

**LOCAL RULES FOR THE CIRCUIT AND SUPERIOR COURTS
GIBSON COUNTY, INDIANA**

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(Updated effective May 15, 2019)

LR26-TR79-001

**Selection of Special Judges in Civil Cases under
Trial Rule 79(H) and Criminal Cases under CR 13**

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

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

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

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

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

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

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

(Amended effective February 11, 2016)

LR26-CR2.2-002

**Assignment and Reassignment of Judges in
Criminal Cases**

1. All misdemeanor and felony cases shall be filed in the courts of record in Gibson County on a random basis pursuant to the procedure and subject to the exceptions as set forth in this rule.
2. The Clerk of the courts shall create a series of tokens representing the Circuit Court and a distinguishable but equal number of tokens representing Superior Court. An equal number of tokens shall be placed in an appropriate container. Upon the prosecutor specifically identifying the name of the Defendant against whom charges are being filed, the Clerk shall randomly draw one token and the case shall be docketed in the Court represented by the token drawn. The tokens drawn shall not be placed into the token container until the container becomes empty. At that time, the container shall be refilled and the process repeated.
3. With permission of the judges, the Clerk may replace the token and container process with a computerized random draw so long as the computerized process complies fully with the provisions of this rule.
4. Notwithstanding the requirement of random draw as set forth in paragraph 1, cases in which the most serious count alleges the commission of a misdemeanor or a felony set forth in Title 9 of the Indiana Code, shall be filed and docketed in the Superior Court.
5. In the event the prosecutor files any additional charges against a Defendant against whom charges are pending, these subsequent charges shall be filed and docketed in the court as the original charges.
6. In the event the prosecutor files charges against a Defendant who is on probation at the time the additional charges are filed, these charges shall be docketed in the same court through which the Defendant is serving probation.
7. Pursuant to I.C. §33-29-6-1 and I.C. §33-29-6-2 the judges of the courts reserve the right to transfer cases as they deem appropriate.

DEFINITIONS

1. **Regular Hours** - the regular hours of the Court Reporter shall be the same as the regular hours during which the Court is normally open. This shall mean 8 a.m. to 12 noon, and from 1 p.m. to 4 p.m. each day, Monday through Friday, excluding Court holidays.

2. **Gap Hours** - 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.

3. **Overtime Hours** - means those hours worked in excess of forty (40) hours per work week.

4. **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.

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

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

7. **Court Reporter** - means 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.

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

9. **Court** - means the particular court for which the court reporter performs services. Court may also mean all of the courts in Gibson County.

10. **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.

11. **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.

12. **Private Transcript** - means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

RULES

1. Each Court Reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the court during regular work hours, gap hours or overtime hours.

2. County indigent transcript preparation shall be billed in an amount not to exceed \$7.50 per page. The fee shall be paid by the County upon a claim duly submitted by the Court Reporter.

3. State indigent transcripts shall be billed at an amount not to exceed \$7.50 per page.

4. Private transcripts shall be billed at an amount not to exceed \$7.50 per page.

5. Each Court Reporter shall report annually to the Indiana Supreme Court, Division of State Court Administration, all transcript fees received by said Court Reporter. This requirement extends to and includes county indigent, state indigent and private transcripts. This report shall be filed on or before the last Friday in March of each year.

6. In the event that a Court Reporter desires to engage in private practice in addition to Court duties, such as recording and/or transcription of depositions, and further desires to utilize Court equipment, work space and supplies, the Court and Court Reporter shall enter into a written agreement concerning reimbursement to the court for usage of said items. At a minimum, said agreement will 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;

(c.) the method by which the Court Reporter is to reimburse the Court for the use of the equipment, work space and supplies.

7. If a Court Reporter elects to engage in private practice, said practice shall be conducted outside regular working hours, or by employing personal time by agreement with the Court.

8. In regard to gap hours, the Court Reporter shall be entitled to compensatory time of one hour (or fraction thereof) for each hour (or fraction thereof) of gap time.

9. In regard to overtime hours, a Court Reporter shall be entitled to compensatory time of one and one-half (1½) hours (or fraction thereof) for each hour (or fraction thereof) of overtime hours.

10. In no event shall a Court Reporter be entitled to compensation for private practice, or compensation for county indigent transcripts, state indigent transcripts or private transcripts performed during regular work hours, except by utilizing personal time as per paragraph 7.

11. A minimum fee of \$35.00 per transcript is permissible (this minimum fee would be instead of a per page fee for those transcripts that are small).

