

BROWN CIRCUIT COURT
LOCAL RULES OF PRACTICE
Revisions effective May 1, 2023

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Local Rules 1 through 8 Relating to Indiana Rules of Trial Procedure

LR07-TR1-01 Scope of Rules

Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the Brown Circuit Court, unless otherwise ordered by the judicial officer presiding in a specific case. These rules are in addition to, and are not intended to replace, the Indiana Rules of Court or any other rules or statutes. Where any conflict may exist, the rules promulgated by the Indiana Supreme Court control.

LR07-TR3.1-02 Withdrawal of Appearance by Counsel

- A. Written Motion and Compliance with Trial Rule 3.1: Permission to withdraw an appearance by counsel shall be requested by written motion. Permission to withdraw shall be given only after the petitioning attorney has complied with the requirements of T.R. 3.1(E), including a certification of the last known address and telephone number of the party, subject to the confidentiality requirements of T.R. 3.1.
- B. Motions Filed Prior to the Appearance of Other Counsel: Permission to withdraw shall be given only after the petitioning attorney has given his/her client 10 days written notice of the intent to withdraw. Written notice shall be sent to the client's last known mailing address. If the mailing address is unknown, the petitioning attorney shall provide written notice to the client's last known e-mail address, if known. A copy of the written notice shall be attached to the petition to withdraw. The written notice to the client shall explain the possible effects of failure to secure new counsel and shall set forth any hearing or trial dates and any pleading, discovery or other pre-trial deadlines.
- C. Motions Filed Subsequent to the Appearance of Other Counsel: Motions to withdraw an appearance filed subsequent to the proper appearance of other counsel shall constitute a waiver of the requirements of paragraph (B) of this rule.

LR07-TR5-03 Service and Filing of Pleadings; Court Office Mailboxes; Submission of Proposed Orders

- A. Service at Mail Slot in Offices of Circuit Court: Electronic filing and electronic service pursuant to Indiana Trial Rule 86 shall be utilized. Requests for exemption from this requirement shall be reviewed by a judicial officer and shall be granted upon a showing of good cause. Any attorney choosing to use the mail slots made available in the offices of the Brown Circuit Court shall be considered to have designated that attorney's mail slot as a suitable place for delivery and service of court orders and permitted conventionally filed documents pursuant to T.R. 5(B)(d).
- B. Submission of Proposed Orders: All motions, petitions, and requests for action by the

Local Rules 9 through 21 Relating to Family Law Proceedings

LR07-FL-09 Family Law Rules, Title and Scope

- A. These Rules shall be known as the “Brown County Family Law Rules” and shall be referred to as LR07-FL-***.
- B. These Rules shall apply in all domestic relations, paternity, and child support cases pending in the Brown Circuit Court unless otherwise ordered by a judicial officer presiding in a specific case. These Rules are in addition to, and are not intended to replace, the Indiana Rules of Trial Procedure, the Indiana Rules of Evidence, the Indiana Rules of Alternative Dispute Resolution, the Indiana Child Support Rules and Guidelines, the Indiana Parenting Time Guidelines, the Indiana Administrative Rules, or any other rules promulgated by the Indiana Supreme Court. The Brown County Local Rules apply when not in conflict with the Local Rules Relating to Family Law Proceedings,

LR07-FL-10 Self-Represented Litigants

- A. The same court rules apply to parties who are represented by attorneys and parties who represent themselves, and all parties, whether represented by an attorney or not, shall comply these rules, any other applicable rules including the Indiana Rules of Trial Procedure, the Indiana Rules of Evidence, the Indiana Rules of Alternative Dispute Resolution, the Indiana Child Support Rules and Guidelines, the Indiana Parenting Time Guidelines, the Indiana Administrative Rules, or any other rules promulgated by the Indiana Supreme Court, and procedures required by Indiana law.
- B. Self-represented parties shall file appropriate pleadings to request court action and shall include with each pleading a “certificate of service” that states that the document was provided to the other party(ies) or to the attorney(s) for the other party(ies); the method of serving the document; and the date that it was sent.
- C. The court has the discretion to reject incomplete pleadings or pleadings that do not comply with Indiana law.

LR07-FL-11 Waiver of Court Costs

The Court, upon written petition by a party, may waive the initial payment of court costs. If court costs are initially waived, the Court will address the payment of these fees and costs at the provisional or final hearing. If the court costs are initially waived, and the parties later waive a final hearing and submit a settlement agreement for the Court’s approval, the parties shall provide proof that the court costs have been paid with their agreement or submit further evidence that the payment of court costs should be completely waived.

LR07-FL-12**Other Cases Involving Same Child(ren)**

- A. Any party to a dissolution or paternity action involving a child or children, shall file a notice in that case advising the Court of any other case, whether pending or closed, in any court involving any child or children involved in the currently pending case.
- B. An appearance containing this information, including cause number(s) and caption(s), pursuant to Indiana Trial Rule 3.1 fulfills this requirement.
- C. Each party shall have a continuing duty to inform the Court of other cases involving the child or children until final resolution of the pending case.

