

**LOCAL RULES OF PRACTICE FOR THE DUBOIS CIRCUIT COURT
AND DUBOIS SUPERIOR COURT**

(Updated May 1, 2015)

TABLE OF CONTENTS

LR19-TR79 (H) - 1	APPOINTMENT OF SPECIAL JUDGE IN CIVIL CASES
LR19-CR 2.2 - 1.5	APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES
LR19-CR2.2 - 2	ASSIGNMENT OF CASES
LR19-AR15 - 3	COURT REPORTER SERVICES
LR19-AR1 - 4	CASELOAD ALLOCATION
LR19-JR4 - 5	SUMMONING JURORS
LR19-AR00-6	SCHEDULE OF FEES FOR COURT ALCOHOL & DRUG PROGRAM SERVICES
LR19-CR00-7	DISCOVERY AND PRETRIAL PROCEDURE (CRIMINAL)

LR19-TR79 (H) – 1 APPOINTMENT OF SPECIAL JUDGE IN CIVIL CASES

For cases filed prior to July 1, 2015, in the event it becomes necessary to assign another judge in a CHINS, family law, or other civil case, in the Dubois Circuit Court due to a conflict arising from the sitting judge's previous involvement in the case, and a special judge is not appointed and qualified as provided in Indiana Trial Rule 79(D), it shall be assigned to Senior Judge William E. Weikert, and if he cannot serve, then the Clerk shall assign a judge randomly from the following list below.

In all other cases, if a motion for change of judge is granted or an order of disqualification is entered in a civil case, and a special judge is not appointed and qualified as provided in Indiana Trial Rule 79(D), pursuant to Indiana Trial Rule 79(H), the presiding judge shall reassign the case to the other judge in Dubois County, and if that judge is ineligible to serve, then the presiding judge shall reassign the case by selecting the next judge in sequence from the list of judges of the following courts:

- Daviess Circuit Court
- Daviess Superior Court
- Knox Circuit Court
- Knox Superior Court I
- Knox Superior Court II
- Martin Circuit Court
- Perry Circuit Court
- Pike Circuit Court
- Spencer Circuit Court

In the event no judge from the list set forth above is available for appointment, or the particular circumstances in a case warrant selection of a special judge by the Indiana Supreme Court, the presiding judge may request, pursuant to Indiana Trial Rule 79(H)(3), that the Indiana Supreme Court appoint a special judge.

(Amended effective January 1, 2015)

LR19-CR 2.2 - 1.5 APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES

For criminal cases filed prior to July 1, 2015, in the event it becomes necessary to assign another judge in a felony or misdemeanor proceeding, or a juvenile case matter, in the Dubois Circuit Court due to a conflict arising from the sitting judge's previous involvement in the case, it shall be assigned to the Dubois Superior Court Judge, and if he cannot serve, then the Clerk shall assign a judge randomly from the following list below.

In all other cases, if the judge before whom a case is pending in the Dubois Circuit Court or Dubois Superior Court becomes disqualified from jurisdiction of a case pursuant to the Indiana Rules of Criminal Procedure, Rules of Procedure for Post-Conviction Remedies, Recusal or the Code of Judicial Conduct, then the presiding judge shall reassign the case to the other judge in Dubois County, and if that judge is ineligible to serve, then the presiding judge shall reassign the case by selecting the next judge in sequence from the list of judges of the following courts:

- Daviess Circuit Court
- Daviess Superior Court
- Knox Circuit Court
- Knox Superior Court I
- Knox Superior Court II
- Martin Circuit Court
- Perry Circuit Court
- Pike Circuit Court
- Spencer Circuit Court

In the event a judge is ineligible for assignment from the list or the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify the case to the Indiana Supreme Court for the appointment of a special judge pursuant to Criminal Rule 13(D).

