\$500.00

(C) Anyone who is intoxicated at the time of incarceration should not be released until sober.

(D) In any case where cash bond is deposited, the receiving officer shall advise the person posting such bond of the above-stated conditions; however, failure to advise any such person of these conditions shall not constitute a waiver of said conditions.

(E) Upon issuance of a criminal bench warrant, the amount of bail specified in this rule shall be endorsed on the warrant.

(F) The Court may increase or diminish the amount of bond specified under this rule or permit the posting of a cash bond in lieu of accepting any property or surety bond as required by this rule in any justifiable case.

(G) Any person charged with a violent crime resulting in bodily injury shall be prohibited from any direct or indirect contact with the alleged victim for ten (10) days from the date bail is posted or until the initial hearing, whichever occurs first. (I.C. 35-33-8-3.6).

(As amended effective July 1, 2014)

LR90-CR00-03**Bail Bond Schedule for Wells Circuit Court**

This bond schedule applies to all cases filed in the Circuit Court of Wells County, Indiana to the setting of bond on warrants issued on all criminal informations or indictments, unless otherwise specified by court order or on the warrant. On all warrantless arrests, bail will be determined at the initial hearing or upon a determination of probable cause.

OFFENSE CLASS	BAIL AMOUNT	BOND AMOUNT & METHOD
Murder	No Bond	No Bond
Habitual Offender & Habitual Substance Offender	\$50,000	\$50,000 Cash or Surety
Class A or Level 1 Felony	\$30,000	\$10,000 Cash Bond & \$20,000 Surety
Class B or Level 2 or 3 Felony	\$20,000	\$10,000 Cash Bond & \$10,000 Surety
Class C or Level 4 or 5 Felony	\$10,000	\$5,000 Cash Bond & \$5000 Surety
Class D or Level 6 Felony	\$5,000	\$5,000 Cash Bond
Sex Offenses: · IC 35-42-4 et seq.	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 hours of arrest.
Crime of Domestic Violence · See exceptions below	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 of arrest.
Class A Misdemeanor	\$1,500	\$1,500 Cash Bond
Class B Misdemeanor	\$1,000	\$1,000 Cash Bond
Class C Misdemeanor	\$500	\$500 Cash Bond

Bonds are Cumulative: If multiple charges are filed, the bond applied shall be the total amount required for all charges.

Impaired Persons: No person shall be released with a breath alcohol level of .08% or higher or who appears to be under the influence of alcohol or drugs or a combination of both. The Sheriff's Department shall use the chart set forth at I.C. 35-33-1-6 to determine the minimum number of hours an impaired person should be detained prior to release.

Exceptions to bond schedule: The bond schedule shall not be used for, nor be applicable to the following charges:

- 1) Sex offenses
 - a. An individual charged with a sex offense (IC 35-42-2) shall not be admitted to bail until the Court has conducted a bail hearing.

- 2) Domestic violence offenses:
 - a. An individual charged with a crime of domestic violence shall not be admitted to bail until the Court has conducted a bail hearing.
 - b. IC 35-33-1-1.7 defines a crime of domestic violence as:
 - i. Having as an element either the use of physical force or the threatened use of a deadly weapon, and
 - ii. Was committed against:
 1. Defendant's current or former spouse, parent or guardian;
 2. a person with whom the defendant shared a child in common;
 3. a person who was cohabitating with or had cohabitated with as if a spouse, parent or guardian; or
 4. a person who was or had been similarly situated to a spouse, parent, or guardian of the Defendant.

Methods of posting bail: Depending on the type and level of the crime(s) charged, a defendant may post bail in one of the four following ways.