LR07-FL-13**Temporary Restraining Orders and Protective Orders**

- A. Any party seeking an ex parte temporary restraining or protective order must comply with the requirements of Trial Rule 65(E) and I.C. 34-26-5-1 et seq.
- B. Absent extremely extraordinary circumstances, the Court will not issue ex parte orders regarding custody of children or restricting parenting time of parents with their children. A party seeking an expedited hearing to address temporary custody of a child/children or a restriction of parenting time on an emergency basis shall be responsible for expediting service of notice of that hearing on the opposing party and shall be responsible for providing proof of that service to the Court.
- C. A joint order issued under Trial Rule 65(E)(1) shall be entered against both parties and shall be limited to the terms of the order as specified in Trial Rule 65(E)(1). Any party submitting a request for such a joint order shall provide the Court with a proposed order following the specific language of Trial Rule 65(E)(1).

LR07-FL-14**Preliminary Hearings, Change of Judge, Emergency Matters**

- A. At or after the filing of a domestic relations case, any party may request in writing a preliminary hearing to address temporary maintenance, temporary support or custody of a child of the marriage, possession of property, counseling, and/or a protective order under IC 34-26-5.
- B. A party seeking an expedited preliminary hearing due to an emergency shall be responsible for expediting service of notice of that hearing on the opposing party and shall be responsible for providing proof of that service to the Court.
- C. If the court has scheduled a date for a preliminary hearing, and the other party thereafter moves for a change of venue from the judge, the court will allow the preliminary hearing to remain as scheduled to address emergency matters. At the hearing, the court will first consider whether an emergency exists. The party requesting preliminary orders shall bear

the burden of first establishing that an emergency exists. If the court finds that an emergency exists, the court will proceed with the hearing and issue preliminary orders regarding emergency matters. If the court finds that no emergency exists, the court will not conduct the preliminary hearing and shall defer all matters to the special judge.

LR07-FL-15 (reserved)

LR07-FL-16 **Parenting Class Required**

- A. The court finds that it is in the best interests of minor children of divorcing parents and minor children involved in paternity cases to encourage conciliation and cooperation between the parents, and that will aid in such cooperation. Therefore, both parents in all dissolution of marriage cases in which there are minor children and both parents in paternity cases in which there are minor children shall complete an in-person or online parenting class of at least four (4) hours in duration.
- B. At the time any dissolution of marriage or paternity case is filed, the Clerk of the Brown Circuit Court shall provide the parties with notice of this requirement.
- C. Each parent shall pay the cost of the parenting class.
- D. In dissolution of marriage cases, the parents must complete the class prior to the final hearing and provide proof of completion to the court. Unless otherwise ordered, the court will not conduct a final hearing or grant the decree of dissolution of marriage until both parents provide proof that they have completed the class.
- E. In paternity cases, the parents must complete the class prior to the final hearing regarding custody and parenting time. Unless otherwise ordered, the court will not enter a final order regarding custody and parenting time until both parents provide proof that they have completed the class.
- F. A parent, who has already completed an online parenting class and provides proof of the same, shall not be required to repeat the class and will be exempted from complying with this rule.

LR07-FL-17 **Alternate Dispute Resolution**

- A. Parties should attempt to resolve matters by agreement before seeking court intervention. The court expects all parties and/or their attorneys to communicate and cooperate with each other in a good faith effort to resolve disputes and negotiate fair and equitable settlement agreements. Parties shall exchange proposals to settle and resolve all pending issues before proceeding to a contested hearing and all parties shall clearly and promptly respond to any proposal for settlement.
- B. Parties may request that the case be referred to the Family Court Project or to private mediation by filing a written request with the court.

- C. Unless excused by the Court, parties shall attend the Family Court Project or mediation before a contested final hearing in a dissolution of marriage case, before a contested final hearing in regard to custody and parenting time in paternity case, and before a contested hearing regarding a post-decree request for modification of any order, excepting a request for modification of child support.
- D. Parties may select a mediator by agreement or may request that the court appoint a panel of mediators from which the parties shall select a mediator. Upon written notice from the parties, the court will appoint a panel of three mediators. The petitioner shall strike first from the panel within 7 days after the date the court's order is entered on the Chronological Case Summary. The respondent shall strike second within 7 days of the petitioner's striking. In the event that a party fails to timely strike from the panel, the court will direct the clerk of the court to strike a name from the panel for that party.
- E. Unless the parties agree otherwise, the parties shall equally share the cost of mediation with the final responsibility for payment to be determined by the court at a hearing subsequent to the completion of mediation. Each party shall pay the cost of mediation provided through the Family Court Project.
- F. A party may request to be excused from mediation for good cause shown.
- G. Any mediation shall comply with the provisions of the Indiana Rules of Alternate Dispute Resolution, as they may be amended from time to time.

LR07-FL-18
Estate

Marital Balance Sheet and Proposed Division of Marital

- A. In all contested dissolution of marriage cases, each party shall file with the court and exchange a marital balance sheet at least 30 days before any mediation or final hearing. This balance sheet shall include a list of all assets, with corresponding values, and debts, with corresponding balances, as of the date of filing, as well as a proposed division of the marital estate.
- B. After both parties have filed and exchanged the marital balance sheet, each party shall, within 7 days thereafter, file an amended marital balance sheet and proposed division of the marital estate to address any asset(s) or debt(s) that appear on the other party's balance sheet, but was not addressed on that party's initial marital balance sheet.
- C. All parties are under an obligation to update the marital balance sheet and proposed division of the marital estate until any mediation and/or final hearing. A party making such an update shall informally provide such information to the other party as quickly as feasible and shall file and exchange an updated balance sheet and proposed division as soon as practicable.

