

Senior Judge Handbook

2019 Edition

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2019 Revision – Senior Judge Committee

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I. Who May Serve as a Senior Judge

A. Certification Procedure

A person who desires to serve as a Senior Judge under I.C. 33-23-3 shall apply to the Indiana Judicial Nominating Commission for certification. (I.C. 33-27-4-1) <https://www.in.gov/judiciary/iocs/files/sr-judge-cert-app.pdf>. The Indiana Judicial Nominating Commission shall certify to the Supreme Court a person desiring to serve as a Senior Judge if the person meets the requirements for service. The application for certification must be made yearly.

B. Eligibility for Certification as Senior Judge

A person may be certified by the Indiana Judicial Nominating Commission under I.C. 33-27-4-1 if the person meets the requirements of Administrative Rule 5(B)(3) http://www.in.gov/judiciary/rules/admin/index.html#_Toc341257075 which requires that the Senior Judge:

1. has served in their judicial capacity for at least four (4) years and at least one of those years was within five (5) years of the application or, in the event the four years of service was more than five (5) years prior to the application, has served at least thirty (30) days as a Senior Judge during a calendar year within five (5) years of the application; except that the Indiana Judicial Nominating Commission may, upon the finding of exceptional circumstances, waive the foregoing criteria and certify a Senior Judge with less service than specified above;
2. agrees to serve as a Senior Judge for at least thirty (30) days in the year of appointment and has not in any previous year of service failed to serve for at least thirty (30) days without good cause as determined by the Indiana Judicial Nominating Commission.
3. agrees to comply with the Code of Judicial Conduct; further agrees to not serve as an elected official or employee of a governmental entity or subdivision except with Supreme Court permission;
4. agrees to serve where assigned; and that the service shall be substantially equivalent to the daily calendar of the court to which the Senior Judge is assigned;
5. agrees to continue to serve in all special judge cases in which the person who is certified was serving as a special judge at the time the person left office, but will receive Senior Judge credit for such service; provided however, if the circumstances that led to the person who is certified being appointed as a special

judge no longer exist, and no other disqualification exists, then the case may be returned to the regular judge of the court where the case is pending; and

6. agrees:

- a. in the case of a Senior Judge appointed or assigned to serve a trial court, not to represent any client in any case before a court in which the Senior Judge is appointed or assigned as Senior Judge and to disclose to the parties coming before him in his capacity as a Senior Judge whenever, within the previous one (1) year, he has served as an ADR neutral for: 1) a lawyer or lawyer's firm of a party to the case, or 2) a party in the case currently before the court. Following the disclosure, unless all parties agree on the record that the Senior Judge may hear the case, the Senior Judge must recuse; and,
- b. in the case of a Senior Judge appointed or assigned to serve an appellate court, (1) not to represent any client in any case before an Indiana appellate court, (2) not to serve as an ADR neutral in any case in which he or she participated as a judicial officer, (3) not to serve as a judicial officer in any case in which he or she participated as an ADR neutral, and (4) not to represent any client in any case before a tribunal whose decisions are subject to review by an Indiana appellate court; and

7. is fit to serve as a Senior Judge.

C. Oath.

The first order of business of a newly appointed Senior Judge should be the filing of a formal, notarized oath with the Clerk of the Indiana Supreme Court as required by Ind. Adm. Rule 5(B)(5). A form has been provided at the end of this Handbook (see Appendix A). Senior Judges do not need to re-file an oath when they are recertified.

D. Recertification

In August of each year, the Indiana Judicial Nominating Commission will provide Senior Judges with an Application for Recertification as Senior Judge for the next calendar year. This application should be **promptly completed** and filed in order to give the Commission adequate time to place it on their agenda for review at its October or December meeting.

E. Eligibility to Serve in Courts

All Senior Judges certified by the Indiana Judicial Nominating Commission and appointed by the Indiana Supreme Court are eligible to serve any trial court that requests their service during the year they are certified. The Supreme Court does not have to appoint a particular Senior Judge to a specific trial court. All Appellate Senior Judges so certified and appointed can serve the Court of Appeals or Tax Court upon request of that Court. Senior Judges must annually provide trial courts served by the Senior Judge with a written Verified Statement Regarding Practice of Law (*See Appendix C*).

II. Information for Senior Judges

A. Selection of a Senior Judge

A trial court judge may ask any certified Senior Judge to serve in his/her court provided the trial court has allotted Senior Judge days available.

