

**SPENCER CIRCUIT COURT
LOCAL RULES
(Updated January 1, 2023)**

INDEX

LR74-CR00-1	Special Judges Assigned in Criminal Cases
LR74-CR-00-2	Discovery in Criminal Cases
LR74-TR00-1	Special Judges Appointments under T.R. 79(H)
LR74-AR00-1	Schedule for Court Reporter's Salaries and Private Fees for Transcripts
LR74-AR00-2	Schedule of Fees for Problem-Solving Court Services
LR74-AR00-3	Conduct, Dress, and Courthouse Policies
LR-74 AR1-1	Consent to Authority to Sit as Acting Judge

LR74-CR00-1 Special Judges Assigned in Criminal Cases

In the event it becomes necessary to assign another judge in a felony or misdemeanor proceeding in the Spencer Circuit Court **due to a conflict arising from the sitting judge's previous service as Prosecuting Attorney, or his wife's service as support prosecutor**, the case shall be assigned to Senior Judge William Weikert.

Effective January 1, 2015, all special judge cases pending before Senior Judge Wayne A. Roell will be assigned to Senior Judge William Weikert. If Senior Judge Weikert cannot serve on any pending or newly assigned case, then the case shall be assigned to one of the following individuals who have agreed to serve:

the Honorable Judge of Warrick Superior Court # 2; the Honorable Judge of Dubois Circuit Court; the Honorable Judge of Dubois Superior Court; the Honorable Judge of Warrick Circuit Court; the Honorable Judge of Perry Circuit Court; and, the Honorable Judge of Warrick Superior Court # 1.

Appointments shall be made in consecutive order from the above list.

In the event a change of judge is granted or it becomes necessary to assign another judge in a felony or misdemeanor proceeding in the Spencer Circuit Court and it is **not due** to a conflict arising from the sitting judge's previous service as a Prosecuting Attorney, or his wife's service as support prosecutor, the case shall be assigned to one of the following individuals who have agreed to serve:

the Honorable Judge of Warrick Superior Court # 2; the Honorable Judge of Dubois Circuit Court; the Honorable Judge of Dubois Superior Court; the Honorable Judge of Warrick Circuit Court; the Honorable Judge of Perry Circuit Court; and, the Honorable Judge of Warrick Superior Court # 1.

Appointments shall be made in consecutive order from the above list.

Certification shall be made to the Indiana Supreme Court of cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court.

(Amended effective January 1, 2015)

LR74-CR00-2 Discovery in Criminal Cases

A. Automatic Discovery/General Provisions. The parties shall endeavor to share information without involvement of the court.

1. No written discovery motion is required, except:
 - a. to compel compliance under this rule;
 - b. for additional discovery not covered under this rule;
 - c. for a protective order; or
 - d. for an extension of time.
2. The parties may comply with discovery obligations in any manner mutually agreeable to the parties. Disputes over timing and manner of discovery may be resolved by the court in accordance with Ind. Trial Rule 26(F).
3. The following are not subject to disclosure:
 - a. privileged communications as defined by law; and
 - b. work product of the parties and their legal or investigative staff.
4. A party has a continual obligation to disclose discovery within a reasonable time period.

B. Disclosures by the State

1. The State shall disclose and furnish all relevant items and information under Section B.2.

to the defense within forty-five (45) days from the date of the initial hearing subject to constitutional limitations and protective orders.

2. The State shall disclose the following material and information within its possession or control:
 - a. The names and last known addresses of persons who may be called as witnesses, with their relevant written or recorded statements. The State may refrain from providing a witness' address or other contact information under this rule if the State in good faith believes the disclosure of the witness' address or other contact information may jeopardize the safety of the witness or the witness' immediate family. If the State does not disclose the witness' address or other contact information in its possession for the reason stated under this rule, then the State shall make the witness available to the defense counsel upon reasonable notice.
 - b. Any written, oral, or recorded statements made by the accused or by a codefendant, and a list of witnesses to the making and acknowledgement of such statements.
 - c. A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney intends to call as witnessed at the trial.
 - d. Any reports or statements of experts or skilled witnesses, made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.
 - e. Any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to use in the hearing or trial.
 - f. Any books, papers, documents, photographs, or tangible objects or which were obtained from or belong to the accused.
 - g. The terms of any agreements made with co-defendants or other witnesses to secure their testimony, including any written documentation thereof.
 - h. Copies of affidavits for search warrants, search warrants, and returns made on search warrants.
 - i. Ind. Evidence Rule 404(b) proffer.
 - j. Documents produced pursuant to pre-charge subpoenas.
3. The State shall disclose to the defense any material or information within its possession or control that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment.
4. The State shall disclose and furnish to the defense prior to the trial date, subject to constitutional limitations and protective orders: any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
5. Upon a reasonable defense request and a showing of materiality to the preparation of the defense, the court may require disclosure to the defense of unprivileged information not covered by this rule.
6. The State shall provide the Court with notice, in writing, of its compliance with the

foregoing provisions of Discovery upon tendering the relevant information to the defense.

