

Administrative Rules

Delaware Circuit Court

Delaware County
Effective
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Index

Delaware County Court Administrative Rules

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DAR-0001
Jury Management

The following local rule regarding jury management is now adopted by the undersigned Judges of Delaware County.

A. Uniform Jury Selection.

The jury administrator and the supervising judge under the plan will provide a uniform system of jury selection for the courts ensuring that persons selected for jury service are selected at random from a fair cross section of the population of Delaware County. A computerized jury selection system will be fair and will not violate the rights of persons with respect to impartial and random selection of prospective jurors.

B. Jury Selection Plan.

The jury administrator, under the supervision of the supervising judge, shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of, and otherwise comply with Indiana Jury Rules. The Jury Selection Plan of the jury administrator is attached hereto and marked as Delaware County Jury Selection Plan.

C. Master List.

The jury administrator shall compile and maintain a master list consisting of the approved Jury Pool Master List for Delaware County.

D. Juror Service.

Names must be drawn for juror service quarterly, based on a calendar year commencing in January.

1. The jury administrator shall create and file an alphabetical list of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet computer record filed together to constitute the alphabetical list. Names may not be added to the alphabetical list, except by order of the court. Neither the names drawn nor any list compiled from the alphabetical list may be disclosed to any person other than by order of the supervising judge.
2. Names must be drawn randomly pursuant to Jury Rule 3.
3. Names drawn from the master list may not be returned to the master list until all nonexempt persons on the master list have been called.

E. Random Drawing of Names.

1. The master list will contain names in a sequential order, such as a numeric sequence, and drawn randomly from the Jury Management System through INCITE.

F. Jury Qualification Form

The provisions of Jury Rule 4 will be followed in that not later than 7 days after the date of the drawing of names from the master list, the jury administrator shall cause to be mailed to each person whose name is drawn a juror qualification form.

1. The form will be designed to reflect the prospective juror's name, address, and age.
2. Whether the prospective juror is a citizen of the United States and a resident of the county; is able to read, speak and understand the English language.
3. Has any physical or mental disability impairing the person's capacity to render satisfactory jury service
4. If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.
5. If it appears there is an omission, ambiguity, or error in a returned form, the jury administrator shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury administrator not later than 10 days after its second receipt.
6. A prospective juror who fails to return a completed juror qualification form as instructed may be directed by the jury administrator to immediately appear before the jury administrator to fill out a juror qualification form.

G. Disqualification for jury service

The supervising judge or the jury administrator shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service.

1. The jury administrator shall enter this determination in the space provided on the juror qualification form or electronically and on the alphabetical list of names drawn from the master list.
2. The ISSUING judge, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or an interview with the prospective juror whether the prospective juror may be excused from jury service. The jury administrator shall enter this determination in the space provided on the juror qualification form.
3. A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing when the person is summoned. Appropriate records must be maintained by the jury administrator to facilitate summoning.

H. Exemption

A person who has completed a term of jury service in the twenty-four (24) months preceding the date of the person's summons may claim exemption from jury service.

I. Deferral

The judge or judges' designee may authorize deferral of jury service for up to one (1) year upon a showing of hardship, extreme inconvenience, or necessity. Deferral requests made after the issuance of summons for prospective jury duty must be approved by the Issuing Judge. The Issuing Judge may determine if the deferral request may be made by fax or in person. Deferrals may be given one (1) time per year.

Upon receipt of an order for a grand jury, the jury administrator shall draw at random from the qualified Grand Jury Master List twenty (20) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after explaining to the twenty (20) prospective jurors the duties and responsibilities of a grand jury.

The names of qualified jurors drawn and the contents of the jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired. However, attorneys in any cases in which these jurors may serve may have access to the information.

K. Preservation of Record

After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury administrator or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the Indiana Supreme Court. The records and papers must be available for public inspection at all reasonable times.

DAR-0002
Jury Selection Plan

1. The Master Jury List will be created each year during the month of November containing the citizens of Delaware County from Bureau of Motor Vehicles and Indiana Department of Revenue lists for the county eighteen (18) years of age and older. The court administrator will be referred to as the “jury administrator” throughout this plan.

2. To create the Master List, the names of persons from the Bureau of Motor Vehicles and Indiana Department of Revenue lists for the county eighteen (18) years of age and older will be provided by the Indiana Supreme Court. Data Processing will retrieve the information through the internet website for INCITE.