B. Application of Code of Judicial Conduct

Senior Judges continue to be subject to the Code of Judicial Conduct, except that Senior Judges are not required to comply with:

1. Rule 2.10 (Judicial Statements on Pending and Impending Cases), but the Rule applies in cases in which the Senior Judge serves as a judge;
2. Rule 3.4 (Appointments to Governmental Positions), but remember that Admin. R. 5(B)(3)(c) requires a Senior Judge to seek Supreme Court approval if the Senior Judge also will be working as an employee of a governmental entity or subdivision;
3. Rule 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), which means that a Senior Judge is not prohibited from soliciting donations or memberships for a charitable or civics organization;
4. Rule 3.8 (Appointments to Fiduciary Positions, i.e. executor, trustee, etc.);
5. Rule 3.9 (Service as Arbitrator or Mediator), but a Senior Judge may not serve as an ADR neutral in any proceeding in which the Senior Judge has previously served as a judicial officer. In other cases, a senior judge may serve as a mediator in a case arising in a court where he or she is appointed as a senior judge. However, a senior

judge has an affirmative duty to disclose to the parties coming before such senior judge whether, within the previous one (1) year, the senior judge has served as a mediator in any case for: 1) a lawyer or lawyer's firm of a party to the case, or 2) a party in the case currently before the court. Following the disclosure, unless all parties agree on the record that the senior judge may hear the case, the senior judge must recuse.

6. Rule 3.10 (Practice of Law), but a Senior Judge may not represent clients in court systems in which the Senior Judge presides (e.g. if the Senior Judge serves in Hancock County, the Senior Judge will not be able to submit pleadings in any cases in Hancock County);
7. Rule 3.13 (Acceptance of Gifts);
8. Rule 4.1 (Political and Campaign Activities), but a Senior Judge must be cautious not to use the prestige of judicial office (including judicial title) to promote the political interests of others (i.e. a Senior Judge is not prohibited from publicly endorsing a political candidate, but the Senior Judge may not use the Senior Judge title or appear in a judicial robe for such endorsements) (See Advisory Opinion #1-19 issued June 2019) ;
9. Rule 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office), which means a Senior judge would not need to resign as Senior Judge while running for nonjudicial office.

While Senior Judges are not subject to certain provisions of the Code of Judicial Conduct, it is important to remember that all judges, including Senior Judges, must adhere to Rule 1.2, which requires judges to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and Rule 1.3, which requires judges to not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others. Even in the performance of other duties, a Senior Judge should be cautious not to use his or her judicial title to advance the private interests of the judge or others.

C. Authority of Senior Judge

1. A Senior Judge has authority to act for a court **only** when **all** the following have been met:
 - a. The Judicial Nominating Commission has certified the Senior Judge.
 - b. The Supreme Court has appointed the Senior Judge for the year.

- c. A trial court judge has entered an Order Naming Senior Judge (*see Appendix B*) specifying the days to be served **and** stating whether the days of service are 24 hours or limited to the court’s regular business hours.
 - d. A Verified Statement Regarding Practice of Law (*see Appendix C*) is attached to the Order Naming Senior Judge (*see Appendix B*) unless subsequent events require execution of a new Verified Statement.
2. Each Order Naming Senior Judge with attached Verified Statement must be filed in the Record of Judgments and Orders (RJO). Orders Naming Senior Judge shall be assigned a Court Business Record case type with CB case classification code. Courts may choose to enter all the Orders Naming Senior Judges under one CB number for each calendar year.

Exception: When a Senior Judge has heard a case and taken it under advisement, the Senior Judge has continuing authority to act in order to create and enter a ruling without an additional appointment order. However, an additional appointment order (Order Naming Senior Judge) is required for each day the Senior Judge seeks Senior Judge credit for work performed in reaching a decision in the case and for the date that a ruling is entered in the case.

3. During days of service in a court, the Senior Judge has the same jurisdiction as the presiding judge of the court but only during the time specified in the order of appointment.
- a. If, the sitting trial judge has authority to address matters in another court when the judge of the other court is unavailable, then the Senior Judge has the same authority. A Chronological Case Summary (CCS) entry should be entered on each case the Senior Judge acts for the other court. The entry should read “Order entered by Name of Senior Judge while serving as Senior Judge of the Name of Court.”
 - b. A Senior Judge may also retain jurisdiction in an individual case upon the order of the presiding judge of the court in which the case is pending (Ind. Adm. Rule 5(B)(4).
4. Senior Judges may serve concurrently with the other judicial officers of the court in which they are appointed.
5. Litigants do not have the right to require that proceedings be heard by the sitting judge rather than a properly assigned Senior Judge.
6. A sample Order naming Senior Judge by trial judge may be found in Appendix B.

7. *Note:* A Senior Judge's authority can include cases in which the sitting judge acts as a *special* judge. The requirements of Trial Rule 79(I)(2) must be met.
8. Marriage Officiate. A certified Senior Judge may officiate at a marriage ceremony held anywhere in the State of Indiana at any time during their period of certification by the Commission.
9. Administration of Oaths. A certified Senior Judge may administer oaths anywhere in the State of Indiana at any time during their period of certification by the Commission.