1. Cash Bond: The defendant may execute a bail bond by depositing with the Clerk of the Court (through the Sheriff of Wells County) cash in an amount not less than ten percent (10%) of the cash bail.
 - a. Whenever a cash bond is deposited, the receiving officer or the Clerk of the Court shall advise the defendant and the person depositing the cash on the defendant's behalf of the following:
 - i. The deposit is considered to be a personal asset of the defendant
 - ii. Upon conviction, the bond shall be available for the payment of court costs, fines, restitution, public defender fees, and may also be applied to attorney fees. Any remaining balance shall be returned to the defendant.
 - iii. An administrative fee of ten percent (10%) or fifty dollars (\$50.00), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana.
 - iv. That should the Defendant fail to appear the Court may enter a judgment for the full bail amount after notice and hearing.
2. Surety Bond: The defendant may execute a bail bond with sufficient solvent sureties in an amount equal to the surety bond amount.
3. Cash: The defendant may post with the Clerk the full bail amount.
4. Real Estate Bond: All real estate bonds shall be granted only after notice is sent to the prosecuting attorney by the defendant or his counsel and a hearing is conducted to determine whether the value of the real estate is of sufficient value to satisfy the full bail amount.

Adjustment of Bond: All bonds are subject to being adjusted by the Court at a hearing pursuant to statute and application by counsel of record.

(As amended effective July 1, 2014)

Appointment of pauper counsel shall terminate following the sentencing hearing unless otherwise ordered by the Court. Upon the termination of representation, the Court shall relieve the attorney of their appointment and the Clerk shall remove the attorney's appearance as counsel of record.

LR90-CR00-05 **Appointed Counsel**

A. A defendant, who is financially unable to obtain counsel, and who is not charged with an infraction or ordinance violation, is entitled to appointed counsel in accordance with this Rule.

B. If the defendant states he is financially unable to obtain counsel, the Court shall cause the defendant's financial circumstances to be investigated.

C. If the Court's investigation reveals that the defendant is indigent, the Court shall appoint counsel to the defendant at county expense.

D. Notwithstanding the provisions of this Rule, the Court may, in the interest of justice, appoint counsel for any person at any stage of any proceeding.

E. The Court may, at any stage of proceedings, reopen the investigation of the defendant's financial circumstances to determine whether or not the defendant may be required to reimburse the county for all or a part of the cost of the court-appointed attorney, or may waive the cost of the court-appointed attorney in the interest of justice.

LR90-AR00-1 **Failure to Appear**

In all cases, regardless of type, to be heard in either the Wells Circuit Court or Wells Superior Court, if a party or counsel for a party does not appear within fifteen (15) minutes after the scheduled time for the commencement of any proceeding of which the party or counsel for the party had notice, the Court shall deem the party to have failed to appear. The Court shall note the failure to appear and shall grant whatever relief the Court deems reasonable and equitable, including, but not limited to, proceeding with trial, dismissal of an action, or ordering a bench warrant. A dismissal shall be without prejudice the first time but shall be with prejudice upon a second failure to appear by the complaining party or their counsel.

(Amended January 1, 2018)

LR90-AR00-2 **Withdrawal of Appearance**

Counsel desiring to withdraw appearance in any action shall file a petition requesting to do so. Such petition shall file with the Court satisfactory evidence of at least ten (10) days written notice to the client in advance of the withdrawal date or evidence of vigorous attempts to contact the client.

Withdrawal of appearance when accompanied by the appearance of another counsel shall constitute a waiver of the foregoing requirements.

No withdrawal of appearance shall be granted where it would deprive the Court of its jurisdiction over the party.

LR90-AR00-3 Appointed Counsel – CHINS/Termination of Parental Rights - Termination of Representation

Appointment of pauper counsel in CHINS cases shall terminate upon the filing of the order approving termination of wardship unless otherwise approved by the Court. Appointed counsel in termination of parental rights cases shall terminate upon the dismissal or order terminating parental rights. Upon the termination of representation, the Court shall relieve the attorney of their appointment and the Clerk shall remove the attorney's appearance as counsel of record.

LR90-AR01-1 Caseload Allocation Plan for Wells Circuit and Superior Courts

I Criminal, Infraction and Ordinance Violation Cases

Criminal Cases shall be filed pursuant to LR90-CR2.2-01(A). All infraction and ordinance violation cases not associated with a felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

II Probate and Related Cases

All Estate, Guardianship, Paternity, Adoption, and Trust cases shall be assigned to the Wells Circuit Court.