(Amended effective January 1, 2015)

LR19-CR2.2 – 2 ASSIGNMENT OF CASES

Pursuant to current policy, all cases which involve juveniles, domestic violence, and check deception shall be filed in Dubois Circuit Court. All cases involving traffic-related offenses, small claims, conservation violations, and all alcohol-related offenses shall be filed in Dubois Superior Court.

In addition, beginning July 1, 1995, the following categories of charges shall be filed in the Dubois Circuit Court and Dubois Superior Court respectively:

DUBOIS CIRCUIT COURT

Homicide
Mischief
Burglary
Trespass
Forgery
Battery
Kidnapping
Sex Crimes
Robbery
Crimes against
Public Administration
Bribery and Other Official
Misconduct
Perjury
Interference with
Governmental Operations
Article 46 - Miscellaneous
Offenses
Weapons and Violence

DUBOIS SUPERIOR COURT

Arson
Theft
Home Improvement Fraud
Offenses against Public Health, Order
and Decency
Public Order
Communications
Pollution
Public Indecency
Prostitution
Gambling
Racketeering
Loan sharking
Gang Control
Stalking
Controlled Substances
Obscenity and Pornography

In the event of dismissal and re-filing of a criminal case, it shall be re-filed in the same court in which it was originally filed.

LR19-AR15 – 3 COURT REPORTER SERVICES

The undersigned courts comprise all of the courts of record of Dubois County, Indiana, and hereby adopt the following local rule by which court reporter services shall be governed:

Section One – Definitions:

The following definitions shall apply under this local rule:

- (1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court, including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
- (3) Work Space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rules of Appellate Procedure.
- (5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Rules of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week.
- (7) Gap hours worked means those hours worked that are in excess of the regular hours worked, but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those worked in excess of forty (40) hours per work week.
- (9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Dubois County.
- (11) 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.
- (12) 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.
- (13) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two – Salaries and Per Page Fees:

- (1) Court Reports 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 a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e., monetary compensation or compensatory time off regular work hours.
- (2) The maximum per page fee for a court reporter for the preparation of a county indigent transcript shall be \$3.50 per page. However, if the transcript is prepared for appeal purposes, the maximum per page fee shall be \$4.00. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- (3) The maximum per page fee for a court reporter for the preparation of a state indigent transcript shall be \$3.50 per page. However, if the transcript is to be prepared for appeal purposes, the maximum per page fee shall be \$4.00.
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$3.50 per page. However, if the transcript is to be prepared for appeal purposes, the maximum per page fee shall be \$4.00.
- (5) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent in binding a transcript and exhibit binders for appeal purposes.
- (6) 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:

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into an agreement which must, at the minimum, designate the following:
 - (a) The reasonable market rate for the use of equipment, work space and supplies;
 - (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
 - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LR19-AR1 – 4 CASELOAD ALLOCATION

In order to ensure an even distribution of judicial workload between the two Courts in Dubois County, pursuant to Administrative Rule 1, the Courts are adopting the local rule as follows:

1. Dubois Circuit Court shall have exclusive jurisdiction of all probate and juvenile matters;
2. Dubois Superior Court shall have exclusive jurisdiction of all traffic and small claims cases;
3. Both Courts shall have concurrent jurisdiction for all other cases.

LR19-JR4 – 5 SUMMONING JURORS

Pursuant to Jury Rule 4, the Dubois Circuit and Superior Courts choose, by local rule, “The Two Tier notice and summons” procedure, as its procedure for summoning jurors. (Jury Rule 4b)

LR19-AR00-6 SCHEDULE OF FEES FOR COURT ALCOHOL & DRUG PROGRAM SERVICES

The schedule of fees set forth under Indiana Code 33-37-4-1, Indiana Code 35-38-2-1, and Indiana Code Section 33-23-16 and the Problem Solving Court Rules shall be applicable in all alcohol and drug cases.