D. Compensation and Benefits

1. The Senior Judge per diem compensation legislation is found in IC 33-23-3-5, and specifies that Senior Judges are entitled to a per diem of \$175 per day served for the first 30 days of service in a calendar year, and a per diem of up to \$250 per day (subject to adjustment by the Supreme Court if the payroll fund is insufficient to pay the full \$250 per diem) for each day of service in the calendar year above 30. Senior Judges are entitled to reimbursement for their round-trip mileage and reasonable expenses. Mileage reimbursement is not allowed if the Senior Judge's service is in his or her county of residence. According to the state travel policy an over-night stay is necessary to qualify for meal reimbursement.
2. Claims for payment of Senior Judge services and reimbursement should be made within thirty (30) days of the date services are rendered. The claim form may be found at <https://www.in.gov/judiciary/iocs/files/sr-judge-claim-for-service.pdf>
3. The timing for payment of per diem and travel and expense reimbursements are different. Per diem payments are made through the state payroll system and occur every two weeks. If a claim is received just after the payroll deadline the payment of the claim will be delayed by an additional two weeks.

Travel and expense reimbursements are made through the state vendor system, which is entirely separate from the payroll system. As a result, travel and expense reimbursements are paid via a separate deposit usually one week after the per diem deposit.

4. Compensation for a Senior Judge who is also serving as a Special Judge depends on when the Senior Judge acquired the Special Judge case.
 - a. A Senior Judge who is hearing a Special Judge case that they acquired **before** retiring from the bench is eligible for Senior Judge service credit, but not Senior Judge pay. In these situations, the Senior Judge is compensated at the Special Judge rate of \$25 per day. (If the Special Judge case falls on a day that

you are also serving in the court as Senior Judge, you will be paid for your Senior Judge service and not the Special Judge per diem.) The claim for these services should be submitted on the **Senior Judge claim form**, marking in the fourth column on the second page with a “S”. This ensures that the trial court is not charged with use of a Senior Judge day for your Special Judge service.

- b. A Senior Judge who is hearing a Special Judge case that they acquired **after** retiring from the bench is eligible for Senior Judge service credit and Senior Judge per diem compensation. In these situations, the Senior Judge should submit their claim on the **Senior Judge claim form**. **No “S”** should be noted in the fourth column on the second page. The trial court’s Senior Judge allotment is charged, but the court can request additional days.
 - c. If special judge service is submitted on the Special Judge claim form, Senior Judge per diem compensation or credit will **not** be provided-- only the Special Judge \$25 per diem.
5. Senior Judges may not be compensated for service for more than 100 days in the aggregate during any one calendar year (IC 33-23-3-5). Also, Senior Judges may not be compensated for both a full day of Senior Judge service and special judge service performed on the same day.
 6. Senior Judges are also entitled to state benefits, provided they are appointed for service for a period of at least 30 days and provided they serve at least 30 days during each calendar year. Senior Judges who meet this requirement may be eligible for state group insurance benefits, including health savings accounts, group health, life, dental and vision benefits. Payment for said benefits is the individual responsibility of the Senior Judge. Failure to make timely payments will result in the termination of said benefit or benefits.
 7. Use of Senior Judge Days for Judicial Pension Plan service credits --_Senior Judges who are already receiving judicial pension plan benefits are **not** eligible to obtain any credit for days served (whether as Senior Judges, temporary judges, or pro-tem judges) to increase their eligibility or benefits under the judicial pension plan. However Senior Judges, temporary judges, or pro-tem judges who are not receiving judicial pension plan benefits may purchase pension plan service credits for days served by paying the actuarial cost as determined by the Indiana Public Retirement System (INPRS). Those interested in obtaining such benefits must make arrangements with INPRS.
 8. Enrollment in Medicare and receiving Social Security benefits may affect the Senior Judge’s eligibility for benefits. Each Senior Judge is encouraged to contact the Benefits Administrator for specific information.

9. Senior Judges are eligible for a court email address and for access to Lexis for doing legal research. Contact Trial Court Technology at 317-234-2710 to arrange for these tools.

E. Time Keeping

1. A Senior Judge who serves less than the daily calendar of the court should report only the partial amount of the day served for payment and credit.
2. A Senior Judge must submit a Statement of Service (*see* Appendix. F) to the appropriate court staff member at the conclusion of each day's service. If a case is held under advisement by a Senior Judge, supplemental statements are required to be filed for the additional time. The form (Statement of Senior Judge Service) is available at: <https://www.in.gov/judiciary/iocs/files/sr-judge-claim-for-service.pdf>
3. If a Senior Judge takes a case under advisement and spends time on the case while under advisement, the time may be counted as additional Senior Judge time. The Senior Judge should keep the sitting judge informed of the amount of additional time expended and submit another Statement of Service to the court. In these situations, the sitting judge may request additional Senior Judge days from the Office of Judicial Administration and utilize the use of under advisement time as the justification for the request. *See*, III (A) (1) and (2).

F. Senior Judge Service Credit for Mediation

1. Pursuant to Administrative Rule 5 (B) (9), a Senior Judge who is a registered mediator and serves as a mediator pursuant to I.C. 33-23-3-3 or on a pro bono basis, may receive senior judge service credit for said mediation service provided that the senior judge is not compensated at a rate greater than the per diem rate for senior judges.
2. Pro bono mediations are **not** counted toward the trial court's allotted days. Pro bono mediation days are recorded on page two of the Senior Judge Claim for Services form by using "99S01" (Office of Judicial Administration) in the second column and placing an "M" in the fourth column.
3. In situations where a Senior Judge is having problems accumulating 30 days of service, utilization of the pro bono mediation rule could be very helpful. In addition, pro bono mediations will relieve pressure on the courts by having more mediators available at a very modest cost to the parties (which is the Senior Judges daily per diem).