LR07-FL-19**Witness and Exhibit List Exchange, Exhibits**

- A. Parties shall exchange names and addresses of all witnesses as well as actual copies of all exhibits at least 7 days prior to any of the following hearings:
 - 1. A contested preliminary hearing in a dissolution of marriage case.
 - 2. A contested final hearing in a dissolution of marriage case.
 - 3. A contested final hearing regarding custody and parenting time in a paternity case.
 - 4. contested post-decree hearing regarding modification in a dissolution of marriage or paternity case, excluding child support modifications.
- B. Parties shall file the list of witnesses and exhibits with the court at least 7 days prior to any of the hearings specified in section “a.” Failure to include a witness or exhibit shall preclude the witness from testifying or the exhibit from being introduced, unless the court waives the requirement for good cause shown.
- C. Parties shall provide a completed child support worksheet for any hearing at which the determination or modification of child support is an issue and shall bring proof of income to the hearing.
- D. Parties shall bring sufficient copies of exhibits to the hearing such that each party and the court shall receive a copy.
- E. Any digital picture, movie, video, text, or recording, including, but not limited to, information contained on cellphones, must be submitted on a DVD, CD, USB drive, or printed such that the court can maintain the evidence.
- F. Parties shall number the pages of any printed exhibit and shall identify each photo in a group of photos by numbering each photo.

LR07-FL-20**Submission of Agreements**

- A. Agreements shall be signed by both parties and shall include a proposed order or decree.
- B. A completed child support worksheet as required by Guideline 3(B)1 of the Indiana Child Support Guidelines shall be submitted with any agreement regarding child support, including an agreement between the parties that no child support will be paid by either party. When an agreement deviates from the Indiana Child Support Guidelines, the parties shall include an explanation of the reason for the deviation in their agreement.
- C. An agreement shall not contain a signature line for the court, but the proposed order or decree submitted by the parties shall contain language incorporating and approving the agreement in the order or decree. Proposed orders or decrees shall be submitted as a separate document from the corresponding agreement.

LR07-FL-21

Final Hearing

- A. Dissolutions of marriage cannot occur unless the court conducts a final hearing or the parties waive a final hearing and submit a settlement agreement to the Court. The Court will not schedule a final hearing in a dissolution of marriage case until one of the parties requests that a final hearing be scheduled.
- B. A party seeking to have a final hearing scheduled must file a written request for a final hearing, provide a copy to the opposing party, and include a certificate of service on the request. The request shall state whether there are contested issues and the approximate amount of time required for the hearing.
- C. Parties may waive a final hearing in dissolution of marriage cases, however, both parties must sign and submit a written waiver of final hearing and submit a settlement agreement with a proposed decree of dissolution of marriage, and a child support worksheet if there are minor children of the marriage.

**LR07-FL-22
Paternity Cases.**

Termination of Counsel Representation in Dissolution and

- A. The representative capacity of attorneys appearing on behalf of any party in a family law case shall be deemed terminated only upon an order of withdrawal granted in accordance with the Local Rule of the Brown Circuit Court. (See LR07-TR3.1-02)
- B. Counsel for initiating and responding parties shall be required to file a new appearance in any post final decree/final paternity order action.
- C. The service of any post final decree/post final paternity order pleadings upon any party not represented by an attorney shall be made upon that person pursuant to the Indiana Rules of Trial Procedure. Any copy of a pleading served upon original counsel will be deemed a matter of professional courtesy only.

**Local Rule 23 through 25 Relating to the Indiana Rules of Criminal
Procedure**

**LR07-CR2.2-23
Appointment**

Assignment of Criminal Cases and Special Judge

All felony and misdemeanor cases are assigned to the regular judge of the Brown Circuit Court.

In the event a change of judge is granted, or an order of disqualification or recusal is entered, in any felony or misdemeanor case pending in the Brown Circuit Court, a special judge shall be appointed in rotating order from the judges of the following courts:

Bartholomew Circuit
Bartholomew Superior 1
Bartholomew Superior 2
Jackson Circuit
Jackson Superior 1
Jackson Superior 2
Monroe Circuit 3
Monroe Circuit 9
Jennings Circuit
Jennings Superior 1

The Clerk shall maintain the list of special judges, and shall select from the list on a rotating basis when appointment under this local rule is required. If a judge is skipped in the rotation because of ineligibility or disqualification, he or she shall be selected first for the next eligible case.

LR07-CR2.1-24 Timely Motions to Withdraw and Automatic Termination of Defense Counsel Representation

- A. In addition to the provisions of Indiana Code §35-36-8-2 and LR07-TR.3.1-02, absent exceptional circumstances, no attorney in a criminal case should expect permission to withdraw the attorney's appearance based on his or her client's failure to fulfill an obligation with respect to the attorney's fee unless the motion to withdraw is filed at least 90 days prior to a second or subsequent trial setting.
- B. In all criminal cases, a defense attorney's appearance in the case shall automatically be withdrawn 35 days after the conclusion of the pending action by plea, verdict, or dismissal. In probation and community corrections violations proceedings, a defense attorney's appearance shall automatically be withdrawn 35 days after the conclusion of the violation proceedings. This applies to both court appointed and privately employed counsel. If an attorney wishes to remain counsel of record following the conclusion of the case, the attorney shall notify the court.