III Juvenile Cases

All juvenile cases of every sort shall be assigned to the Wells Circuit Court.

IV Civil Cases

Except as otherwise specifically set out in this Rule, civil cases of all sorts, including domestic relations cases, shall be assigned to whichever court the attorney or the self-represented litigant filing the case designates to the Clerk. Provided, however, that petitions for dissolution of a marriage filed by a self-represented litigant shall be filed in Wells Superior Court.

V Small Claims, Eviction and Protective Order Cases

All small claims shall be assigned to the Wells Superior Court.

Protective order cases (including Workplace Violence Protective Orders) filed under the Indiana Civil Protection Act (I.C. 34-26-5), shall be assigned to the Wells Superior Court unless there is a related dissolution of marriage or paternity action pending in the Wells Circuit Court.

All eviction actions shall be assigned to the Wells Superior Court, unless the subject real estate is connected to matter pending in the Wells Circuit Court.

VI Mental Health

Mental Health cases shall be assigned to the Wells Circuit Court.

VII Refiled Cases

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

VIII Continuing Monitoring

Not later than May 1 each year, all judges of the courts of record in Wells County shall meet and shall evaluate each court's caseload data as reported to the Division of State Court Administration.

If in a given year the weighted caseload statistics from the Division of State Court Administration indicate that a caseload variance among these courts exceeds forty percent (40%), the courts of record in Wells County shall submit a revised Caseload Allocation Plan pursuant to the Indiana Supreme Court Division of State Court Administration's "Schedule for Submission of Caseload Plans Pursuant to Administrative Rule 1(E).

(As amended effective July 1, 2014; and further amended effective January 1, 2018)

LR90-AR01-2

SITTING OF JUDGES IN CIVIL CASES

The Judge of the Wells Circuit Court may sit as the Judge of the Wells Superior Court in all civil matters when the Judge of the Wells Superior Court is unavailable without further request or consent. The Judge of the Wells Superior Court may sit as the Judge of the Wells Circuit Court in all civil matters when the Judge of the Wells Circuit Court is unavailable without further request or consent.

(Added effective January 1, 2018)

LR90-AR01-3

FACSIMILE TRANSMISSIONS

Pleadings, motions, and other papers are not accepted for filing by electronic facsimile transmission in any case.

(Added effective January 1, 2018)

LR90-AR15-1

Court Reporter Services

Pursuant to Rule 15 of the Administrative Rules of the Indiana Supreme Court, the Wells Circuit and Superior Courts do hereby adopt the following joint local rule:

A copy of this rule shall be certified to the Indiana Supreme Court and Court of Appeals. Copies of this rule shall be located in the Clerk's Office, the office of each court and on each court bench. A copy of this rule shall also be filed with the Division of State Court Administration.

Section One. Definitions The following definitions shall apply under this rule:

- (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 28.
- (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 work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (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 work week.
- (9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; e.g. 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 Wells County.

- (11) County indigent transcript means a transcript that is paid for from county funds, and is for 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 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 that is paid for by a private party.