4. A senior judge may serve as a mediator in a case arising in court where he or she is appointed as a senior judge. However, a senior judge has an affirmative duty to disclose to the parties coming before such senior judge whether, within the previous one (1) year, the senior judge has served as a mediator in any case for: 1) a lawyer or lawyer's firm of a party to the case, or 2) a party in the case currently before the court. Following the disclosure, unless all parties agree on the record that the senior judge may hear the case, the senior judge must recuse.

G. Senior Judge Service Credit as an Attorney Surrogate

A Senior Judge who is appointed and serves as an Attorney Surrogate under Admission and Discipline Rule 23 § 27 may receive Senior Judge credit and compensation at the per diem rate for Senior Judges so long as the Senior Judge is not being compensated for the services under Admission and Discipline Rule 23 § 27(g). The Senior Judge shall make the election to receive Senior Judge credit and compensation within sixty days of the appointment as Attorney Surrogate by filing a notice with the appointing court.

H. Service as Special Judge

1. A newly certified Senior Judge is required to retain jurisdiction over all preexisting special judge cases but will receive Senior Judge credit for same. However, Ind. Adm. Rule 5(B) (3) (e) provides that if the circumstances that led to the person who is certified being appointed as a special judge no longer exist, and no other disqualification exists, then the case may be returned to the regular judge of the court where the case is pending.
2. Further, Senior Judges who have been certified and appointed shall be eligible for **post-retirement selection** as a **special** judge. Trial Rule 79 (J).

I. Types of Judicial Officers

Confusion can arise from imprecise use of language surrounding judicial officers.

1. A Supreme Court appointment of a *Judge Pro Tempore*, (sometimes referred to as a "Temporary Judge") usually for an extended period of service, is paid by the state at the same rate as the sitting judge for whom they are serving.
2. An appointment by a sitting judge of a trial court of a *Judge Pro Tempore* pursuant to Trial Rule 63(E), usually for a short period of service, is paid \$25 per day of service by the county where the judge *pro tempore* is serving.

3. An appointment by a sitting trial court judge of a *Temporary Judge* pursuant to IC 33-38-11 et seq., for a period that may not exceed sixty days, except for temporary juvenile judges who may serve up to one year, is paid \$25 per day of service by the county where the Temporary Judge is serving.

J. Practical Advice for Serving as a Senior Judge

1. Notify judges in your area that you are available to serve as a Senior Judge in his or her court. Provide the judge and/or court staff with your contact information.
2. Make an effort to become acquainted with the sitting court's staff members as soon as possible.
3. Make yourself aware of the sitting court's general policies regarding continuances, enlargements of time etc. If the sitting judge's time allows, schedule a short appointment to discuss these matters.
4. Before commencing service, confirm that the court has actual Senior Judge days available.
5. Before commencing service, confirm with the sitting judge that desired Odyssey queues have been established through the Help Desk.
6. Review the docket prior to serving. It is possible that you may be called to serve in a court which handles case types that you have little if any prior experience or expertise. It is also possible that you will have a conflict that prevents you from hearing a case on the docket. To be forewarned is to be forearmed.
7. During days of service in a court, the Senior Judge has the same jurisdiction as the presiding judge of the court but only during the time specified in the order of appointment. If the sitting trial judge has authority to address matters in another court when the judge of the other court is unavailable, then the Senior Judge has the same authority.
8. A Chronological Case Summary (CCS) entry should be entered on each case the Senior Judge acts for the other court. The entry should read "Order entered by Name of Senior Judge while serving as Senior Judge of the Name of Court."
9. At the completion of service for a court you should complete the "Senior Judge Statement of Service" and provide it to the trial court for its records.

10. Due to possible emergencies, Senior Judges should consider obtaining emergency contact information in order to contact court staff after hours.

K. Eligibility to Attend Annual Meeting of the Indiana Judicial Conference

By Board of Director Policy, certified Senior Judges are eligible to attend programs sponsored by the Indiana Office of Court Services without regard for service days with the exception of attendance at the Annual Meeting of the Judicial Conference of Indiana. In order to attend the Annual Meeting, Senior Judges must be both “certified” and “service qualified.” A Senior Judge is “service-qualified” if the Senior Judge has at least 10 days of Senior Judge service by August 1 of each year. In calculating whether a Senior Judge is “service-qualified” service as a judge pro tempore under an appointment by the Supreme Court will be taken into consideration. Senior Judges who are not “service-qualified” may seek a waiver of the Board’s policy by contacting the Chief Administrative Officer at 317-232-2542 to explain the extenuating circumstances preventing compliance with the service-qualified requirement. A waiver may be requested due to medical issues, family issues or an affirmation your 30 days of Senior Judge service is scheduled throughout the remainder of the calendar year.