C. Disclosures by the defense

1. Within sixty (60) days of the initial hearing, the defense shall furnish the State with the following material and information within the defense's possession or control:
 - a. Any affirmative defense that the defense intends to make at trial.
 - b. The names and last known addresses of persons whom the defense intends to call as witnesses, with their relevant written or recorded statements. The defense may refrain from providing a witness' address or other contact information under this rule if the defense in good faith believes the disclosure of the witness' address or other contact information may jeopardize the safety of the witness or the witness' immediate family. If the defense does not disclose the witness' address or other contact information in its possession for the reason stated under this rule, then the defense shall make the witness available to the State upon reasonable notice.
 - c. Any books, papers, documents, photographs or tangible objects the defense intends to use as evidence or for impeachment at a hearing or trial.
 - d. Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons, that may be used at a hearing or trial.
2. The defense shall provide the Court with notice, in writing, of its compliance with the foregoing provisions of Discovery upon tendering the relevant information to the State.
3. Inform the Court and State of any objection to evidence that the State has given notice of intent to offer, pursuant to Evidence Rule 404(b) and/or Evidence Rule 702(b), by filing a motion *in limine* prior to trial.

(Added effective January 1, 2023)

LR74-TR00-1

Special Judges Appointments under T.R. 79(H)

In the event a Special Judge appointment becomes necessary under Trial Rule 79(H), the Special Judge to be appointed shall be one of the following individuals who have agreed to serve. The list shall be comprised of the following: the Honorable Judge of Warrick Superior Court # 2; the Honorable Judge of the Dubois Circuit Court; the Honorable Judge of Dubois Superior Court; the Honorable Judge of the Warrick Circuit Court; the Honorable Judge of the Perry Circuit Court; and the Honorable Judge of the Warrick Superior Court # 1. Appointments shall be on a consecutive order from the above list.

Certification shall be made to the Indiana Supreme Court of cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court.

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 that results when a recording is transcribed in the form required by Indiana rule of Appellate Procedure 7.2.
5. **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. **Regular Hours Worked** means those hours that the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remains the same for each workweek.
7. **Gap Hours Worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty hours per week.
8. **Overtime Hours Worked** means those hours worked that are in excess of forty hours per workweek.
9. **Work Week** means a seven 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 Spencer 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.
14. **Expedited transcript** means a transcript prepared in 10 days or less.

SECTION TWO – SALARIES AND PER PAGE FEES

1. 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. The supervising court shall enter into 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 a court reporter may charge for the preparation of a county or state indigent transcript shall be \$5.00 (\$5.50 if headers are included by the reporter); the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts. If a court reporter agrees to a request for an expedited transcript, a court reporter may charge an additional \$2.00 per page.
3. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$5.00 (\$5.50 if headers are included by the reporter). If a court reporter agrees to a request for an expedited transcript, a court reporter may charge an additional \$2.00 per page.
4. The maximum per page fee a court reporter may charge for the copy of a transcript, including exhibits, is \$2.00. The charge of a transcript provided in an electronic format shall also be \$2.00 per page.
5. 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 Office of Judicial Administration. The reporting shall be made on forms prescribed by the Office of Judicial Administration.

6. Court Reporters shall be allowed to charge a minimum fee of \$35.00 per transcript.
7. Court Reporters may charge an additional charge for labor performed in time spent in binding the transcript and the exhibit binders. The additional charge shall be at the hourly rate based upon the court reporter's annual court compensation.
8. Court Reporters may charge a reasonable amount of the office supplies required and utilized for the binding and electronic transmission of the transcript. The costs of these supplies shall be the amount that was paid for these items as a reimbursement to the Court Reporter.

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 a written agreement which must, at a minimum, designate the following:
 - a. The reasonable market rate for the use of equipment, workspace 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, workspace 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.

