

**LOCAL RULES OF THE
JENNINGS CIRCUIT AND SUPERIOR COURTS
PURSUANT TO INDIANA RULE OF TRIAL PROCEDURE 81
Updated February 1, 2023
CAUSE NO. 40C01-0502-CB-007**

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LR 40-AR00-112 - AUDIO AND/OR VIDEO RECORDING OF COURT PROCEEDINGS

Pursuant to Indiana Code of Judicial Conduct Rule 2.17 (Prohibiting Broadcasting of Proceedings), 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 and adjacent hallways is prohibited. The broadcasting, televising, distribution, or possession of any unauthorized photographs or audio and/or video recordings of any court proceedings 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.

A person who aids, induces, or causes the unauthorized recording of audio and/or taking of video or photographs of court proceedings or a 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.

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 to the Jennings County Jail, the Court may confiscate any audio recording, video recording, or photograph that is in violation of this rule.

LR 40-AR8-01 - INITIAL CASE ASSIGNMENT AND LOCAL CASELOAD PLAN

(See Indiana Administrative Rule 8 and Indiana Rule of Criminal Procedure 2.2)

Unless otherwise required by statute, the Clerk of Courts and the Prosecuting Attorney of Jennings County, to the extent applicable, shall file the following cases in the following Court:

Jennings Circuit Court

- 1.) All Level 1, 2, 3, 4, 5, and 6 felonies and Murder (MR), EXCEPT those filed alleging a Level 6 felony under IND. CODE §9-30-5-3 or §9-30-5-4 and related Post Conviction Relief proceedings.
- 2.) Mental Health (MH)
- 3.) All Adoption or Adoption History Petitions (AD)
- 4.) All Estates and Trust (EU, ES, EM and TR)
- 5.) All Guardianships (GU and GM)
- 6.) All family law matters (new filings and previously filed cases- DC, DN, DR, and RS)
- 7.) All juvenile matters (new filings and previously filed- JC, JT, JD, JM, JS, JO and JP)
- 8.) All Grandparent visitation cases and pre-filing motions where the underlying case would be heard in Jennings Circuit Court.

All causes listed in paragraphs 6 and 7 above will routinely be assigned to and heard by the Magistrate of the Jennings Circuit Court. There may be instances in which the Magistrate may need to be assigned to and hear other types of cases or instances in which Circuit Court may maintain jurisdiction of cases listed in 6 and 7 above. However, the routine expectation will be

that the Magistrate of Jennings Circuit Court is assigned and hears all previously existing and new DC, DN, DR, RS, JC, JT, JD, JM, JS, JO and JP cases after July 1, 2021.

Jennings Superior Court

- 1.) All Level 6 felonies alleging a violation of IND. CODE §9-30-5-3 or §9-30-5-4
- 2.) All Infractions (IF)
- 3.) All Misdemeanors (CM)
- 4.) All Local Ordinance and Exempted Ordinance Violations (OV and OE)
- 5.) All Small Claims (SC)
- 6.) All Protection Orders (PO)
- 7.) All civil actions unless otherwise assigned (CP, CT, PL, CC, EV, MF, ~~MI~~, TP and TS)
- 8.) All Miscellaneous (MI) cases except for grandparent visitation and pre-filing motions that would be heard by Jennings Circuit Court.

OTHER

Expungement petitions (XP) filed under IND. CODE §35-38-9 shall be filed in the court where the conviction occurred or was filed if no conviction occurred. If the Petition for Expungement involves convictions in both Circuit and Superior Courts, the petition shall be filed in the court with the highest level case.

If a petition is filed under IND. CODE §35-38-9-1(a) (arrest with no charges ever having been filed), the Petition shall be filed in the Court which would have handled the most serious charge not filed.

Any action involving a land contract, as defined in IND. CODE §24-4.4-1-301(36), shall be filed as a civil action and not as small claim.

In criminal cases, the most serious charge filed shall determine the proper Court.

If an information alleges a violation of IND. CODE §9-30-5-3 or 9-30-5-4 and any other Level 6 felony, the case shall be filed in the Jennings Circuit Court.