L. Who to Contact When Issues Occur

To check Senior Judge service days, see <http://www.in.gov/judiciary/admin/2425.htm>. In the event of unreported service, please update service information/days with the Office of Judicial Administration.

Issues involving administration of the Senior Judge Program should be addressed to Office of Judicial Administration, (317) 232-2542.

Policy matters may be sent to the Chair of the Senior Judge Committee for discussion and referral. The Office of Court Services (317) 232-1313 will be able to provide the name of the current Chair.

Issues involving Odyssey should be directed to the Odyssey helpdesk at helpdesk@courts.in.gov or 888-275-5822 or 317-232-2542.

III. Information for Trial Judges

A. Senior Judge Basics

The Senior Judge program was created to assist the trial, tax, and appellate courts, whose caseloads have mushroomed in the past years, in providing services to the citizens of Indiana. The availability of experienced judges to step into the courts provides crucial resources and may even prevent the courts from shutting down when judges attend a conference, are burdened by a lengthy jury trial, take much needed vacations or are taken ill.

1. All courts are allotted a specific number of senior judge service days each year, including a minimum of 15 such days each year. For the number of days allotted to each court, see <https://www.in.gov/judiciary/iocs/3231.htm>. Additional days may be allotted upon request of the trial judge to the Chief Administrative Officer of the Office of Judicial Administration. The request should state the reason(s) additional days are needed and specify the number of additional days being requested. The application needs to be made prior to the court exceeding its annual allotment. While such requests are generally favorably considered, additional days are not granted automatically. It is very important to keep careful track of days used.
2. If the annual allocation of senior judge service days is insufficient to meet the needs of a court, a request for additional days, setting forth the reasons (committee service, attendance at conferences, major cases, vacations, health emergencies, etc.) and the specific number of days required may be submitted to the Chief Administrative Officer.
3. The annual request by trial courts to use specific senior judges is no longer used. All certified senior judges may serve in the Court of Appeals, Tax Court, and any circuit, superior, or probate court. A Naming Order is required that specifies the day(s) that the senior judge will be serving.
4. Senior judges may serve while the sitting judge is present or absent. While the sitting judge handles a trial, does research, or attends to other matters, the senior judge may conduct other business of the court. Senior judges may be used to do research and/or drafting.
5. The list of certified Senior Judges can be found on the Supreme Court website at <https://www.in.gov/judiciary/iocs/3231.htm>. Senior Judge contact information may be found in the biennial Indiana Judicial Directory. Efforts are underway to develop and make available an online directory of Senior Judges including contact information and other helpful information.

6. The Senior Judge Program exists to serve the trial court judges. The Senior Judge program is a work in progress and changes are being made based on experience and further evaluation of the program. Please feel free to communicate to the Office of Judicial Administration or the Senior Judge Committee ideas and questions.

B. Using Senior Judges

1. Eligibility of Senior Judges. All Senior Judges who have been certified by the Judicial Nominating Commission and appointed by the Supreme Court are eligible to serve in the Court of Appeals, Tax Court, or any circuit, superior, or probate court. A specific request to the Supreme Court for the service of a particular Senior Judge in a specific court is **not** required.
2. Senior Judges Should be Informed of the Trial Judge's Expectations. The trial court judge should set forth his or her expectations for Senior Judges in writing or in person with the Senior Judge and with the staff. For example, when a continuance is requested by one counsel or both counsel because he or she didn't expect a Senior Judge, would the judge prefer the Senior Judge hear the case or defer to the wishes of the counsel or handle each case on a case by case basis and determine the merits of the request.
3. The Trial Court Judge Sets the Tone for **Senior Judge** Use and Treatment. The trial judge should communicate with staff as to how he or she wishes to use Senior Judges. For example, does the trial court judge want to use Senior Judges the morning a jury trial starts, when the judge must be out of the office for personal matters or only when the judge is at conferences? Does the trial judge wish to use all days allotted or none of them? The trial judge must communicate with staff and the Senior Judge how much authority the Senior Judge is to have. Are Senior Judges only to hear the cases that are scheduled for that day or if there is a problem in the jail concerning defendants from the court, can they address that? Is the trial judge to be personally contacted even when a Senior Judge is present? Has the trial judge advised staff which certified Senior Judge to use in case of illness or delay caused by a flight glitch coming back from vacation? Are there certain Senior Judges that the judge prefers to hear certain cases or types of cases?
4. Order Naming Senior Judge and Verification Statement.
 - a. A Senior Judge has authority to act for a court **only** when **all** the following have been met:
 - i. The Judicial Nominating Commission has certified the Senior Judge.
 - ii. The Supreme Court has appointed the Senior Judge for service during the year.