LR07-CR26-25 Pretrial Release and Bond

Pursuant to Indiana Trial Rule 26 and Indiana Code §35-33-8-1 *et seq.*, the Brown Circuit Court enters the following order regarding pretrial release and bail bond for persons arrested for the commission of an offense.

Section 1: Terms

“Bail bond” means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

1. the person’s appearance at the appropriate legal proceeding;
2. another person’s physical safety; or
3. the safety of the community.

“Cash bond” means posting 10% of the amount of the bail by cash or credit card payment.

“Full cash” means posting the entire amount of the bail by cash or credit card payment.

“Release on own recognizance” (ROR) means release without financial obligation. Other conditions of release may apply.

“Surety bond” means paying a non-refundable (usually 10% of the bail) to an approved surety company, which in turn posts its guarantee to pay the full amount of the bail if the Defendant fails to appear and the appropriate revocation procedures have been followed.

Section 2: General Provisions

- A. Unless otherwise stated herein or ordered by the Court, all persons arrested shall be entitled to post bail by either a full cash or cash bond or a surety bond pursuant to this local rule.
 1. If the person posts a full cash or cash bond, the Defendant must execute an agreement authorizing the Court to use all or part of the cash posted to pay for fines, costs, restitution, and fees (including public defender fees, probation user fees, community corrections fees, etc.) if convicted.
 2. If the person posts a full cash_or cash bond, the person must execute an agreement that in the event of a failure to appear as scheduled, the person shall forfeit the deposit and must also pay additional amounts to satisfy the full amount of bail plus associated court costs, fees and expenses
- B. If a person is arrested for multiple crimes allegedly committed in a single episode of criminal conduct, the bail amount and conditions shall be as stated herein for the highest level of bail and/or supervision applicable.
- C. Pursuant to Indiana Code §35-33-8-3.6, a person who has been arrested for a crime under the Indiana Code that is a felony or a Class A misdemeanor that results in bodily injury to another person shall refrain from any direct or indirect contact with the alleged victim:

1. For ten (10) days after release; or
2. Until the initial hearing;

whichever occurs first.

The person shall sign the Order for No Contact as a Condition of Bond for Felony or Class A Offenses Involving Violence prior to release. Any person who refuses to sign the form shall not be released without authority of the Court. The original shall be delivered to the Court with the Cash Bond and Official Notice or surety bond form. Copies of the Order shall be provided to the Prosecutor and the person.

D. A sexually violent predator Defendant as defined by Indiana Code §35-33-8-3.5(b), a person charged with child molesting (Indiana Code §35-42-4-3) or a person charged with child solicitation (Indiana Code §35-42-4-6) shall not be admitted to bail until the Court has conducted a bail hearing in open court. Individuals held pursuant to this provision shall be brought before the Court not later than forty-eight (48) hours after being arrested, unless exigent circumstances prevent the holding of a hearing within forty-eight (48) hours.

E. A person arrested for murder shall not be admitted to bail unless ordered by the Court. Individuals held pursuant to this provision shall be brought before the Court not later than forty-eight (48) hours after being arrested, unless exigent circumstances prevent the holding of a hearing within forty-eight (48) hours.

F. In accordance with state law and the policy of the Brown County Sheriff, persons who are under the influence of alcohol, drugs or controlled substances may be detained until he or she is no longer under the influence.

G. Persons arrested for a crime of domestic violence (as defined by Indiana Code §35-31.5-2-78) shall not be released on bail until at least forty-eight (48) hours from the time of the person's arrest, unless otherwise ordered by the Court. The Court finds this cooling off period is appropriate because of the unique nature of domestic violence.

H. A person who is arrested shall complete the Brown County Pretrial Services Intake Information Form. Any person who refuses to complete and sign the Brown County Pretrial Services Intake Information Form shall not be released without authority of the Court. The Brown County Sheriff shall rely on the information on the Intake Information Form and other available information to make the initial determination regarding release as set forth in Sections 3 through 7.

Other available information may include a search of records provided by the Brown County

Probation Office, records maintained by the Brown County Sheriff/Jail, and/or records readily available through the internet.

I. Any person who is not released on his or her own recognizance or by posting bond shall be assessed by a pretrial services officer within forty-eight hours of his or her arrest, excluding weekend and court holidays. The pretrial services officer shall prepare and file a Pretrial Services Report.

J. The Court shall conduct a hearing regarding pretrial release at the Court's earliest opportunity, but no later than ten (10) days following arrest, unless exigent circumstances prevent the holding of a hearing within ten (10) days of arrest. This hearing shall be attended by the Defendant, his counsel and the Prosecutor. The pretrial services officer shall attend, if possible.

K. Standard levels of supervision for persons released with or without posting bond shall be as stated in the Brown County Pretrial Services Policies and Procedures Manual.

L. The Court may assess pretrial release services fees pursuant to Indiana Code §35-33-8-3.3.

Section 3: Pretrial Release – Misdemeanor Offenses

(For the purpose of this Section, Resisting Law Enforcement and Invasion of Privacy shall be handled the same as a violent crime.)