All Red Flag (RF) cases will be heard in the court where any related matters are filed. In the event there are no other related matters filled, the RF case shall be filed in the Jennings Circuit Court.

(Amendment effective February 1, 2023)

LR 40-CR00-01 - RECIPROCAL PRE-TRIAL DISCOVERY

In all criminal cases, mandatory reciprocal pre-trial discovery must be furnished by the State within thirty (30) days of the date of the earlier of the omnibus date or the appearance by an attorney on behalf of the defendant and the defendant's pre-trial discovery must be made within thirty (30) days after the State's production. However, in cases involving the appointment of a public defender, the thirty (30) day time frame shall begin upon the State receiving the notice of appointment of the public defender instead of filing of appearance.

State's Mandatory Obligations. The State must furnish the following to the defendant or the attorney for the defendant as though a Request for Production was filed:

- (1) The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements;

- (2) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of any witnesses to the making or acknowledgment of such statements;
- (3) Any reports or statements of experts, made in connection with the particular case, including the results of physical or mental examinations and of scientific tests, experiments or comparisons;
- (4) Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing, or trial, or which were obtained from or belong to the accused;
- (5) Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial;
- (6) The terms of any agreements made with co-defendants or other State's witnesses to secure their testimony; and
- (7) Any material or information within the State's possession that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the defendant's punishment.

Defendant's Mandatory Obligations. The defendant must furnish to the State the following materials as though a Request for Production was filed:

- (1) The names and last known addresses of the persons whom the defendant intends to call as witnesses along with their relevant written or recorded statements, and any record of prior criminal convictions of such witnesses, if known;
- (2) Any books, papers, documents, photographs, or tangible objects the defendant intends to use as evidence or for impeachment at hearing or trial; and
- (3) Medical, scientific, or expert witness evaluations, statements, reports, or testimony, which may be used at hearing or trial.

Defendant's Obligations upon Request of the State. Upon request by the State, the defendant must, subject to constitutional and statutory limitations:

- (1) Appear in a line-up;
- (2) Speak for identification by witnesses to an offense;
- (3) Be fingerprinted;
- (4) Pose for photos not involving reenactment of a scene;
- (5) Try on an article of clothing;
- (6) Permit samples of blood, hair, or other body , which involve no unreasonable intrusion;
- (7) Provide a sample of the defendant's handwriting; and
- (8) Submit to a reasonable physical or medical inspection of the defendant's body.

Whenever the defendant is required for the foregoing purposes, reasonable notice shall be given by the State to the defendant and defendant's counsel, who shall have a right to be present.

Duty to Supplement Responses: The State and the defendant are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder.

Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

Sanctions Upon Failure to Comply: Failure of a party to comply with either the disclosure requirements or the time limits required by this rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing.

LR 40-CR2.2-2 - PROBLEM-SOLVING COURT SPECIALIZED COURT FEES

Pursuant to the Judicial Conference of Indiana Problem-Solving Court Rules, Section 16, adopted June 16, 2011 and amended with an effective date of April 1, 2018, the Judges of Jennings County Problem-Solving Courts may impose a range of fees for necessary and appropriate intervention services, including but not limited to the following:

- (1) Screening for treatment eligibility and other appropriate services;
- (2) Assessment;
- (3) Education;
- (4) Referral to services; and Service coordination and case management.

The fees shall be as follows:

- (1) \$100.00 felon/\$50.00 misdemeanor administration fee, due at the time of entrance into the program (at the signing of the participant agreement); and
- (2) A monthly user fee not to exceed \$50, commencing in the second month of participation and for each month thereafter for the duration of participation in the problem-solving court.

Participants must pay all user fees in full prior to successful discharge from the program unless otherwise specified in the case plan or by the Court. Fees shall be collected and utilized in accordance with I.C. §33-23-16-23.