Section Two. 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 and 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, state indigent, or private transcript ~~shall be Four Dollars and Fifty Cents (\$4.50)~~ is Five Dollars (\$5.00) and an expedited rate of Seven Dollars and Fifty Cents (\$7.50) per page, which includes preparation of index and table of contents; the maximum per page fee a court reporter may charge for a copy of a county indigent transcript ~~shall be~~ is Twenty-five Cents (\$0.25) and One Dollar (\$1.00) per page for a copy of a state indigent or private transcript. ; The court reporter shall submit a claim directed to the county for the preparation or copying of any county indigent transcripts.
- (3) ~~The minimum fee that a court reporter may charge for transcripts is Thirty Five Dollars (\$35.00).~~
- (3) ~~The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be Four Dollars and Fifty Cents (\$4.50) is Five Dollars (\$5.00); which includes preparation of index and table of contents; the maximum per page fee a court reporter may charge for a copy of a state indigent transcript shall be One Dollar (\$1.00).~~
- (4) ~~The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars and Fifty Cents (\$4.50) is Five Dollars (\$5.00), which includes preparation of index and table of contents; the maximum per page fee a court reporter may charge for a copy of a private transcript shall be One Dollar (\$1.00).~~
- (4) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
- (5) A court reporter may charge a maximum of Five Dollars (\$5.00) per page for the preparation of the index and table of contents regardless if it is a county indigent transcript, state indigent transcript, or private transcript.
- (6) A court reporter shall be compensated for the time and labor incurred assembling and binding transcripts and exhibits, including electronic transmission of transcripts, pursuant to Indiana Rules of Appellate Procedure 28 and 29. Said compensation shall be the approximate hourly rate based upon the Court Reporter's annual salary, as approved by the Wells County Counsel.
- (7) Costs of supplies for the binding, assembly, and mailing or transmission of transcripts and exhibits shall be pursuant to Appendix A "Schedule of Transcript Supplies," which shall be updated annually by the Judges of the Wells Superior and Circuit Courts. This labor charge shall be equivalent to a court reporter's hourly compensation rate.

Section Three. 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, work space 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, work space 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, all such private practice work shall be conducted outside of regular working hours.
- (3) A court reporter shall reimburse the county for the use of equipment, work space and supplies for the preparation of all private transcripts.

(Amended effective January 1, 2018)

LR90-AR17-1 AUDIO AND/OR VIDEO RECORDING OF COURT PROCEEDINGS

1. Pursuant to Indiana's Code of Judicial Conduct Rule 2.17, and the inherent authority of the Court to prevent the disruption of court proceedings, the recording of audio and taking of video or photographs in the courtroom, court offices, jury rooms, and adjacent 3rd floor hallways, and probation department offices is prohibited. The broadcasting, televising, distribution, or possession of any unauthorized photographs or audio and/or video recordings of any court proceedings or the above restricted areas is also prohibited. The recording of audio and/or taking of video or photographs or the broadcasting, televising, distribution or possession of any such recording, without the prior written approval of the Court, may be punishable as a contempt of court.
2. A person who aids, induces, or causes the unauthorized recording of audio and/or taking of video or photographs of court proceedings or person who broadcasts, televises, distributes or possesses an unauthorized audio or video recording or photograph of a court proceeding is also subject to contempt of court proceedings.
3. In order to ensure compliance with and/or to determine if there is a violation of this

rule, the Court may order the seizure of any electronic device suspected of containing or being used in the transmission of unauthorized photographs or recordings. In addition to the possible sanctions for contempt, including imposition of a fine and/or commitment of the Wells County Jail, the Court may confiscate any audio recording, video recording, or photograph that is in violation of this rule.

4. Further, in order to ensure compliance with this rule, the Court in its discretion may prohibit any electronic device in the Courtroom.

LR90-AR18-1

Retention Periods for Evidence

The Court shall proceed pursuant to this rule unless the Court directs a different retention period after motion by any party or on its own motion.

All models, diagrams, documents, or materials admitted into evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be retrieved from the Court Reporter by the party offering them into 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 of the exhibits shall be retained by the Court Reporter for a period of two (2) years from the determination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

However, the Court may direct the Court Reporter to release items of contraband, dangerous weapons, or hazardous materials to the party who offered the item into evidence and to be held until further order.

The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenography notes, as provided in Administrative Rule 7.

LR 90-JR2-01

Jury Pool

The jury commissioner of the Wells Circuit Court and the jury commissioner of the Wells Superior Court shall compile the annual jury pool required by Indiana Jury Rule 2 by randomly selecting names from the Master List for Jury Pool Assembly provided by the Division of State Court Administration and as established by Order of the Indiana Supreme Court in Case No. 94S00-0501-MS-19 dated October 26, 2005.