NON-VIOLENT MISDEMEANOR:

A. A person who is arrested for a misdemeanor offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and the person is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be released on his or her own recognizance.

B. A person who is arrested for a misdemeanor offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and is:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$5,000 and shall be placed on Level 1 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

VIOLENT MISDEMEANOR:

C. A person who is arrested for a misdemeanor offense that is violent crime (as defined by Indiana Code §5-2-6.1-8) and the person is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$5,000 and shall be placed on Level 1 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

D. A person who is arrested for a misdemeanor offense that is a violent crime (as defined by Indiana Code §5-2-6.1-8) and is:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$10,000 and shall be placed on Level 2 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

Section 4: Pretrial Release – Level 6 Felony Offenses -

(For the purpose of this Section, Resisting Law Enforcement shall be handled the same as a violent crime.)

NON-VIOLENT/NON-DRUG OR ALCOHOL LEVEL 6 FELONY:

A. A person who is arrested for a level 6 offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and the offense is not possession of heroin, methamphetamine, a syringe or operating while intoxicated/operating with .08 or .15 or more ACE and the person is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be released on his or her own recognizance.

- B. A person who is arrested for a level 6 felony offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and the offense is not possession of heroin, methamphetamine, a syringe or operating while intoxicated/operating with .08 or .15 or more ACE and is:
 - a. on pre-trial release not related to the incident that is the basis for the present arrest; or
 - b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$20,000 and shall be placed on Level 2 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

VIOLENT OR DRUG/ALCOHOL LEVEL 6 FELONY:

- C. A person who is arrested for a level 6 felony offense that is violent crime (as defined by Indiana Code §5-2-6.1-8) or possession of heroin, methamphetamine, a syringe or operating while intoxicated/operating with .08 or .15 or more ACE and is not:
 - a. on pre-trial release not related to the incident that is the basis for the present arrest; or
 - b. on probation, parole, or other community supervision.

shall be required to post bond in the amount of \$10,000 and shall be placed on Level 2 supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

- D. A person who is arrested for a level 6 felony offense that is a violent crime (as defined by Indiana Code §5-2-6.1-8) or possession of heroin, methamphetamine, a syringe or operating while intoxicated/operating with .08 or .15 or more ACE and is:
 - a. on pre-trial release not related to the incident that is the basis for the present arrest; or
 - b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$30,000 and shall be placed on Level 3 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

Section 5: Pretrial Release – Level 3, 4, And 5 Felony Offenses (excluding sexually violent predator Defendants as defined by Indiana Code §35-33-8-3.5(b), persons charged with child molesting (Indiana Code §35-42-4-3) or persons charged with child solicitation (Indiana Code §35-42-4-6))

NON-VIOLENT LEVEL 3, 4 OR 5 FELONY:

A. A person who is arrested for a level 3, 4 or 5 felony offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and the person is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$20,000 and shall be placed on Level 2 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

B. A. person who is arrested for a level 3, 4 or 5 felony offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and is:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$50,000 and shall be placed on Level 3 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

VIOLENT LEVEL 3, 4 OR 5 FELONY:

C. A person who is arrested for a level 3, 4 or 5 felony offense that is violent crime (as defined by Indiana Code §5-2-6.1-8) and is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision.

shall be required to post bond in the amount of \$30,000 and shall be placed on Level 3 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

D. A person who is arrested for a level 3, 4 or 5 felony offense that is a violent crime (as defined by Indiana Code §5-2-6.1-8) and is:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$60,000 and shall be placed on Level 3 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

Section 6: Pretrial Release – Level 1 And 2 Felony Offenses (excluding sexually violent predator Defendants as defined by Indiana Code §35-33-8-3.5(b), persons charged with child molesting (Indiana Code §35-42-4-3) or persons charged with child solicitation (Indiana Code §35-42-4-6))

NON-VIOLENT LEVEL 1 OR 2 FELONY:

A. A person who is arrested for a level 1 or 2 felony offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and the person is not:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall be required to post bond in the amount of \$75,000 and shall be placed on Level 3 pretrial supervision. The Court may impose additional conditions at its discretion to ensure appearance at court proceedings and the safety of the person and the community.

B. A person who is arrested for a level 1 or 2 felony offense that is not a violent crime (as defined by Indiana Code §5-2-6.1-8) and is:

- a. on pre-trial release not related to the incident that is the basis for the present arrest; or
- b. on probation, parole, or other community supervision

shall not be admitted to bail until the Court has conducted a bail hearing in open court. Individuals held pursuant to this provision shall be brought before the Court not later than forty-eight (48) hours after being arrested, unless exigent circumstances prevent the holding of a hearing within forty-eight (48) hours.

VIOLENT LEVEL 1 OR 2 FELONY:

C. A person who is arrested for a level 1 or 2 felony offense that is a violent crime (as defined by Indiana Code §5-2-6.1-8) shall not be admitted to bail until the Court has

conducted a bail hearing in open court. Individuals held pursuant to this provision shall be brought before the Court not later than forty-eight (48) hours after being arrested, unless exigent circumstances prevent the holding of a hearing within forty-eight (48) hours.