3. During the first week of the second month of each quarter, the jury administrator will cause a draw of 2,500 names for petit jurors and 100 names for grand jurors from the Master List. Jury Questionnaires will be mailed and processed. A quarterly master list will be kept of all qualified jurors. A separate list of those persons excused from jury service will be maintained in a numerical table.

4. To perfect the issuance of a Venire, the court personnel will submit a Venire Order with the cause number, name of case, the number of names to be called, and the date and time of the trial.

5. Those persons selected from the random draw will be temporarily removed until all non-exempt persons have been called. All persons seated for jury service within the quarter will be removed permanently from the year’s list, along with those excused or deferred pursuant to statute.

6. Non-exempt persons who request to be excused from jury service should first initiate the call through the Office of Court Services. Requests not included, per statute, shall be referred to the issuing court.

7. The number of petit jurors that constitutes a panel for criminal C felony offenses and higher (filed prior to July 1, 2014); and Murder or a Level 1, Level 2, Level 3, Level 4, or Level 5 felony offenses, (filed after July 1, 2014) shall be fifty (50) names. An *additional* number of names may be issued for specific cases requiring a larger pool of prospective jurors. The number of petit jurors that constitutes a panel for civil cases shall be thirty five (35) along with class D felonies (filed prior to July 1, 2014); and Level 6 offenses (filed after July 1, 2014); and misdemeanors.

8. The number of grand jurors to be drawn for service will be twenty (20). The procedure for selection shall be the same as the petit jury draw with Data Processing providing the key number and the random selection of numbers to be used.

DAR-0003
Executive Organization

A. Board of Judges.

The five judges of the Delaware Circuit Court shall constitute the Board of Judges.

B. Presiding Judge.

At the annual fall meeting the Board of Judges shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months, whose one-year term shall begin the following January 1st. If available, the judge whose term as presiding judge has just ended shall serve as acting presiding judge when the presiding judge is unavailable. The presiding judge shall, as delegated by the Board of Judges:

1. Direct preparation of the agenda and minutes of the Board of Judges meetings;
2. Preside over the Board of Judges meetings and call special meetings as necessary;
3. Ensure efficient operation of the court system and compliance with these Rules;
4. Submit the annual budget for the court system, as approved by the Board of Judges, to include operation of the Delaware Circuit Court's Probation Department;
5. Present to the Board of Judges recommendations as to appointments or selections required of a circuit court judge;
6. Direct preparation and circulation of all annual reports for the court system and amendments to these Rules;
7. Maintain and distribute to the other judges policy manuals covering bond schedules, juror excuses, caseload allocation schedules and other matters pertaining to the day-to-day operation of the court system; and
8. Perform other duties as directed by the Board of Judges or as set out in these Rules.

C. Quarterly Meeting.

The Board of Judges shall meet the months designated below to make policy decisions, provide educational reports, and review operations of the court system. The Director of Court Services, hereinafter referred to as the "court administrator" will be required to attend these meetings and participate in discussions. The meeting will be held during the months of January, April, July, October, and December on the 3rd Wednesday at Noon. A schedule of said meeting dates will be delivered each January by the Office of Court Services to each judge, chief adult probation officer, chief juvenile probation officer, and CASA Director.

D. Fall Meeting.

Each fall (October) the Board of Judges and the court administrator shall attend an extended meeting to discuss:

1. Selection of the next presiding judge;

2. Implementation of the next annual budget as approved by the County Council;
3. Allocation of caseload;
4. The annual reports and performance of the Adult and Juvenile Probation Department, and the Office of Court Services.

E. Decisions.

Whenever an action of the entire court is required, including selection of a presiding judge under I.C. 33-33-18, the judges herein shall act in concert. If the judges disagree, the decision of the majority of the judges controls. Local Rules shall be made by a vote of the majority of the Board of Judges.

If a vote is split evenly, the motion will not pass. A 4 (four) to 2 (two) majority is required to pass a motion if the Board of Judges consists of six judges.

(Amended effective December 14, 2020)

DAR-0004
Caseload Allocation

A. Purpose.

First and foremost, the judicial officers of Delaware Circuit Court shall make thoughtful, timely, reasoned and just decisions. The allocation of caseload must reflect this purpose.