- iii. Trial court judge has entered an Order Naming Senior Judge (*See Appendix B*)
 - a) Specifying the days to be served,
 - b) Stating whether the days of service are 24 hours or limited to the court's regular business hours, **and**
 - c) Including an attached copy of the Senior Judge's Verified Statement Regarding Practice of Law (*See Appendix C*)
- b. The order appointing a Senior Judge should be entered in advance of the commencement of the period of service by the Senior Judge.
- c. Senior Judges must provide trial courts served with a written Verified Statement Regarding Practice of Law annually unless subsequent events require execution of a new Verified Statement.
- d. Each Order Naming Senior Judge with attached Verified Statement must be filed in the Record of Judgments and Orders (RJO) **before** the Senior Judge commences service. Orders Naming Senior Judge shall be assigned a Court Business Record case type with CB case classification code. Courts may choose to enter all the Orders Naming Senior Judges under one CB number for each calendar year.

Exception: When a Senior Judge has heard a case and taken it under advisement, the Senior Judge has continuing authority to act in order to create and enter a ruling. However, an additional appointment order (Order Naming Senior Judge) is required for each day the Senior Judge seeks Senior Judge credit for work performed in reaching a decision in the case and for the date that a ruling is entered in the case.

- 5. Review the Staff Checklist. As a guideline, a list of suggested questions is attached as Appendix E for staff to discuss with the trial judge to make sure staff understands the trial judge's expectations and directions. Staff should know how to make the best use of the Senior Judge days allotted to the trial court. Staff should also review the information in Appendix D to assure that it will be provided to the Senior Judge prior to the day(s) of service. This will assist the Senior Judge in serving the court.
- 6. How Senior Judges May Serve a Trial Court
 - a. A trial judge can use Senior Judges **when the judge is not present:** to handle a regular (not reduced) case load when the trial judge is at conference, on vacation, or away from the office on personal or judicial business.
 - b. A trial judge can use Senior Judges **when the judge is present:** for example, while in a jury trial, while attending council budget meetings, while working on cases under advisement, or the Senior Judge can handle a jury trial for the trial judge.

- c. A trial judge can use Senior Judges **in special situations:** to be court appointed mediators, to do settlement conferences in mortgage foreclosures, and to be appointed special judge in cases in the court. Remember that if a Senior Judge is appointed as a special judge in the trial judge's court and elects to take the time and compensation on that case as a Senior Judge, that time will be allotted towards the court's Senior Judge allotment. Admin. R. 5(B)(6) deals with the per diem allowance. Admin. R. 5(B) (9) deals with Senior Judges serving as mediators.
- d. If the sitting trial judge has authority to address matters in another court when the judge of the other court is unavailable, then the Senior Judge has the same authority. A Chronological Case Summary (CCS) entry should be entered on each case the Senior Judge acts for the other court. The entry should read "Order entered by [Name of Senior Judge] while serving as Senior Judge of the [Name of Court]."
- e. A Senior Judge may take matters under advisement and act on them at a later time. The Senior Judge may not be able to complete a hearing and may need to return to finish the hearing. A good example is when a Senior Judge returns to conduct sentencing after a trial.
- f. A Senior Judge may retain jurisdiction in an individual case if the trial judge enters an order to that effect. The Senior Judge should discuss the matter with the judge and let the judge know how much time they will be using. The Senior Judge shall report this time to the court on the same Senior Judge Statement of Service form, and staff needs to keep track of the Senior Judge time used. This time will be counted toward the number of Senior Judge days allotted to the court.

7. Dissatisfaction with Service by a Senior Judge—Consider the Following:

- a. Was there an established set of written expectations for Senior Judges serving the court and were they communicated to the Senior Judge?
- b. Was staff aware of the expectations?
- c. Were the issues discussed with the Senior Judge to prevent it from happening again?
- d. Is this a situation serious enough to discuss with the Office of Judicial Administration?
- e. A trial court judge always has the option of not using any particular Senior Judge again and discreetly making sure staff is aware of that.

8. Whom to Contact When Issues Occur?

- a. Issues involving administration of the Senior Judge Program should be addressed to the Office of Judicial Administration, Senior Counsel. (317) 232-2542.
- b. If mental health/substance abuse concerns arise, the Judges and Lawyers Assistance Program can be helpful. <http://www.in.gov/judiciary/ijlap/>
- c. Policy matters may be sent to the Chair of the Senior Judge Committee for discussion and referral. The Office of Court Services (317) 232-1313 will be able to give the name of the current Chair.
- d. Should there be serious issues of competency; the Judicial Qualifications Commission should be contacted. <http://www.in.gov/judiciary/jud-qual/>

IV. Information for Trial Court Staff.

A. Importance of Trial Court Staff

Trial court staff members are crucial to the successful use of Senior Judges in trial courts. There are several things to consider before, during and after the Senior Judge is used.