LR 40-CR13-02 - REASSIGNMENT IN CRIMINAL CASES

(See Indiana Rule of Criminal Procedure 2.2(D) and 13(C))

In the event it becomes necessary to reassign a felony or misdemeanor case in the Jennings Circuit or Superior Court, the court shall reassign the case in consecutive order on a rotating basis from a list of full-time judicial officers from the following contiguous counties and counties within Administrative District 21:

- Bartholomew County
- Brown County
- Decatur County
- Jackson County
- Jefferson County
- Ripley County
- Scott County

Or, any Senior Judge who has agreed to serve as a special judge in the Jennings Circuit or Jennings Superior Court.

(Amended effective September 1, 2021)

LR 40-CR13-03 - JUDICIAL OFFICERS

For purposes of judicial economy in the Jennings County Courts, the judges of each Court (Circuit Court and Superior Court) may consent and authorize any of the other judges to exercise general jurisdiction over any and all cases in each other's courts, including, the signing of any and all warrants, detention orders and emergency custody orders.

LR 40-TR79-03 - SPECIAL JUDGE APPOINTMENT IN CIVIL CASES

(See Indiana Rule of Civil Procedure 79(H))

In the event a special judge needs to be appointed under Indiana Rule of Trial Procedure 79(H), the court shall reassign the case in consecutive order on a rotating basis from a list of full-time judicial officers from the counties below in Administrative District 21 and from contiguous counties who have agreed to serve as a special judge

- Bartholomew County
- Brown County
- Decatur County
- Jackson County
- Jefferson County
- Ripley County
- Scott County

Or, any Senior Judge who has agreed to serve as a special judge in the Jennings Circuit or Jennings Superior Court.

(Amended effective September 1, 2021)

LR 40-TR58-04 - PREPARATION OF COURT FORMS, ENVELOPES AND POSTAGE

A.) A party requesting a trial, hearing or continuance shall be responsible for preparing an order which schedules or reschedules, as appropriate, a matter for trial or hearing. The order shall be submitted with the Motion For Trial, Hearing or Continuance together with sufficient copies and pre-addressed and pre-stamped envelopes to provide copies to all parties and/or counsel of record. A party requesting a trial, hearing or continuance shall provide the Court with an estimate of the time anticipated to conduct the trial or hearing after conferring with opposing counsel.

B.) A party filing any other type of motion shall, at the time of filing, submit a proposed order with sufficient copies and pre-addressed, pre-stamped envelopes to serve all parties and/or counsel of record, along with a copy for the RJO (Record of Judgments and Orders). All pleadings, motions and/or orders shall be on the front side of the paper only. Proposed orders and judgments shall be on pages separate from the motion.

C.) A party agreeing or directed by the Court to prepare an order, judgment or decree shall so do in accordance with the directives of the Court and Indiana Rule of Trial Procedure 58(B).

D.) All chronological case summary entries, orders and judgments shall have, in the lower left-hand corner of the signature page, a distribution list with the name and mailing address of each party or attorney to receive a copy of the same.

LR 40-AR12-05 - FACSIMILE FILINGS

Facsimile filings of pleadings or correspondence are not accepted by the Circuit Court, and shall be discarded if sent to the Circuit Court or the Clerk for the Circuit Court. Facsimile filings are accepted by the Superior Court, if prior permission is granted by the Court Reporter or the Judge of the Superior Court.

LR 40-TR53.5-06 - 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 shall be accompanied by sufficient copies of an order which will allow the Court to notify all parties of rescheduling the matter. Agreement of counsel does not necessarily mean the motion will be granted. Advising the Court opposing counsel has been contacted with no indication of their reply is not sufficient.

C.) The Court may require any written motion for continuance to be signed by the party requesting the continuance in addition to his or her 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, after hearing, 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.

LR 40-TR53.5-07 - WITHDRAWAL

In all cases in which the Court retains continuing jurisdiction (e.g. dissolutions, juvenile, criminal) 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.

An attorney withdrawing from a case shall serve the motion on all counsel and parties of record and the client. The order of withdrawal shall also set forth the former client's name and address for distribution, and be accompanied by pre-addressed, pre-stamped envelopes as set

forth in LR 40-TR 58-04 above. Attorneys appointed by the Court in criminal cases, juvenile matters, or any other matter remain in the case until further order.

