

Proposed new Administrative Rule 23

Background and Purpose Statement

The Indiana Supreme Court Commission on Indiana’s Legal Future recommended that the Court should amend its rules to eliminate local prohibitions on bringing electronic devices into court facilities. The Commission’s interim report stated: “There are a number of court facilities around the state where electronic devices are prohibited. Litigants, the public, and—in some instances—lawyers must leave those devices outside (or in a secured locker inside) to come in. While these prohibitions are frequently defended on the basis of security for witnesses and parties participating in court proceedings—an understandable concern for those who might be filmed or photographed while testifying—these blanket prohibitions leave everyone else high and dry. And this can be true even when the individual entering has no actual court business but may just be going to another government office that happens to be in the same facility.” The interim report urged “without diminishing a judge’s authority to control an individual courtroom to protect the safety of witness and parties, the Court rule should allow everyone to bring electronic devices into court facilities.”

The Court directed the Committee on Rules of Practice and Procedure to review the Commission’s recommendation, study the issue of electronic devices in court facilities, and make a recommendation on whether a rule amendment is appropriate and necessary. The Rules Committee found that a rule is appropriate and necessary because of the integral role portable electronic devices play in the daily lives of Hoosiers. These devices are used in a wide range of ways, including communication, internet access, transportation, and productivity. Many Hoosiers also use portable electronic devices to manage health conditions, assist with disabilities, and assist with language translation.

Proposed Administrative Rule 23 on Portable Electronic Devices addresses access to justice and accessibility for all visitors to Indiana court facilities. The proposed rule would:

- Allow the public to use portable electronic devices in common areas of court facilities, subject to security screening and silent mode operation.
- Allow parties and attorneys to use portable electronic devices in the courtroom for specific purposes, such as checking calendars, taking notes, accessing notes, and presenting case-related information.
- Allow judicial officers to impose a more restrictive policy in the courtroom for a particular case to address concerns related to the administration of justice, safety, and security.

*Proposed new Administrative Rule 23 would allow the public to use portable electronic devices in common areas of court facilities. The new rule would do also allow parties and attorneys to use portable electronic devices in the Courtroom for specific purposes and allow judicial officers to impose a more restrictive policy in the Courtroom for a particular case.

Administrative Rules

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Administrative Rule 23. Portable Electronic Devices (proposed new rule)

(A) Definitions.

(1) “Portable Electronic Devices” are mobile devices capable of electronically storing, accessing, or transmitting information and include personal computers, tablet computers, mobile telephones (including cell phones and any form of telephone with cameras and audio and video recording and transmission capabilities), electronic calendars, e-book readers, smartwatches, or similar devices.

(2) “Court Facilities” includes all areas within the exterior walls of a building, or if the court does not occupy the entire building, that portion of the building used for court administration or operation.

(3) “Courtroom” includes the portion of the Court Facility in which court proceedings take place.

(B) Possession and Use of Portable Electronic Devices in Court Facilities.

(1) Persons may use Portable Electronic Devices in the common areas of Court Facilities, such as lobbies and hallways, subject to security screening. The judicial officer may require that Portable Electronic Devices be used in designated areas to maintain safety, security, proper behavior, order, and the administration of justice.

(2) All Portable Electronic Devices must be placed in “silent” or “vibrate” mode at all times within Court Facilities.

(C) Possession and Use of Portable Electronic Devices in the Courtroom.

Proposed amendment to Indiana Administrative Rules (April 2025)

(1) Parties to the proceeding being heard and attorneys may use Portable Electronic Devices inside a Courtroom to check calendars, retrieve or store information, take notes, access electronic documents, access the internet, send and receive text messages or information, or present case-related information.

(2) A witness may use Portable Electronic Devices in the Courtroom only with the judicial officer's permission.

(3) Jurors must turn off Portable Electronic Devices while present in the Courtroom and comply with Jury Rule 26(b).

(4) Members of the public may not use Portable Electronic Devices while in the Courtroom and must confine use to the common areas of Court Facilities.

(5) All Portable Electronic Devices must remain in "silent" or "vibrate" mode at all times in the Courtroom. Unless the judicial officer grants permission, persons inside the Courtroom must not use a Portable Electronic Device to make or receive telephone calls or for any other audible function while court is in session.

(D) Prohibited Uses in Common Areas and Courtrooms.

(1) Pursuant to Code of Judicial Conduct Rule 2.17, the taking of photographs and audio and video recording are prohibited without a judicial officer's prior approval.

(2) No person may photograph, record, broadcast, or live stream any juror or potential juror at any time. No person may use a Portable Electronic Device to communicate or attempt to communicate with a juror or potential juror at any time.

(3) No person may use a Portable Electronic Device to harass, intimidate, or communicate about testimony with any witness at any time, except for scheduling purposes.

(4) Cameras, video cameras, video recording equipment, and recording equipment not classified as a Portable Electronic Device in subsection (A)(1) are not allowed in the Court Facility, unless permitted in advance by a judicial officer pursuant to Code of Judicial Conduct Rule 2.17.

(E) More Restrictive Policy in a Particular Case.

(1) A judicial officer may determine by a written order entered in the chronological case summary in a particular case that Portable Electronic Devices may interfere with the administration of justice or cause a threat to safety or security and so prohibit Portable Electronic Devices inside a Courtroom during that case. The order must be supported by findings specific to the circumstances of the particular case.

(2) If the judicial officer prohibits Portable Electronic Devices inside the Courtroom in a particular case, the judicial officer must provide storage for the devices at no cost at the security entrance.

(F) Confiscation of Equipment and Ejection.

(1) A judicial officer may order a person who violates any provision in this Rule to be removed from the Courtroom or the Court Facility.

(2) Any Portable Electronic Device used in violation of this Rule may be confiscated and held until the possessor leaves the Court Facility.

(3) Court personnel are not responsible or liable for any unintentional damage to or loss of a confiscated Portable Electronic Device.

(G) Posting Notice.

(1) A judicial officer must post signs with information about the Portable Electronic Device Policy prominently in the Court Facility, including entrances, the clerk's office, and outside the Courtroom. The judicial officer must also publicize the policy on the court's and clerk's websites and other publicly available places.

(2) If a judicial officer has adopted a more restrictive policy for a specific case pursuant to subsection (E), such information must be posted outside the Courtroom. The judicial officer should also provide as much advance notice as is reasonably possible to the attorneys and any self-represented litigants as to the more restrictive policy that will be in place for that proceeding.

(H) Local Rules Abrogated. All local rules related to Portable Electronic Devices are abrogated. No court security policy or order may conflict with any provision in these Rules.

(I) Disability Access. Nothing in this Rule is intended to prevent, prohibit, or infringe upon a person's right to the use of Portable Electronic Devices that are necessary for any health condition that qualifies as a disability under the American with Disabilities Act.