B. Procedure.

The Board of Judges annually shall:

1. Review and analyze the statistics on current workload and case flow within the Delaware Circuit Court.
2. Give due weight to the expertise of each judge, the stress associated with certain caseloads, and the goal of keeping each judge competent in all areas of the law.
3. Analyze whether the current allocation is providing excellent public service. There shall be a presumption in favor of the current allocation in order to preserve public confidence in the system, promote stability for the employees of the court system, and avoid inefficient use of personnel, time and resources to effectuate change.

C. Individual Case Transfer.

Nothing in this Rule shall preclude the transfer of an individual case from one division of the Circuit Court to another division to promote efficiency and provide for timely resolution of cases. The transferring judge shall direct the Clerk to resubmit the case for transfer to a specific division as designated in the Local Rules of Criminal, Civil, and Small Claims Procedures. In all Orders of Transfer, provisions shall be made to ensure all applicable costs and fees be allocated to the proper cause of action.

(Amended effective January 1, 2018)

DAR-0005
Rules of Practice

A. Purpose.

Local rules of practice and procedure now in existence and not inconsistent with Administrative Rules will continue to be in existence. Any new local rule will be promulgated pursuant to Trial Rule 81.

B. Procedure.

Each year the Board of Judges shall review the local rules and shall consider changes and additions suggested by the Delaware County Bar, the prosecuting attorney, the public defender, and the clerk of courts.

C. Adoption.

On July 1, 2000, and thereafter as amended, the Local Rules of Practice and Procedure for the Delaware Circuit Court are adopted and effective in all divisions of the Delaware Circuit Court. A copy of the Local Rules shall be forwarded to the Office of Court Services, the Clerk, and the President of the Delaware County Bar Association.

(Amended effective January 1, 2018)

DAR-0006
Budgetary Matters

A. Budgets.

The Board of Judges shall direct the preparation of one unified budget for all divisions of the Court, the Probation Department and the Office of Court Services to be funded from the county general fund upon approval of the County Council, and a separate budget for Title IV-D Court. The Title IV-D Court shall remain separate and apart from the unified budget. The Board of Judges shall further direct the preparation of additional budgets for programs funded by User Fee income upon approval by the County Council.

B. Annual Procedure.

Each year the Board of Judges shall establish a schedule of budget preparation, review and submission with the goal of providing for the effective functioning of the Court, as follows:

1. Each judge, CASA Director, and the chief probation officer shall submit written budget requests to the court administrator. These requests shall be specific and well justified in light of the past year's expenditures and the future needs of the offices. Any request shall be submitted by May 15.
2. The Board of Judges shall meet to review the budget requests from the chief probation officer, the court administrator, and CASA Director to establish budget priorities, and to adopt the annual budgets for submission to the County Council.
3. The budget proposals as adopted by the Board of Judges shall be prepared by the court administrator and signed by the presiding judge for submission to the County Council.

C. Allocation of Resources.

The Board of Judges shall establish guidelines for allocation of individual line items in the yearly budget approved by the County Council.

D. Claims.

Claims shall be submitted to the Office of Court Services for approval by the court administrator and subsequent submission to the Auditor's Office. The court administrator may approve all proper payroll claims and may approve all purchase, travel and training claims not exceeding maximum amounts set by the Board of Judges from time to time. Any claim exceeding these guidelines must be submitted to the Board of Judges for approval.

E. Transfers Within Budget Categories.

If the court administrator determines that a transfer is necessary within budget categories, the court administrator shall direct the Auditor's Office to perfect said transfer, following consultation with the presiding judge.

F. Transfers Between Budget Categories.

If the court administrator determines that a transfer between budget categories is necessary, a written proposal shall be submitted to the presiding judge for approval prior to submission to the County Council.

G. Additional Appropriation.

If the court administrator determines that an additional appropriation is necessary, a written proposal shall be submitted to the Board of Judges.

H. Mandate.

No individual judge shall exercise mandates for the adequate provision of court services, personnel, or other expenditures without consultation with the entire Board of Judges. The Board of Judges may exercise mandate authority upon vote of a majority.

(Amended effective January 1, 2018)

DAR-0007
Personnel

A. General Organization. The Delaware Circuit Court employs personnel, as follows:

1. **Court Divisions**
Court Reporter
Assistant Court Reporter
Assistant Court Reporter/Bailiff
Court Secretary
Master Commissioner
Juvenile Magistrate
2. **Probation Department**
1 Chief Probation Officer
2 Supervisor Probation Officers
Probation Officers
Pre-Trial Screening Analyst
Administrative Staff
3. **Office of Court Services**
Court Administrator
Administrative Assistant/Jury Administrative Assistant
Administrative Staff (Part-Time)
4. **CASA Office**
Director
Volunteer Coordinator
Support Staff (full-time or part-time)

B-1. Court Division.