12. Index and Table of Contents Pages prepared by the Reporter are to be charged at the per page rate being charged for the rest of the transcript.

13. An additional labor charge of \$15.00 per hour may be charged by the Court Reporter (based on the Court Reporter's annual salary) for the time spent binding the transcript and the exhibit binders.

14. Preparation of the separately-bound volumes of exhibits as required by Rule 29 is to be considered a part of the Transcript process and billed at the same page per rate.

15. A reasonable charge for the office supplies required and utilized for the binding and electronic transmission of the Transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible. The costs of these supplies shall be determined pursuant to the Schedule of Transcript Supplies which is to be established and published annually by the judge or judges of this county.

JOINT SCHEDULE OF TRANSCRIPT SUPPLIES

Pursuant to Indiana Rules of Appellate Procedure 28 and 29, the Gibson Circuit Court and Gibson Superior Court now establish and publish the following Joint Schedule of Transcript Supplies for purposes of supplies required and utilized for the binding and electronic transmission of the Transcript:

TYPE OF SUPPLIES	PRICE PER ITEM
Electronic media	\$.80
Clasp envelope - extra heavy 10" x 13"	\$.50
Clasp envelope - extra heavy 12" x 15½"	\$.60
Clasp envelope - extra heavy 10" x 15" x 2"	\$1.00
2" tang binder	\$3.00
1 1/8" tang binder	\$2.50
Disk pocket with flap	\$1.00
Expandable window envelope 10" x 13" x 2"	\$3.50
Full-view window envelope 9½" x 12½"	\$2.00

LR26-AR1-04**Case Allocation Plan**

1. On or before April 12 of each year the Judge of the Gibson Circuit Court and the Judge of the Gibson Superior Court shall meet to review the Weighted Caseload Measures statistics as calculated by the Division of State Court Administration for the preceding calendar year. The Court utilization percentage of the two Courts shall be compared and if the utilization percentages are within 25 points of one another, it shall be presumed that no action is necessary to reduce the disparity. If the utilization percentage between the courts differs by more than 40 points in a calendar year or by more than 20 points for two consecutive years, it will be presumed that the disparity must be reduced, unless the judges agree otherwise after discussing and evaluating the various relevant factors.
2. Beginning on July 9, 2018, the Gibson Superior Court will be assigned all of the following case types: MF, CC, CT, PL, and PO. Unless otherwise agreed by the Judges, the random assignment for civil plenary cases shall continue until the end of the calendar year in which it was implemented.
3. As part of the Gibson County Plan for Allocation of Judicial Resources, the Judge of the Gibson Circuit Court and the Judge of the Gibson Superior Court shall be reasonably available for the assignment of cases throughout the administrative district consistent with the comparative utilization levels for the Courts within the district and as provided in the Administrative District 13 Plan for Allocation of Judicial Resources.

(Amended effective July 9, 2018)

LR26-AR00-005**Alcohol and Drug Program Fees**

Those persons directed to participate in the Gibson County Alcohol and Drug Program shall pay a \$200 program fee, as well as any additional costs associated with recommended treatment. There is also a \$30 drug test fee.

(Amended effective May 15, 2013)

LR26-FL00-006**Children in Dissolution Cases**

1. This rule applies to all parties in all dissolution of marriage, separate maintenance, change of custody, visitation, other domestic relations actions, excluding domestic violence and contempt actions, filed on or after October 20, 1993, where the interests of children under 18 years of age are involved.

2. All parties shall successfully complete the program entitled “**Transparenting - Moving Families Through Change.**”

3. The seminar shall be successfully completed within 60 days of service of the original petition upon the original respondent.

4. Upon a party’s failure to successfully complete the seminar pursuant to this rule, the assigned Judge may take appropriate action, including but not limited to actions for contempt.

5. The attorney(s) will be responsible for providing their client a copy of the brochure of Doulos, Inc. which contains the seminar admission form and information. The Clerk of this Court will be responsible for attaching a copy of said brochure to the service of process issuing from this office.

6. For good cause shown, the assigned Judge may waive the requirement of completion of this program in individual cases.

LR26-AR00-007**Schedule of Fees for Problem-Solving Court Services**

Those persons directed to participate in the Gibson County Substance Abuse Treatment Court may be assessed fees in accordance with the following SCHEDULE OF FEES pursuant to the authority granted by Ind. Code 33-23-16-23:

- (1) A Drug Court administration fee of \$100.00 per participant, payable to the Clerk of the Court;
- (2) A Drug Court user fee of \$50.00 per month for every month that an individual participates in Drug Court, payable to the Clerk of the Court;
- (3) Drug Court drug testing fees will be set by and paid to the Superior Court Probation;
- (4) A Drug Court transfer fee of \$25.00 per participant per transfer, payable to the Clerk of the Court.