LR 90-JR4-01

Two-Tier Jury Notice and Summons Procedure

The Wells Circuit Court and the Wells Superior Court hereby establish a two-tier jury notice and summons procedure pursuant to Rule 4 of the Indiana Jury Rules.

The Wells Circuit Court and the Wells Superior Court shall summon jurors under the two-tier notice and summons procedure set out in Rule 4(b) of the Indiana Jury Rules.

LR 90–FL00–1 Families in Transition Program

Within sixty (60) days of the filing of an action for dissolution of marriage, legal separation or to establish paternity which involves one or more minor or unemancipated child Each party to such action shall attend and complete the **Families in Transition** program administered and presented by Family Centered Services, Inc., or such other program that the Court may, from time to time, designate. In all such cases the Court shall provide an information sheet that shall contain all necessary information for compliance with this rule. Each party shall pay the required fee for the program. A party who resides more than seventy-five (75) miles from the Wells County courthouse may apply for leave of the Court to complete a similar program nearer to his or her residence. Each party must file a certificate of attendance for each party with the Court before a final hearing may be held. A parent or putative parent who is incarcerated and ineligible for work release is exempt from Rule. A parent or putative parent who resides more that seventy-five (75) miles from the Wells County courthouse and has no similar program within seventy-five (75) miles of his or her residence may petition the Court for relief from this Rule.

Any exception to this rule shall only be granted by express order of the Court after a showing of good cause for such exception.

The Courts shall have full contempt powers, including incarceration, to enforce compliance with this Rule.

LR 90–FL00–02 Good Faith Mediation

In an action for dissolution of marriage, legal separation, or to establish paternity, if child custody or visitation is to be contested at the final hearing, except for good cause shown the Court shall not allow the case to be submitted at final hearing until the parties have participated in private mediation with a mediator approved by the Court and the mediator submits to the Court a final report indicating that the parties have mediated in good faith and that the mediation process is completed.

LR90-FL00-03 Financial Declarations, Child Support Obligation Worksheets

In all matters involving child support, disposition of assets, or maintenance, the parties shall complete, in full, an Indiana Child Support Obligation Worksheet and financial declaration. Financial declarations shall be exchanged between the parties within thirty (30) days of a new case

or modification petition being filed, unless by agreement of the parties or leave of court. All parties shall submit the financial declarations to the Court as an exhibit immediately prior to any contested hearing involving child support, the disposition of assets, or maintenance.

An initiating party shall serve upon the responding party a blank financial declaration form and Indiana Child Support Obligation Worksheet with the summons or order to appear, with instructions that the responding party shall complete and serve on the initiating party the forms within 30 days of receipt and submit the completed form to the Court as an exhibit at any contested hearing.

Each party is under obligation to supplement their financial declaration and Child Support Obligation Worksheets if new information is acquired or the information provided is incorrect.

Financial declarations and Child Support Obligation Worksheets shall be verified by the parties.

All financial declarations shall be submitted on a form adopted by Wells County Circuit and Superior Courts, which is attached hereto.

Exceptions: the financial declaration form need not be exchanged or filed if:

- 1) The Court approves the parties' written agreement to waive the exchange;
- 2) The parties have executed a written agreement that settles all financial issues;
- 3) The proceeding is on in which the service is by publication and there is no response; or
- 4) The proceeding is post-decree and concerns issues without financial implications.

LR90-FL00-04 Temporary Restraining Orders

In any dissolution of marriage action, the parties shall not, without hearing or security:

- a) transfer, encumber, conceal, sell, or otherwise dispose of any joint property of the parties or asset of the marriage except in the usual course of business or necessities of life, without the written consent of the parties or permission of the Court. Any party acting "in the usual course of business" or "for the necessities of life" shall provide the other party with an accounting of the same at the time of or, if possible, in advance of such action. Joint property of the parties or asset of the marriage includes property in the separate name of either party or in the names of a party or another person(s) owned or owed on the date of filing of the petition, including but not limited to:
 - i) property or property interest of any kind, including real, personal, digital/electronic, and intellectual property;
 - ii) records and electronically stored information, hard drives or other electronic storage devices, computers, and cloud storage accounts;
 - iii) all financial, investment, educational, and retirement accounts; for life and health insurance policies.