Section 7: Warrants

- A. A Defendant arrested on a warrant issued due to the Defendant's failure to appear at a scheduled court hearing shall be held to bond in the amount set by the Court and shall not be eligible for release on recognizance.
- B. A Defendant arrested on a warrant issued by the Court upon a finding of probable cause shall be eligible for pretrial release as set forth in Sections 3 through 6, unless otherwise noted on the arrest warrant.

Local Rule 26 Relating to the Indiana Jury Rules

LR07-JR4-26 Notice of Selection for Jury Pool; Summons for Jury Service

The Brown Circuit Court shall utilize a single tier system for mailing notice and summons to prospective jurors as referenced in Jury Rule 4(a). Each year when names of prospective jurors are drawn from the jury pool, the jury administrator shall simultaneously send to those prospective jurors whose names have been drawn notice of the period of their possible jury service, a jury qualification form, and a summons. The notice, qualification form and summons shall be mailed not later than seven (7) days after the date the prospective jurors' names were drawn from the jury pool and at least six (6) weeks before jury service.

Local Rules 27 through 29.5 Relating to the Indiana Administrative Rules and Judicial Code of Conduct

LR07-AR15-27 Court Reporter Services

Section 1. Definitions.

For purposes of this local rule, the definitions contained in Administrative Rule 15 shall apply.

Section 2. Court Reporter; Salaries and Per Page Fees.

- A. Court Reporters shall be paid an annual salary for time spent working under the control,

direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. Court Reporters shall be compensated for gap and overtime hours as set forth in the Brown County Human Resources Policies and Procedures as adopted and/or amended by the Judge.

- B. Court reporters may charge a per page fee for preparation of transcripts if the transcripts are prepared on the court reporter's own time outside of any regular work hours, gap hours or overtime hours and are prepared using the court reporter's own paper and the court reporter's own supplies. This would include the ability to assign the transcript to a third party to transcribe or assist in typing the transcript. The total combined per page fee to be paid to the court reporter and/or third-party transcriber shall not exceed the maximum per page fee set forth in this rule.
- C. The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.50; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- D. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.50.
- E. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.50.
- F. The per page fee for expedited transcripts shall be \$6.00 with 24 hours' notice and \$5.00 with three (3) days' notice.
- G. The maximum per page fee a court reporter may charge for a copy of a transcript is \$2.50, which includes the cost of paper and binding.
- H. Binding and Exhibit and Index Volume Fees. An additional fee shall be added to the cost of the transcript for the time spent preparing and indexing the Table of Contents and Exhibit Volume(s) at an hourly rate based on one and one-half (1 ½) times the Court Reporter's hourly rate. This fee will only apply if the Court Reporter binds the transcript and prepares the exhibit and index volumes on the court reporter's own time outside of any regular work hours, gap hours or overtime hours using the court reporter's own paper and the court reporter's own supplies.
- I. If a third party types the transcript for a per page rate equal to the maximum approved in this rule, the court reporter shall not be entitled to any additional per page fee, but with the approval of the Judge, shall complete the review and proofing of the transcript either:
 - during normal work hours using court equipment, paper and supplies without charging any additional fee whatsoever; or
 - on the court reporter's own time outside of any regular work hours, gap hours or overtime hours using the court reporter's own paper, and the court reporter's own supplies at an hourly rate based on one and one-half (1 ½) times the Court Reporter's hourly rate.

- J. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of 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 the State Court Administration.

Section 3. Private Practice.

- A. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such a purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - a. The reasonable market rate for the use of the 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.
- B. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LR07-AR00-28

Evidence Handling, Retention and Disposition

Section 1: Retention periods for evidence introduced in all non-criminal proceedings:

- A. All items of evidence that cannot be scanned, including models, oversized exhibits and physical evidence, that are placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them into evidence four (4) months after the case is decided, except as otherwise ordered by the court. If an appeal is taken, all such evidence shall be retained by the court reporter for four (4) months from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.
- B. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
- C. The Court may direct longer periods of retention upon motion of any party or on its own motion.

Section 2: Retention Periods for evidence introduced in criminal misdemeanor and level 6/class D felony proceedings:

- A. All items of evidence that cannot be scanned, including models, oversized exhibits and

physical evidence, that are placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them into evidence three (3) years after the case is dismissed, the defendant is found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence or a post-conviction action is pending.

- B. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
- C. The Court may direct longer periods of retention upon motion of any party or on its own motion.

Section 3: Retention periods for evidence introduced in levels 1-5/class A-C felony proceedings:

- A. All items of evidence that cannot be scanned, including models, oversized exhibits and physical evidence, that are placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them into evidence eight (8) years after the case is dismissed, the defendant is found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for eight (8) years from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence or a post-conviction action is pending.
- B. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
- C. The Court may direct longer periods of retention upon motion of any party or on its own motion.

Section 4: Retention periods for evidence introduced in murder/attempted murder/and criminal cases in which a Defendant is sentenced to death or life without parole:

- A. All items of evidence that cannot be scanned, including models, oversized exhibits and physical evidence, that are placed in the custody of the court reporter as exhibits shall be taken retained for twenty (20) years after the case is dismissed, the defendant is found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence or a post-conviction action is pending. The items of evidence shall not be destroyed without first notifying the Defendant, his trial, appellate and post-conviction counsel, and the prosecutor's office. If

a request is made to retain the evidence, it shall be retained for an additional twenty (20) years.