In addition, the following schedule of fees shall be applicable in all cases referred to the Court Alcohol and Drug Program:

Alcohol and Drug Program Participation Fee (includes initial drug screen)	\$400.00
Additional Drug Screen	\$ 25.00 (per screen)
Transfer Fee	\$100.00

The Dubois County Drug Court shall require eligible individuals to pay a problem-solving court services fee of Fifty Dollars (\$50.00) per month per referral to the problem-solving court as well as \$25.00 per drug screen.

The foregoing Rule shall become effective January 10, 2011 or as soon thereafter as it is determined that compliance with the provisions of Administrative Rule 81(B) (1) and 81(D) has been accomplished.

(Amended effective January 10, 2010)

In all criminal cases, pretrial discovery shall be conducted as follows:

I. INFORMATION TO BE PROVIDED BY THE STATE WITHIN FORTY (40) DAYS:

The State of Indiana shall provide to the defendant, in written form, within forty (40) days of the date of this discovery order, the following discovery information:

- (1) The names and last known addresses of all persons whom the State of Indiana intends to use as witness in the prosecution of this case.
- (2) A list of names and last known addresses of those persons that the State believes to have knowledge pertinent to this cause, but who may not be called as a witness in the trial of this cause.
- (3) A copy of all written statements, transcripts of recorded statements, memoranda, and summaries of oral statements of persons whom the prosecuting attorney intends to call as witnesses in the prosecution of this case.
- (4) A list of criminal convictions, if any, of all witnesses whom the State plans to call to testify at trial. Also, a list of crimes, wrongs or acts, if any, of the defendant which the State intends to offer into evidence, pursuant to Indiana Evidence Rule 404(b), and the general nature of such evidence.
- (5) Any and all written or recorded statements and the substances of any oral statements made by the defendant to agents of the State of Indiana or to private individuals assisting the aforesaid authorities, including any warnings of rights read to or alleged waivers obtained from the defendant, and a list of witnesses to the making and/or acknowledgement of such statements.
- (6) State whether or not the use of an informant is in any way involved in the State's case, and if so, upon motion by the defendant, make available for deposition.
- (7) State the name and address of each and every person who was present and/or who took part in or witnessed the criminal act which the defendant is accused of committing.
- (8) All written reports, notes, memorandum, maps, drawings or diagrams written, drawn or otherwise prepared by any law enforcement agency or individual in connection with or pertaining to the investigation of the crimes charged against the defendant.
- (9) Copies of all photographs which the State of Indiana intends to or may offer into evidence at the trial of this case, and all other photographs relevant to the subject matter of this case, including any photographs of physical evidence in the State's possession.

- (10) All tangible or demonstrative objects, books, papers or documents which the State of Indiana will use in the trial or which were obtained from or belong to the accused, including that evidence which was seized at the time of the apprehension of the defendant, as a result of execution of search warrants, or if such search was based on any alleged consent by defendant, the circumstances in which such alleged consent was obtained.
- (11) Any and all reports, laboratory or otherwise, or statements of experts made in connection with this particular case, including results of physical examinations and of scientific tests, experiments or comparisons by any agents of the State of Indiana, or private individuals, and on which the prosecution intends to rely at trial.
- (12) The name, address and area of expertise of any expert witness that the defendant intends to call as a witness in this cause; the subject on which the expert is expected to testify, the substance of the facts and opinions which said expert is expected to testify.
- (13) Any promises of leniency or immunity made to any witnesses, any implied promises made to any witnesses, or any promises of leniency or immunity that will be made in the future to any witness by a prosecuting attorney, deputy prosecuting attorney, or any law enforcement officer or employee.
- (14) A statement in writing by the prosecuting attorney as to whether hypnosis has been used or attempted to be used on any witness in the investigation of the offense charged against the defendant.
- (15) That the State of Indiana provide counsel for the defendant access to the scene of the alleged crime at a time and place convenient to the parties, and the right to inspect, measure, and/or photograph said premises.
- (16) Pursuant to Brady v. U.S., the State shall produce all exculpatory evidence as it becomes available.