LR 40-TR3.1-08 - BANKRUPTCY

It shall be the duty of the debtors' bankruptcy attorney to file with the Court, a notice of bankruptcy setting forth 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. Telephone calls from debtors or debtors' attorneys will not serve to stay proceedings.

LR 40-TR4-09 - SERVICE OF PROCESS

It shall be the duty of every person filing a pleading that requires service to clearly designate the manner of service, e.g. certified mail or sheriff. If service is to be by certified mail, the person shall tender to the Clerk, a completed certified mail return card and receipt with the cause number typed or printed on the mail return card. If service by certified mail, return receipt requested is requested after the initial filing of a lawsuit or claim, sufficient postage must be provided.

LR 40-FL01-10 - PARENTING POWER PROGRAM

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 Parenting Power program or equivalent program approved by the Court within sixty (60) days after the filing of the petition and file with the Court, a certificate of completion. Each party shall bear their own costs for the program. No final hearing will be set until both certificates are on file with the Court. Failure to complete the program for the purpose of delay or vexation shall be punishable by contempt. Completion of the program shall NOT be waived, except in unusual circumstances approved by the Court.

LR 40-AR10-11 - COURTHOUSE SECURITY

No person shall enter the Jennings County Courthouse carrying a deadly weapon of any kind or type, whether carried openly or concealed. This rule does not apply to individuals who qualify under IND. CODE §35-41-1-17 as law enforcement officers or federal enforcement officers.

LR 40-AR01-12 - ATTIRE

Men appearing for hearing or trial shall at all times wear a coat and tie and suitable slacks and shoes. Women shall wear appropriate attire.

Counsel, parties, witnesses and spectators shall wear appropriate attire consistent with the integrity of a court of law. Prohibited are: caps, bandanas, sunglasses (up or down), shorts, sleeveless or muscle shirts which expose one's underarms, shirts or any other garment with obscene or vulgar messages or suggestive messages, flip-flop shoes or sandals.

LR 40-FL02-13 - SUBMISSION OF FINANCIAL DECLARATION FORM

- 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 within twenty (20) days after receipt of service of the moving party's declaration. These time limits may be amended by court order or good cause shown after motion or by written agreement of the parties filed with the Court.
- B. **Exceptions** The Financial Declaration Form need not be exchanged 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 that 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. Form

The Financial Declaration Form is available from the Court Reporter of either Court.

LR 40-JR4-14 - JURY SELECTION

(See Indiana Jury Rules 2 and 4)

In compliance with Indiana Jury Rules 2 and 4, the Judges of the Jennings Circuit and Superior Court hereby appoint the Election Clerk of Jennings County as the Jury Administrator under Indiana Jury Rule 2.

The Courts of Jennings County will use a “single tier” system as identified in Indiana Jury Rule 4(a).

In selecting jurors under Rule 2, the Courts shall use the Annual Master List for Jury Pool Assembly adopted by the Indiana Supreme Court.

(Effective September 1, 2021).

LR 40-JR10-15 - JUROR PRIVACY

Juror questionnaires shall be handled in accordance with Jury Rule 10 and Indiana Administrative Rule 9(G)(1)(b)(xii). Thus, juror questionnaires may not be recopied, 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.

LR 40-FL03-16 - PROTOCOL FOR PROTECTIVE ORDER FILINGS

(See IND CODE §34-26-5-1)

In the event an individual seeks a protective order under IND. CODE §34-26-2-1 et seq., the Clerk of the Court shall do the following:

1. Inquire of Petitioner whether they have a pending dissolution, paternity, or legal separation case. If so, encourage them to speak with their attorney in that case about seeking a restraining order in that pending case. Pending case is any case for which no final decree or order has been entered.

- If they have no pending case, lawyer, or insist on proceeding with a protective order, the Clerk should accept the filing, assigning it to Superior Court with a “PO” number pursuant to local rule.
- If they have a pending case, get as much information as possible, including the court and case number and lawyers’ names for the Superior Court Judge. The Petition form also asks for this information.