(Adopted effective May 15, 2013)

LR26-AR7-008 EVIDENCE HANDLING, RETENTION, AND DISPOSAL

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.

A. CIVIL CASES, INCLUDING ADOPTION, PATERNITY, AND JUVENILE PROCEEDINGS.

All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later. The Court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The Court or the parties may substitute photographs for the actual exhibits if approved by the Court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

B. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL MISDEMEANOR, CLASS D, CLASS C FELONIES AND LEVEL 3,4,5 AND 6 FELONIES.

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the Court, 180 days after the case is dismissed or the defendant is found not guilty. If the defendant is sentenced, unless an appeal is taken, exhibits shall be taken away after two (2) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The Court will notify the parties at their last known address, including last known email address, when the items need to be removed. The Court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The Court or the parties may substitute photographs for the actual exhibits if approved by the Court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

C. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CLASS B AND A FELONIES AND LEVEL 1 AND 2 FELONIES.

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, one (1) year after the case is dismissed or the defendant found not guilty. If the defendant is sentenced, unless an appeal is taken they shall be taken away after ten (10) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for ten (10) 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 will notify the parties at their last known address, including last known email address, when the items need to be removed. The Court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The Court or the parties may substitute photographs for the actual exhibits if approved by the Court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. The court reporter will either scan or photograph as much evidence as possible and remind parties of the requirements of Appellate Rule 29(B).

C. MURDER

Except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, 2 years after the case is dismissed or the defendant is found not guilty. If the defendant is sentenced, the exhibits shall be taken away after fifty (50) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for fifty (50) 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 will notify the parties at their last known address when the items need to be removed. The Court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The Court or the parties may substitute photographs for the actual exhibits if approved by the Court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. The Court may photograph as much evidence as possible and remind parties of the requirements of Appellate Rule 29(B).

D. 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 trial court during the appeal and shall be disposed of pursuant to the preceding rules. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

E. NOTIFICATION AND DISPOSITION.

In all cases, the Court shall provide notice, by last know mail or email address, to all attorneys of record and to parties if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the Court informed of their current addresses and notice to the last current address or email address shall be sufficient. Counsel's last known address or email address shall be ascertained by reference to the Indiana Roll of Attorneys maintained by the Indiana Supreme Court. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence shall be held in a secure area. At the time of removal, the party receiving and removing the evidence shall give a detailed receipt to the court reporter, and the receipt will be made part of the court file. In all cases, the Court, or the sheriff on the Court's order, should dispose of evidence that is not retaken after notice. The sheriff may destroy evidence if its' possession is illegal or if it has negligible value. The sheriff should auction evidence of some value with proceeds going to the county general fund. These Rules and their retention periods will implement the exception under Indiana Code I.C. 35-33-5-5(d)

F. BIOLOGICALLY CONTAMINATED EVIDENCE.

A party who wants to offer biologically contaminated evidence shall notify the trial court that the evidence may be biologically contaminated prior to offering the evidence at trial. A party can 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 unless specifically ordered by the Court.

(Effective February 15, 2019)

LR26-ADR-009 Mediation Prior to Trial in Certain Cases

A. Fifteen (15) days or more after the period allowed for peremptory change of judge under Trial Rule 76(B) has expired, and before any civil plenary, civil tort, domestic relations dissolution, custody, or legal separation contested final hearing is conducted, the parties must submit all issues of disagreement to mediation as set forth in the Indiana Rules of Alternative Dispute Resolution.

B. For the parties in either a civil or domestic relations case to be excused from attempting to settle their case issues through mediation, they must apply for and receive from the Court an order excusing the parties from the mediation requirement. Such orders shall not be sought as a matter of course by the parties or their counsel, and such relief shall be granted by the Court only upon extraordinary circumstances and for good cause.

(Effective May 15, 2019)

LR26-ADR-0010 Guardian Ad Litem Appointment in Domestic Relations Cases Involving Child Custody and Visitation Issues

In all domestic relations matters involving child custody or visitation, if the parties have not reached an agreement on those issues prior to the final hearing, the Court may appoint a Guardian Ad Litem to assist the Court and the parties.

(Effective May 15, 2019)