- B. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.
- C. The Court may direct longer periods of retention upon motion of any party or on its own motion.

Section 5: Biologically contaminated evidence:

- A. A party who intends to offer biologically contaminated evidence must file a pretrial notice and serve all parties. The Court will determine how said evidence shall be presented.
- B. Biologically contaminated evidence shall not be handled or passed to jurors or sent to the jury room.

Section 6: Disposal of evidence:

- A. All evidence that is illegal to possess or a firearm or deadly weapon that is eligible to be disposed of pursuant to Sections 1, 2, 3 and 4, shall be disposed of by the Sheriff.
- B. All evidence that has some value that is eligible to be disposed of pursuant to Sections 1, 2, 3, and 4 shall be offered for sale at the county auction.
- C. All other evidence that is eligible to be disposed of pursuant to Sections 1, 2 3 and 4 shall be disposed of as determined by the Court.

LR07-AR00-29

Possession and Use of Cellular Phones and Electronic Devices

- A. Persons entering the Brown Courthouse may possess cellular phones and other electronic communication devices. Cellular phones and other electronic communication devices shall be either turned off or set to silent mode if taken into the courtroom or the hearing room. When court is in session, no person, other than as stated in paragraph (B), shall use a cellular phone or electronic communication device in any manner including, but not limited to text messaging, e-mail, telephone calls, accessing the internet or using social media. A person, if a specific request is approved by the court, may use a cellular phone or electronic device to acquire information during a court proceeding.
- B. Attorneys and parties to a proceeding may use a cellular phone, lap top computer or other electronic device as necessary to access information from their files, conduct legal research, and otherwise as necessary to effectively participate in the proceedings.
- C. Except as permitted, in writing, by the Court pursuant to LR07-AR00-29.5, A a person shall not use a cellular phone or electronic device to make any video, photographic or audio record of any court proceeding.
- D. Failure to abide by this Rule may result in the judicial officer taking possession of a

person's cellular telephone or electronic device until court is no longer in session.
E. Failure to abide by this Rule may result in a finding of contempt of court.

LR07-AR00-29.5

Prohibiting Broadcasting of Court Proceedings

The Code of Judicial Conduct Rule 2.17 prohibits the broadcasting, televising, recording, digital streaming, or photographing of court proceedings or the courtroom while court is in session. Requests to photograph the courtroom when court is not in session may be granted at the Court's discretion.

A member of the news media may request permission to broadcast by submitting a written request at least 7 days in advance of the hearing or proceeding. The request shall be made using the form found in Appendix A. The Court has discretion to approve or deny a request. An affirmative approval is required. The Court has discretion to modify the request period. If granted, the Court must post notice in the courtroom that news media personnel may be present for broadcast of court proceedings, and filming, photographing, and recording is limited to the authorized news media personnel.

News media is defined as persons employed by or representing a newspaper, periodical, press association, radio station, television station, or wire service and covered by Ind. Code § 34-46-4-1. Representatives of news media organizations may be required to wear identification. The Court has discretion to determine who may be eligible to be admitted as news media and under what conditions.

Broadcast is defined as any broadcasting or recording of court proceedings by news media using still, video or audio equipment.

If approved, all broadcasting shall take place in an area designated by the Court. The Court has discretion to limit or terminate broadcast by a news media organization at any time during the proceeding. The Court may direct the manner in which the proceedings are covered by news media. News media are to be unobtrusive and quiet. News media may not move around the courtroom during proceedings. News media may not conduct interviews in the courtroom. All cameras shall be on a fixed mounting. Handheld cameras are not permitted. Once the court session starts, the camera or recording device may not be moved, tilted or panned. Devices shall use ambient lighting only. Power, internet and other utilities will not be provided by the Court. No cords or boom microphones are allowed.

Broadcasting, recording, digitally streaming, or photographing proceedings will always be prohibited in proceedings that are closed to the public, either by state statute or Indiana Supreme Court rules. This prohibition also applies to:

1. minors;

2. juvenile delinquency and child in need of services matters;
3. protective order proceedings;
4. guardianship proceedings;
5. civil proceedings in which children are involved;
6. alleged victims of violent offenses, sex offenses, and domestic abuse;
7. jurors and prospective jurors and the jury selection process;
8. proceedings or portions of proceedings where the court deems it necessary for the administration of justice (i.e. to protect a witness, other persons or confidential information);
9. attorney-client communications;
10. bench conferences; and
11. materials on counsel tables and judicial bench.

Any violation of this rule may be punishable by contempt of court and/or the impositions of sanctions. Sanctions may include suspension and/or termination of broadcast privileges.

Local Rules 30 through 36 Relating to Probate Procedures

LR07-PR00-30 Notice

Whenever notice by publication and/or written notice by U.S. Mail, or other method, is required to be given, the attorney shall prepare such notice and ensure that the notice is properly published and/or served as required by statute or Supreme Court Rule. It shall be the attorney's responsibility to ascertain and provide adequate proof of notice prior to bringing a matter to the Court.