2. Deliver the new “PO” file to the Superior Court Judge immediately for consideration.

- If there is no other pending case, the Superior Court Judge may act.

- If there is a pending case, the Superior Court Judge may decline to act and immediately transfer the case to the appropriate court by order or issue an emergency protective order and then transfer it if he determines immediate relief is needed pursuant to IND. CODE §34-26-5-6(4).

3. If the Superior Court Judge transfers the “PO” case, the Clerk shall keep the **original** “PO” file intact along with the Superior Court Order of Transfer, so anyone examining the “PO” file can see what occurred.

4. Copy the “PO” file and deliver it to the appropriate Court. The Circuit Court Judge will, in cases he receives, do an Order Accepting Transfer and place a copy of the “PO” file in the file and the Circuit Court Judge shall furnish the Superior Court Judge with a copy of the Order Accepting Transfer, and a copy to the Clerk for placement in the “PO” file.

5. Regardless, if a case is transferred, the confidential information should be protected as always and NOT placed in either public file.

6. If a “PO” case is filed first and then a dissolution, paternity, or legal separation proceeding is filed afterward and you know that or the Petitioner tells you that, they should be advised to speak with their dissolution, paternity, or legal separation lawyer and if pro se, to inform the Superior Court Judge’s office as he would have both the “PO” case and the pro se dissolution.

LR 40-TR65-17 - PROTOCOL FOR EX PARTE OR EMERGENCY CUSTODY ORDERS 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 in the Jennings Circuit Court and the Jennings Superior Court:

- 1.) A sworn verified and notarized motion or petition signed by the person seeking relief.
- 2.) The full name and 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, 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 or ex parte custody of 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 C.H.I.N.S. proceeding or 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.

LR 40-CR01-18 - MEDICAL RELEASE FROM THE JENNINGS COUNTY JAIL

No person being held in the Jennings County Jail on a Class C or Level 4 felony or higher, probation or parole hold where the underlying conviction is a Class C or Level 4 felony or higher, invasion of privacy, violation of a protective order, battery on a previous victim or "domestic battery", or being held on an out-of-county warrant, is eligible for release to attend a visit to a medical provider, whether said release be a temporary own recognizance release or release to a family member for transport or transport by the Sheriff, unless the Sheriff, in his absolute discretion, agrees to transport, which decision to transport is solely that of the Sheriff of Jennings County.

Any person otherwise eligible must file a written motion directly with the appropriate court at **least** seven (7) business days prior to the scheduled appointment date, and have attached to the motion a statement on the medical provider's letterhead, dated and signed, briefly describing the underlying condition, the reason for the visit and when it was scheduled and the date, time and place of the visit along with a proposed order.

Any visit scheduled **after** a person is incarcerated will not be permitted.

The decision to release an individual is discretionary with the Court, and the Court may consult with the Sheriff before making any decision.

LR 40-CR02-19 - FUNERAL LEAVE FROM THE JENNINGS COUNTY JAIL

Any individual incarcerated in the Jennings County Jail **may** be granted funeral leave, but only if the deceased person is the lawful spouse, child, parent, sibling, or grandparent of the incarcerated individual, and then only upon written verified motion filed with the applicable court indicating the day, time, and place of the viewing and funeral. Funeral leave remains at the discretion of the trial court judge.

If the incarcerated individual is in jail after a conviction for or while charged with a crime of violence (as defined by IND.CODE §35-50-1-2[a]), no leave shall be permitted.

LR 40-CR03-20 - DISTRIBUTION OF MONIES RECEIVED IN CRIMINAL CASES

Those convicted of misdemeanors and felonies in both courts, or having been found liable for an infraction and ordinance violation in Superior Court, often make payments on their monetary obligations or cash bail is insufficient to pay all monies assessed, and when partial payments are made, the Clerk of Jennings County shall receipt and distribute the monies in the following order, as directed by IND. CODE §33-19-5-1(c):

First, to general court costs required by IND. CODE §33-19-5-1(a) and (b),

Second, to the Jennings County Alcohol and Drug Program, as required by IND. CODE §33-19-5-1(b)(3);

Third, to the administrative probation fee required by IND. CODES §35-38-2-1(d)5 and §35-38-2-1(e)(4) (\$100.00 for felonies/\$50.00 for misdemeanors).