II. NOTICE OF COMPLIANCE BY STATE:

Within forty (40) days of the date of this discovery order, the State shall provide the Court, in writing, with notice of its compliance with the foregoing provisions of this discovery order.

III. INFORMATION TO BE PROVIDED BY THE DEFENDANT WITHIN SIXTY (60) DAYS.

Counsel for the defendant shall provide to the State, in written form, within sixty (60) days of the date of this discovery order, the following discovery information:

- (1) Inform the State and permit it to inspect and copy or photograph any report or result, or testimony relative thereto, of physical or mental examinations or of scientific tests, experiments or comparisons, or any other reports or statements of experts which defense counsel has in his possession or control, except those parts which defendant does not intend to use.

- (2) Inform the State of any defense which the defendant intends to make at a hearing or trial.
- (3) Furnish the State with the names and last known addresses of persons the defense intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record known of prior criminal convictions of said witnesses.
- (4) Furnish the State with all books, papers, documents, photographs or tangible objects the defendant intends to use as evidence or for impeachment at a hearing or trial.
- (5) A list of names and last known addresses of those persons that the defendant believes to have knowledge pertinent to this cause, but who may not be called as a witness in the trial of this cause.
- (6) Inform the Court and State of any objection to evidence which the State has given notice of intent to offer, pursuant to Evidence Rule 404(b), by filing of a motion in limine.
- (7) True, accurate and complete copies of any exhibits that the defendant intends to introduce at the trial of this cause.
- (8) The name, address and area of expertise of any expert witness that the defendant intends to call as a witness in this cause; the subject on which the expert is expected to testify, the substance of the facts and opinions which said expert is expected to testify.
- (9) Any evidence which the defendant intends to offer pursuant to Evidence Rule 702, including true, accurate and complete copies of any reports, examination results, test results or experiment results compiled or prepared by an expert at the request of the defendant, and disclose any objection he or she may have pursuant to Evidence Rule 702(b) to the State's experts.

IV. NOTICE OF COMPLIANCE BY DEFENDANT.

Within sixty (60) days of the date of this discovery order, counsel for the defendant shall provide the Court, in writing, with notice of defendant's compliance with the foregoing provisions of this discovery order.

V. FINAL WITNESS AND EXHIBIT LIST.

Final witness and exhibit lists shall be exchanged by the parties and filed with the Court no later than ten (10) days following the final pretrial conference in this cause.

VI. SUPPLEMENTATION OF DISCOVERY RESPONSES.

Should either party find at any time additional information, facts, objects or persons which would be subject to or covered by this discovery order, that party shall promptly notify the other party, in writing, of the finding.

VII. DISCOVERY DEADLINE.

All depositions and discovery shall be completed at least twenty-one (21) days prior to the scheduled trial date in this cause. Additional time for depositions and discovery may be obtained only by leave of this Court for good cause shown.

VIII. DISCOVERY MATTER IN CONTROVERSY.

Any discovery matters in controversy between the parties shall be brought to the Court's attention in such time and manner to allow a hearing to be conducted to resolve the matter without compromising the scheduled trial date.

IX. PRETRIAL MOTIONS.

All substantive motions, including motions to suppress, motions to dismiss, 404(b) requests and notices which are not controlled by statutory deadlines shall be filed no later than ten (10) days following the final pretrial conference.

X. JURY INSTRUCTIONS.

Within ten (10) days of the final pretrial conference in this cause, each party may submit to the Court proposed pattern jury instructions and up to ten (10) non-pattern jury instructions to be considered by the Court for reading to the petit jury at the trial of this cause.

XI. PLEA NEGOTIATIONS.

All plea negotiations shall be completed and finalized at least ten (10) days prior to the scheduled trial date in this cause.

XII. CONTINUANCE.

A continuance may not be granted, absent extenuating, unforeseeable circumstances of no fault of the movant, within ten (10) days of the scheduled trial date.

(Added effective May 1, 2015)