LR07-PR00-31 Bond

- A. It is the policy of the Court to require that a corporate surety bond in an amount to be determined by the Court be acquired and filed by the fiduciary in every estate, whether supervised or unsupervised, before letters are issued to that fiduciary. The purpose of the bond is to protect creditors, taxing authorities and devisees. To facilitate the Court's determination of the amount of bond to be required in any estate, all petitions to open an estate shall set forth the probable assets of the estate and the value of such assets, including the value of all personal property plus the estimated annual rents and profits to be derived from the property in the estate and the amount of any known debt and/or tax liability. Any request to waive this requirement must set forth in detail the reason(s) for said request. A testator's request that no bond be required shall be given significant consideration in determining whether to waive the requirement of bond. The Court may schedule a hearing to determine whether a bond should be required and, if required, the

appropriate amount of bond.

- B. No corporate bond shall be required of a resident corporate fiduciary, qualified by law to serve as a fiduciary. A non-resident corporate fiduciary shall be required to post bond in the amount required by Indiana Code §29-1-10-1.
- C. If the fiduciary is an heir, devisee or legatee, the Court may reduce the amount of the bond by the amount of that fiduciary's estimated net share of the estate.
- D. A non-resident fiduciary or an appointed fiduciary who becomes a non-resident must post a corporate surety bond in the amount required by Indiana Code §29-1-10-1.

LR07-PR00-32

Deeds, Sale or Transfer of Real Estate

- A. The fiduciary shall file a written appraisal or market analysis by a qualified real estate professional with any petition for the sale of real estate in a supervised estate, unless such an appraisal or analysis was previously filed with an inventory. The appraisal or market analysis shall have been made within one (1) year of the date of the filing of the petition for sale.
- B. The Court will not authorize or approve the sale of real estate in an unsupervised estate.
- C. Copies of all deeds submitted to the Court for approval in an estate proceeding shall be filed with the Court for its records. Any deed submitted to the Court for approval in an estate proceeding must be first signed by the fiduciary before a notary public.
- D. If a final decree provides that real estate shall vest in heirs or beneficiaries of the estate, the final decree shall be recorded with the office of the Recorder in the county in which the real estate is located, and evidence of this recording shall be provided to the Court in a supplemental report.

LR07-PR00-33

Accountings

Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after the expiration of one (1) year and each succeeding six (6) months thereafter. Such accounting shall comply with the requirements of I.C. 29-1-16-4 and 29-1-16-6 and shall:

1. State facts showing why the estate cannot be closed and an estimated date of closing; and
2. Propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and claimants.

LR07-PR00-34

Fees of Attorneys and Fiduciaries

- A. The Court will determine the reasonable fiduciary and attorney fees in supervised estate proceedings. A petition for fees must be signed and approved in writing by the fiduciary. Any petition for fiduciary or attorney fees must include a detailed statement of the services performed, the amount of fee requested, and how the fee was calculated.
- B. The court will not determine, authorize, or approve fiduciary or attorney fees in an unsupervised estate.
- C. No fees for fiduciary or attorney fees shall be paid out of any estate without prior written order of the Court. Fees deposited with an attorney as advancement against future fees shall not be paid from the estate of the deceased person without prior approval of the Court.
- D. The Court will determine reasonable fiduciary and attorney fees based upon the information provided in each case. The Court shall not be bound by a fee arrangement which requires the payment of fees in excess of the amount determined by the Court from estate assets. The Court will not determine fees based only on the value of the estate.
- E. Unjustified delays in performing duties by the fiduciary or attorney may result in a reduction of fees.

LR07-PR00-35
Hearing

Presence of Alleged Incapacitated Person at Guardianship

In all guardianship matters seeking to declare an adult incapacitated for any reason, the allegedly incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that the incapacitated person is unable to appear.

LR07-PR00-36 Required Information in Petitions for Appointment of Guardian of a Minor

Every petition for appointment of a guardian of a minor shall contain the following information:

- 1. The minor's present address;
- 2. The places the minor has resided within the past two years and the names and present addresses of persons with whom the minor has lived during that period;
- 3. Whether, to the petitioner's knowledge, any other litigation is pending concerning the custody of the minor in pending in this state or any other state; ~~and~~
- 4. Whether, to the petitioner's knowledge, any person not a party to the guardianship proceedings has physical or legal custody of the minor or claims to have legal or physical custody of the minor or has parenting time or visitation rights with respect to the minor; and

5. The full names and addresses of the minor's parents.

APPENDIX A

REQUEST FOR NEWS MEDIA COVERAGE OF COURT PROCEEDING

Deliver to the Office of the Brown County Circuit Court

Date of Request: _____

Date/time of court proceeding: _____

Case number: 07C01-_____

As a member of the news media (as defined by Indiana Code § 34-46-4-1), I request permission to broadcast or record a court proceeding in the case above using the following equipment (mark all that apply and be specific):

_____ Still photography: _____

_____ Video/audio recording equipment: _____

I understand that the presiding judge has discretion to approve or deny this request for broadcast coverage and may, if granted, limit, interrupt, or terminate broadcast coverage at any time. I also understand the presiding judge may determine the location and quantity of broadcast equipment. I have reviewed the Brown County Local Rule found at LR07-AR00-29.5 and agree to abide it. I understand that violation of a court order may result in a finding of contempt of court and that sanctions may be imposed for a violation.

Signature

Printed name

Media Outlet making request

Network or publisher affiliation

Telephone number

email address

For Court Use:

Granted: _____

Denied: _____