Fourth, to initial probation user's fees required by IND. CODES §35-38-2-1(d)(1) and §35-28-2-1(e)(1), (\$100.00 for felonies/\$50.00 for misdemeanors) and to monthly probation user's fees.

Fifth, to state fees (domestic violence, sexual assault, countermeasure, etc.)

Sixth, to fines.

Seventh, to restitution.

If there is more than one (1) recipient of restitution, each payment applied to restitution shall be pro-rated, according to the original amount due each victim.

LR 40-AR15-21 - COURT REPORTER SERVICES

Section One. Definitions

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

B.) *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 devices used for recording and storing, and transcribing electronic data.

C.) *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.

D.) *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.

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

F.) *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.

G.) *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.

- H.) *Overtimes hours worked* means those hours worked in excess of forty (40) hours per week. I.) *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.
- J.) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Jennings County.
- K.) *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.
- L.) *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.
- M.) *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

- A.) 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.
- B.) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be Five Dollars (\$5.00). The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- C.) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be Five Dollars (\$5.00).
- D.) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Five Dollars (\$5.00) and \$2.25 per page for copies of transcripts. A copy of a transcript shall include all forms of a transcript including, but not limited to, paper, electronic and digital.
- E.) The maximum per page fee a court report may charge for the preparation of an expedited transcript where the transcript must be prepared within 24 hours or less shall be \$7.50 per page and \$6.00 per page where the transcript must be prepared within 3 working days. A minimum fee of \$35.00 may be charged for transcripts of ten (10) pages or less. An hourly rate based on the court reporter's hourly rate shall be added to the costs of the transcript for time spent binding the transcript and the exhibit and index and index volumes.
- F.) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either 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.

Section Three. Private Practice

- A.) 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, the court agrees to the use of the court equipment

for such purpose, and 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 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.

B.) 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.

(Effective July 1, 2011)

LR 40-CR00-22 - LATE PAYMENTS – ADDITIONAL FEE

(1) Any defendant found to have:

- (a) been convicted of a crime;
- (b) found liable for an infraction;
- (c) found liable for violation of an ordinance of a municipal corporation; or
- (d) adjudicated for a delinquent act; and

(2) The defendant is required to pay:

- (a) court costs, including fees;
- (b) a fine; or
- (c) a civil penalty; and

(3) The defendant is not determined by the Court imposing the court costs, fine or civil penalty to be indigent; and

(4) The defendant fails to pay to the Clerk the costs, fine or civil penalty in full before the later of the following:

- (a) The end of the business day on which the Court enters the conviction or judgment or designates as the day for payment; or
- (b) The end of the period specified in a payment schedule set for the payment of court costs, fines and civil penalties under the rules adopted for the operation of the Court; then

The defendant shall pay an additional \$25.00 fee pursuant to IC 33-37-5-22 and the Clerk of the Court shall collect the late payment fee.

(Effective January 1, 2012)

LR 40-ADR-23 - MEDIATION

A. General Rule. In all cases where the parties are self-represented litigants, Mediation shall be required on all Petitions for Dissolution of Marriage, Petitions to Establish Paternity, and Petitions to Modify without regard to the anticipated length of trial. In cases where one or more

of the parties are represented by counsel, the court may refer the matter to mediation in the court's discretion.

B. Contempt Proceedings. Mediation shall be required on Contempt Proceedings (i.e., Petitions for Order to Show Cause, etc.) that will take longer than one (1) hour to try.

C. Scope. This Rule shall not apply to those issues in which the State of Indiana represents a Party.
(Effective March 1, 2014)

LR 40-AR19-24 - ANIMALS IN THE COURTHOUSE

No animal shall be permitted in the Jennings County Courthouse **EXCEPT**:

- 1.) Canines accompanied by a law enforcement officer engaged in the execution of his or her official duties;
- 2.) Seeing eye dogs assisting the visually impaired, or other service animal which is designated as a dog that is trained to do work or perform tasks for people with disabilities.