(Amended effective April 1, 2017)

LR74-AR00-2**Schedule of Fees for Problem-Solving Court Services**

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

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

(Added effective December 2, 2015)

LR74-AR00-3**Conduct, Dress, and Courthouse Policies**

- A. Professional Conduct.** It is intended that the business of the Court of the 84th Judicial Circuit will be conducted by the Judges in an atmosphere that is safe and secure, with a decorum that is appropriate to the fair and just resolution of the legal conflicts the Court is called upon to decide.
- B. Behavior in the Courthouse.** While in the courthouse within Spencer County, the following behavior is required:
 1. All persons within the courthouse shall refrain from loud, vulgar, disruptive, or abusive behavior;
 2. Lawyers, litigants, and spectators shall refrain from unnecessary conversation in the courtroom that would disturb the proceedings. Any necessary conversation in the courthouse or in the courtroom shall be conducted at a sufficiently low voice level as not to interfere with the conduct of trials, hearings, or other proceedings before the court;
 3. Lawyers, litigants, and spectators shall not enter the courtroom with food or beverages without prior approval of the Court;
 4. Lawyers, litigants, or any other person within the courthouse shall not smoke, vape or chew tobacco while in the courthouse. Chewing gum is not permitted in the courtrooms.
- C. Appearance and Dress.** Every person who enters a courtroom in Spencer County should be appropriately dressed. Lawyers should appear for court proceedings in professional attire.

Litigants, witnesses, and spectators to court proceedings should appear in appropriate attire.

D. Prohibited Items. To ensure compliance with state law and to promote public safety, the following rules apply to the presence or use of specific items in and around the courthouse within Spencer County:

1. Weapons. No person may possess firearms, knives, or other deadly weapons while in or around the courthouse within Spencer County without the prior written authorization of the Judge of the Circuit Court. However, a law enforcement officer who is not a litigant in a pending matter and who is appearing as a witness or for other official purposes, may retain possession of his or her issued firearm while in the courthouse, so long as he or she advises and receives the permission of the supervisor of the courthouse security staff upon entering the courthouse.

2. Cameras, Telephones, and Other Items

- a. To assure compliance with state and federal law and Indiana Rule of Judicial Conduct 2.17, the broadcasting, televising, audio recording, video recording and taking of photographs in the courtroom, immediately adjacent areas, and court offices is prohibited, unless previously authorized by written court order. An exception will be allowed by participants in ceremonial proceedings, educational activities, or training sessions. To this end, during court proceedings, the following items are prohibited in the courtrooms, unless explicitly permitted by the presiding judge: cameras, video cameras, or any devices capable of audio and/or video recording, that are not listed in paragraph (2) of this section.
- b. Personal Digital Assistants, electronic books, laptops, tablets, cellular telephones, beepers, watches, or similar electronic devices capable of making an audible noise are permitted so long as they are disabled or switched to vibrate mode prior to entering a courtroom, and **so long as they are not used to take audio and/or video recordings of court proceedings.**
- c. Any other item(s) the Presiding Judge deems disruptive to the court proceedings are prohibited.

E. Enforcement. The Sheriff of Spencer County (hereinafter “Sheriff”) and her/his appointed deputies have been authorized to monitor and enforce compliance with these Rules. Any person violating the rules regarding weapons, cameras, cellular telephones, or other electronic devices shall be subject to immediate confiscation of the same and/or removal of the individual, regardless if they have a case yet to be called. The Court may also initiate immediate contempt proceedings if warranted.

F. Consent to Search. All persons entering the courthouse within Spencer County, except those previously exempted by the Judges thereof, are required to pass through a magnetometer/x-ray screening point and to comply with all reasonable requests of courthouse security personnel. Purses, bags, backpacks, or other similar items being brought into the courthouse are subject to being searched. The Sheriff, law enforcement officers, or court security personnel may detain any person who they have reason to believe possesses any weapon or

other prohibited item in violation of this Rule for a period of time sufficient to obtain name, address, date of birth, social security number, and/or to seize any weapon or other prohibited item and to take any other action authorized by law.

(Added effective January 1, 2023)

LR-74 AR1-1 Consent to Authority to Sit as Acting Judge

A. The judge of the Spencer Circuit Court consents to the judge or magistrate of the Perry Circuit Court upon request to sit as acting judge in this court in any matter as if the judicial officer were the elected or appointed judge of this court, as provided in Administrative Rule 1. This consent will be filed in the court's Record of Judgments and Orders.

B. The authority to sit as acting judge in the Spencer Circuit Court is granted even when the sitting judge is present and available.

(Effective April 17, 2017)