The Delaware Circuit Court shall have five court divisions as follows: Delaware Circuit Court No. 1; Delaware Circuit Court No. 2; Delaware Circuit Court No. 3; Delaware Circuit Court No. 4; Delaware Circuit Court No. 5. Pursuant to IC 33-33-18-7, the judge of each court division shall have the sole authority to employ a court reporter, an assistant court reporter, an assistant court reporter/bailiff, and a court secretary for Juvenile Court to serve at the pleasure of the judge.

The Board of Judges shall appoint and employ master commissioners to full-time and/or part-time positions. The commissioner will not be entitled to practice law. The appointments will be for a two (2) year term. The duties of the master commissioner will be as set out in the Terms of Employment of a Master Commissioner. The juvenile magistrate will be responsible for all juvenile cases, guardianship cases related to CHINS cases, and protective order hearings related to juveniles at the request of the sitting judge.

B-2. Court Divisions - Title IV-D Court.

The Board of Judges shall have the sole authority to employ Title IV-D Court personnel and the judge with juvenile jurisdiction shall have the right to terminate their employment after consulting with the Board of Judges. All employees of the Title IV-D Court serve at the pleasure of the Board of Judges. As directed by the Board of Judges, the judge with jurisdiction over JP cases shall supervise

employees of the Title IV-D Court, and may delegate certain supervisory responsibilities to the staff or designee as set out in the Delaware County Circuit Court Personnel Policy and Procedures.

C. Probation Department.

The Board of Judges shall have the sole authority to employ Probation Department personnel and to terminate their employment. All employees of the Probation Department serve at the pleasure of the Board of Judges. The Board of Judges shall advertise the position of chief probation officer and assistant chief probation officer with the Delaware County Probation Department, and interview and screen applicants for said position. The chief probation officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. The chief probation officer shall provide to the Board of Judges a written summary of qualified applicants, with a recommendation of three applicants to be hired by the Board of Judges.

D. Office of Court Services.

The Board of Judges shall have the sole authority to employ personnel in the Office of Court Services and to terminate their employment. The court administrator shall advertise an available position and interview and screen applicants as directed by the Board of Judges. The court administrator shall provide to the presiding judge a written summary of qualified applicants, with the court administrator's recommendation of three applicants to be hired by the Board of Judges. Employees of the Office of Court Services shall be supervised by the Director of Court Services/Court Administrator.

E. CASA.

The Board of Judges shall have the sole authority to employ personnel in the CASA Office. The Director of CASA shall advertise an available position and screen applicants as directed by the Board of Judges. The Director shall provide to the judge with jurisdiction over JC/JT cases a written summary of qualified applicants, with the Director's recommendation of three applicants to be hired by the Board of Judges. Employees of the CASA Program shall be supervised by the Director. All applicants may be required to take a skills test.

F. Personnel Policy.

The Board of Judges shall maintain a written personnel policy setting forth policies and procedures regarding the recruitment, selection, management, and termination of employees and the conditions and expectations of their employment. Each employee shall be given a copy of the personnel policy when employment begins.

(Amended effective January 1, 2018; further Amended effective December 15, 2021)

DAR-0008
Administrative Management

A. Management Team.

The court administrator, chief probation officer, and CASA director, and presiding judge shall constitute a management team for administrative issues. The team coordinates personnel policy issues and fiscal issues, identifies issues or procedures that may impact outside specific divisions, maintains consistency on administrative issues among the divisions, and addresses other issues and projects within the discretion of the presiding judge.

(Amended effective January 1, 2018)

DAR-0009
Office of Court Services

A. Establishment and Purpose.

The Board of Judges has established an Office of Court Services to coordinate jury management records, statistics compilation, court security, financial planning and budget management, case flow management, and public information and education for the Delaware Circuit Court.

B. Director of Court Services - Court Administrator.

As directed by the Board of Judges, the court administrator shall prepare and monitor the court's budgets; coordinate continuing education and training for court personnel; assist in researching, defining, developing and implementing new programs and procedures; attend and coordinate Board of Judges meetings, coordinate and implement court security plans and perform other duties as required.