In the event a service animal is permitted in the Courthouse, it shall be properly restrained at all times and may be ordered removed if it becomes disruptive or a distraction or damages public property.
(Effective May 1, 2016)

LR 40-AR07-25 - EVIDENCE RETENTION, HANDLING AND DESTRUCTION

In all cases, the Court shall proceed pursuant to these Rules unless the Court directs a longer retention period after motion by any party or on its own motion.

1. **Retention periods for evidence introduced in Civil cases, including dockets: AD, JC, JM, JP, JS, JT, DR, MH, ES, EU, EM, PO, GU, TR, IF, OV.**

All models, diagrams, documents, or materials 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 by the Court or by jury, unless an appeal is taken.

If an appeal is taken, all such exhibits not sent to the Indiana Court of Appeals 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.

The Court Reporter shall retain the mechanical, electronic, or digital records or tapes, shorthand, or stenographic notes as provided in INDIANA ADMINISTRATIVE RULE 7.

2. **Retention periods for evidence introduced in Criminal Misdemeanor, Juvenile Detention, Class D, Class C, Class F4, Class F5, Class F6 Felonies and Attempts.**

All models, diagrams, documents, or materials 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 case is dismissed, the defendant is found not guilty, the defendant is sentenced, or found guilty by the Court or by jury, unless an appeal is taken.

If an appeal is taken, all such exhibits not sent to the Indiana Court of Appeals 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.

The Court Reporter shall retain the mechanical, electronic, or digital records or tapes, shorthand, or stenographic notes as provided in INDIANA ADMINISTRATIVE RULE 7.

3. Retention periods for evidence introduced in Criminal Class A, Class B, Murder, Class F1, Class F2, Class F3 Felonies, Post-Conviction, and Attempts.

All models, diagrams, documents, or materials 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 is found not guilty, the defendant is sentenced, or found guilty by the Court or by jury, unless an appeal is taken.

If an appeal is taken, all such exhibits not sent to the Indiana Court of Appeals 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.

The Court Reporter shall retain the mechanical, electronic, or digital records or tapes, shorthand, or stenographic notes as provided in INDIANA ADMINISTRATIVE RULE 7.

4. Non-Documentary and Oversized Exhibits.

Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the Court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence.

Photographs of any exhibits may be included in the volume of documentary exhibits.

Under no circumstances should drugs, currency, biologically contaminated items, or other dangerous or valuable items be included in the appellate records.

After the appeal, any non-documentary and oversized exhibits held in the custody of the Court or Administrative Agency shall follow the same timeline as described hereinabove in paragraphs 1, 2, and 3 as defined by the docket.

5. Disposition.

In all cases, within thirty (30) days following the expiration of the applicable retention period, the parties shall take away all evidence that is in the custody of the Court.

At the time of removal, a detailed receipt shall be given to the Court by the party receiving and removing the evidence and the receipt shall be made a part of the Court's file. In all cases, the Court, or the Sheriff of Jennings County, shall dispose of evidence that is not retaken by the parties.

The Sheriff of Jennings County shall be ordered to destroy evidence, if its possession is illegal, biologically contaminated evidence, or if it has negligible value. Evidence with some value shall be auctioned by the Sheriff of Jennings County with proceeds going to the County General Fund.

This Local Rule and the retention periods shall take precedence over inconsistent language in statutes. See generally *IND. CODE §35-33-5-5(c)(2)*.

6. Biologically Contaminated Evidence.

A party who offers biologically contaminated evidence must file a pre-trial notice with the Court and serve all the parties, so that the Court may consider the issue and rule appropriately before the jury 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 during deliberations.

After the appeal, any biologically contaminated evidence held in the custody of the Court or Administrative Agency shall follow the same timeline as described hereinabove in paragraphs 1, 2, and 3 as defined by the docket.

(Effective June 15, 2016)