B. Using Senior Judges

1. Eligibility of Senior Judges. To be eligible to serve, a Senior Judge must be certified by the Indiana Nominating Commission and appointed as a Senior Judge for the year. The list of certified Senior Judges can be found at <https://www.in.gov/judiciary/iocs/3231.htm>. Senior Judge contact information may be found in the biennial Indiana Judicial Directory. Efforts are underway to develop and make available an online directory of Senior Judges including contact information and other helpful information. All Senior Judges who have been certified by the Commission and appointed by the Indiana Supreme Court are eligible to serve a court. A judge does not need to make a specific request to the Supreme Court.
2. Contact with Senior Judges. Trial court staff or the judge should contact the Senior Judge(s) directly to ask if they wish to serve in the court on a particular day(s). There are several reasons a Senior Judge may not wish to be appointed in a court or for certain dates. For example, many Senior Judges have already committed to serve as Senior Judges in other courts or may need to avoid conflicts of interests in mediation practice by serving in certain courts.

3. Allocation of Senior Judge Service Days. Each court has a specified number of days that can be used. See the spreadsheet at <https://www.in.gov/judiciary/iocs/3231.htm>. A trial judge may request additional days (see III(A)(1) above).
4. Emergencies. Sometimes emergencies arise and the judge is unable to personally request the services of a Senior Judge. A good policy is for staff to check with the judge before any problems occur as to the procedure to follow in an emergency when the judge is unable to act. Staff should also discuss the situation with the other judges in the county. If a solution is not found, contact the Office of Judicial Administration at 317-232-2542.
5. Order Naming Senior Judge. When Staff knows the specific days that a Senior Judge will be needed, the sitting judge must appoint a specific Senior Judge for those days. (see Appendix B, Order Naming Senior Judge) The Order Naming Senior Judge should be entered **before** the Senior Judge begins service.
6. Authority to Act. A Senior Judge has authority to act for a court **only** when **all** the following have been met:
 - a. The Judicial Nominating Commission has certified the Senior Judge
 - b. The Senior Judge has been appointed for the current year by the Supreme Court
 - c. the trial court judge has entered an Order Naming Senior Judge (*see*, Appendix B)
 - Specifying the days to be served **and**
 - Stating whether the days of service are 24 hours or limited to the court's regular business hours
 - Including an attached Verified Statement Regarding Practice of Law from the Senior Judge, or a copy thereof, unless subsequent events require execution of a new Verified Statement.
7. Filing Naming Order and Verified Statement in RJO. Each Order Naming Senior Judge with attached Verified Statement must be filed in the Record of Judgments and Orders (RJO). Orders Naming Senior Judge shall be assigned a Court Business Record case type with CB case classification code. Courts may choose to enter all the Orders Naming Senior Judges under one CB number for each calendar year. During days of service in a court, the Senior Judge has the same jurisdiction as the presiding judge of the court but only during the time specified in the order of appointment.

Exception: When a Senior Judge has heard a case and taken it under advisement, the Senior Judge has continuing authority to act in order to create and enter a ruling. However, an additional appointment order (Order Naming Senior Judge) is required for

each day the Senior Judge seeks Senior Judge credit for work performed in reaching a decision in the case and for the date that a ruling is entered in the case.

8. Planning for Senior Judge's Service. It is **important to plan** for the Senior Judge's visit. The form found in Appendix D (Information to be Submitted for Use by Senior Judge) should be prepared and given to the Senior Judge prior to **each** time that judge comes to the court. Make sure the Senior Judge is aware of all the information they will need. Even if the Senior Judge has been in the court many times, things change between visits such as personnel and workflow. It is very easy to forget to mention those changes to the Senior Judge. (Obviously, Staff needs to fill out only one form if the Senior Judge is serving a period of consecutive days or weeks in the court).
9. Confirming Sitting Judge's Instructions and Expectations. Before the Senior Judge's visit to the court, its staff and sitting judge should discuss the Senior Judge's upcoming visit including a review of the checklist (Appendix E) to be sure that they understand the sitting judge's instructions and expectations.

V. Appendices

Appendix A -- OATH OF OFFICE FOR SENIOR JUDGE..**Error! Bookmark not defined.**

Appendix B -- ORDER NAMING SENIOR JUDGE.....**Error! Bookmark not defined.**

Appendix C -- SENIOR JUDGE’S STATEMENT REGARDING LAW PRACTICE. **Error! Bookmark not defined.**

Appendix D – LIST OF INFORMATION TO BE PROVIDED TO SENIOR JUDGES**Error! Bookmark not defined.**

Appendix E – COURT CHECKLIST FOR USING SENIOR JUDGES ... **Error! Bookmark not defined.**

Appendix F – SENIOR JUDGE STATEMENT OF SERVICE30

Appendix A

OATH OF OFFICE FOR SENIOR JUDGE

In the Indiana Supreme Court

OATH OF OFFICE FOR SENIOR JUDGE

Under the penalties for perjury, I, _____, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of Indiana, and that I will honestly, faithfully and impartially discharge my duties as Senior Judge, to the best of my knowledge, skill and ability.

Senior Judge

Printed Name

Appendix B

ORDER NAMING SENIOR JUDGE

STATE OF INDIANA) IN THE _____ COURT
) SS:
COUNTY OF _____) CASE NO. _____ - _____ -CB- _____

ORDER NAMING SENIOR JUDGE

Comes Now the Honorable _____, Judge of the
_____ Court, and hereby names the
Honorable _____, Senior Judge, to serve this court as Senior Judge on
the following day(s):

_____ .

Said service will be during (**Select one**):

_____ the regular business hours of the court, or _____
for 24 hours each day.

Senior Judge _____ has verified in writing that he/she
does not practice law before this court.