- b) remove any child of the parties then residing in the State of Indiana from the state with the intent to deprive the Court over jurisdiction over such child without the prior written consent of all parties or the permission of the Court.
- c) the parties shall maintain unchanged all insurance policies (including beneficiary designations) in place as of the date the family law action was commenced, including but not limited to health, life, auto, personal property, liability, and home owner's/renter's insurance, absent written consent of the parties or the permission of the Court.
- d) neither party shall incur any debt in the name of the other party or in the joint names of the parties, absent written consent of the parties or the permission of the Court.
- e) neither party shall terminate/cancel/modify any utilities at the marital residence from those in place as of the date the family law action was commenced, absent written consent of the parties or permission of the Court.
- f) neither party shall conceal, alter, or destroy any family, health, property, financial or other business records, or any records of income, debts, or other obligations, including electronic records, which existed as of the date the family law action was commenced.

LR90-FL00-05 Interrogatories

In all matters involving child support, disposition of assets, or maintenance, no party shall serve on any other party more than thirty (30) interrogatories, including subparts, without leave of court.

LR 90–AR19-1 Court Building Security Order

Pursuant to Ind. Code § 35-47-11.1-4(5) and/or the inherent power of the Judges of the Wells Circuit and Superior Court (“the Courts”); in order to provide for the orderly operation of the Courts, the safety of the public, the litigants, the witnesses, and the court staff; the Judges of the Courts have promulgated this local court rule:

- 1) Anyone entering the Wells County Courthouse must consent to a search of their person, including any package, briefcase, or purse.
- 2) Anyone entering the Wells County Courthouse shall enter the courtroom building via the first floor entrance on the north side of the building. Courthouse employees are permitted to enter the first floor entrance on the South side of the building. All other entrances in the courthouse are restricted to emergency exits only.
- 3) Unless exempt under Paragraph 6 below, anyone entering a courtroom building is prohibited from having any of the following in his or her possession while in the courtroom building:
 - a. a loaded or unloaded firearm; or
 - b. a weapon, device, taser (as defined in Ind. Code § 35-47-8-3) or electronic stun weapon (as defined by I.C. § 35-47-8-1), equipment, chemical substance or other material;

including a knife, razor, box-cutter, and switchblade that in the manner it is used or could ordinarily be used, is readily capable of causing serious bodily injury.

- 4) Anyone refusing to comply with this order is to be denied entrance to the courtroom buildings.
- 5) Anyone violating this order may be found to be:
 - a. in direct contempt of court order under I.C. §34-47-2, if the violation occurs in the presence of a judicial officer; or
 - b. in direct contempt of court order under I.C. §34-47-3, if the violation is willful and occurs out of the presence of judicial officer.
- 6) The following individuals are exempt from this order:
 - a. a law enforcement officer, as defined by I.C. §35-31.5-2-185;
 - b. a judicial officer, as defined in I.C. §35-31.5-2-177.7;
 - c. a probation officer appointed pursuant to I.C. 11-13-1-1;
 - d. an employee of a locally or regionally operated Community Corrections Program, who is authorized to carry a firearm;
 - e. an employee, who works in a courtroom building, who carries a chemical spray device for personal protection; and
 - f. any other person authorized by the Courts unless withdrawn by the Courts. The Courts will promptly provide the Wells County Sheriff with a copy of the authorization or the withdrawal of the authorization.
- 7) Any person listed in Paragraph 6 SHALL NOT BE EXEMPT whenever they or any member of their family is a party to any proceeding taking place. This does not include appearing in the individual's official capacity.
- 8) The statutes cited above may change from time to time. This local court rule shall automatically refer to the relevant statutes in effect at any given time.

(Added effective January 1, 2018)