The clerk shall enter this order into the Record of Judgments and Orders of the court.

ORDERED this _____ day of _____, 20_____.

Judge, _____ Court

Appendix D

INFORMATION TO BE PROVIDED TO SENIOR JUDGES

COURT _____ PHONE NUMBER _____

1. List all personnel by name and identify location, job title and contact number. Work and home (for emergencies).
2. Parking for Senior Judge.
3. Persons who appear in your court regularly such as Deputy Prosecutor, Public Defender, Probation, Division of Family Services, CASA, Security staff (deputies, transportation).
4. Calendar (docket) for days Senior Judge will be sitting, and personnel assigned each session
5. Other.

Appendix E

COURT CHECKLIST FOR USING SENIOR JUDGE

Things to consider before the Senior Judge arrives (discuss with your judge):

1. ___ The Senior Judge is certified and has been appointed for your court.
<https://www.in.gov/judiciary/iocs/3231.htm>

2. ___ Your court has enough remaining service days available. See the spreadsheet at <https://www.in.gov/judiciary/iocs/3231.htm> (the spreadsheet has several tabs at the bottom of the spreadsheet. Click on the tab labeled “Senior Judge Allocation-Use” and scroll to your court).

3. ___ There is suitable work area for the Senior Judge (other than the court room). Check with your judge as to where your judge would like the Senior Judge to work when not in court.

4. ___ Computer access issues.
___ May the Senior Judge use your judge’s computer or not? If so, ensure that necessary user ID’s and passwords are available.
___ Is the Senior Judge bringing a laptop, if so, is internet access available? What is the Wi-Fi password? Will the Senior Judge need to bring a cable?
___ Will the Senior Judge have access to your court’s case management system? If not, will hard copies of the CCS be provided?
___ If the Senior Judge will be expected to work in Odyssey, has the Help Desk been contacted to establish the necessary access and queues?

5. ___ Information to give to the Senior Judge (in written form, where possible)

- ___ Where to park
 - ___ Telephone number/email address for Senior Judge to use to contact the court with questions
 - ___ Location of basic tools needed to complete the work--pens, pads of paper, etc.
 - ___ Location on the bench of the basic tools plus bench books, dialogues, criminal statutes, Rules of Court, court bond schedule (if existing), any other resources needed.
 - ___ The court calendar (docket) for the day(s) Senior Judge is acting and what staff members will be in the court room with the Senior Judge
 - ___ How to operate building security system and security badge (if needed)
 - ___ Copy of evacuation plan
 - ___ Names of all court personnel with whom the Senior Judge will come in contact and the areas each employee covers
 - ___ Names of other persons regularly appearing in court (the prosecutor and deputies, CASAs, probation staff)
 - ___ How interpretation is normally handled
 - ___ Simple instructions on how to navigate the court's case management system
 - ___ A general outline of the workflow and what the Senior Judge should expect: What types of cases are heard each day the Senior Judge will be present? If the Senior Judge is to generate orders or if court staff will generate them. Where the Senior Judge will find the files needing attention and/or proposed orders for signature. Once signed, where the files/orders should be placed, etc.
 - ___ From what location will litigants testify? Sitting at their own table, from the witness stand, standing before the bench or another place
 - ___ The court's general practice on granting/denying requests for continuances and other routine matters
 - ___ How the Senior Judge can access case files
 - ___ Location of rest rooms, break room, refrigerator, etc.
 - ___ Access codes (if any) for telephone
6. ___ Any special instructions from your judge to the Senior Judge

7. ___ An order specifically appointing the Senior Judge for each day of service (including emergency situations outside of court hours) signed by the sitting judge prior to sitting judge's departure. (Best Practice, but not currently required)
8. ___ Other _____

Things to have before the Senior Judge leaves:

1. ___ The Senior Judge's contact information and the preferred method for contacting him/her
2. ___ How the Senior Judge would like to have proposed orders sent? Does the Senior Judge have access to a queue? Sent to the Senior Judge's home address? Left at the court and Senior Judge notified to come in and sign? Other?
3. ___ A completed copy of Senior Judge Statement of Service to retain for your files (forward a copy to the person who prepares the court's quarterly statistics)
4. ___ Other _____

Appendix F

Court Identifier: _____

Regular Judge of the Court: _____

SENIOR JUDGE STATEMENT OF SERVICE

I served as Senior Judge in the Court set forth above on the following dates, claiming days of service time as set forth below:

DATE OF SERVICE	SERVICE TIME CLAIMED (to the nearest last full on-tenth)

Date: _____

Senior Judge (signature)

Senior Judge (printed)

This form is to be maintained by the trial court employing the senior judge.

Form TCS-AR5(B)-3 Approved by
Indiana Office of Court Services 09/18