C. Other Personnel.

The Board of Judges, through the court administrator, shall hire additional administrative aides, clerical staff and bailiffs as needed to provide services to the Court.

D. Financial Planning and Budget Management.

The Office of Court Services shall be responsible for the preparation, monitoring and coordination of all budgets of the Delaware Circuit Court. All required fiscal reports are prepared for review by the Board of Judges. This office serves as primary liaison with the Auditor's Office, and prepares and submits payroll, claims and employee status reports as required. This office oversees maintenance and service of equipment.

E. Jury Management.

The Office of Court Services is responsible for all functions pertaining to the provision of jury panels for the divisions of the Delaware Circuit Court.

F. Records Management.

The Office of Court Services is responsible for compiling and reporting all statistical information regarding caseloads and case movement in the divisions of the Delaware Circuit Court. A written report summarizing the activity operation of the court shall be delivered to the Board of Judges by March 31 of each year.

G. Case Flow Management.

The Office of Court Services is responsible for assessing case flow and workload distribution to the divisions of the Delaware Circuit Court, and provides supplemental staff when needed and/or available.

H. Public Information and Education.

The Office of Court Services serves as liaison officer between the Delaware County Clerk and the Board of Judges. File stamps are maintained in the Filing Office to facilitate receipt of pleadings and correspondence for local attorneys. File stamps are also maintained in the individual court divisions. Mail receptacles are provided in the Office of Court Services for local attorneys to collect daily distribution of court documents. All questions regarding new filings or other procedures regarding the court shall be brought to the attention of the court administrator by the designated representative of the Delaware County Clerk.

(Amended effective January 1, 2018)

DAR-0010
Probation Department

A. Establishment and Purpose.

As required by Indiana law, the Board of Judges has established a Probation Department to serve all divisions of the Delaware Circuit Court. The Probation Department staff conducts interviews and investigations, prepares Pre-Sentence and Juvenile Reports, and oversees probationers and juveniles for compliance with court orders. These activities are conducted with the goals of rehabilitating offenders and protecting society. Further, the Probation Department develops and maintains community-based alternate correction programs.

B. Chief Probation Officer.

As directed by the Board of Judges, the chief probation officer shall oversee the efficient operation of the adult and juvenile probation departments ; assist in the hiring and discharge of personnel; evaluate and train department employees; compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department as provided by the Board of Judges; and perform other duties as required.

C. Procedures.

The Probation Department shall maintain a written policy, procedure and training manual which sets forth the manner of operation of the department and the duties of each officer or staff member.

D. Statistics and Reports.

The Probation Department shall maintain all statistical reports and records required by law and necessary for compliance with grant or program authorities. A written report summarizing the activity and operation of the Probation Department shall be delivered to the Board of Judges by March 31st of each year.

E. Fees and Costs.

Court-ordered supervision fees shall be collected by designated staff pursuant to an established system of financial records management. This system, subject to State Board of Accounts audit, shall delineate special funds accounts, maintenance of daily collections and ledgers, and proper deposit and disbursement of funds. An internal audit will be conducted any time the collection clerk or staff responsible for the collection of fees terminates employment.

(Amended effective December 15, 2021)

DAR-0011

FEE GUIDELINES

1. Maximum Fees where an individual is serving as personal representative:

Fair Market Value Of Probate Estate Including Income	Percent Rate For Individual Personal Representative	Percent Rate For Professional Services of Attorney
First \$25,000.00	4%	8%
Next \$25,000.00	3%	6%
Next \$50,000.00	2 ½%	5%
Next \$900,000.00	1 ½%	3%
Next \$1,500,000.00	1%	2%
Excess of \$2,500,000.00	½%	1%

Where the attorney acts as both the attorney and Personal Representative, the above schedule will be applied.

2. Maximum Fees where corporate personal representative is serving:

Fair Market Value Of Probate Estate Including Income	Percent Rate For Corporate Personal Representative	Percent Rate For Professional Services of Attorney
First \$25,000.00	6%	6%
Next \$25,000.00	5%	5%
Next \$50,000.00	4%	4%
Next \$900,000.00	3%	3%
Next \$1,500,000.00	2%	2%
Excess of \$2,500,000.00	1%	1%

DAR-0012

**COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE
OF UNSUPERVISED ESTATE**

Please read carefully before you date and sign. One copy of this form must be filed with the Court. Keep one copy for your records.

Introduction:

You have been appointed as the personal representative of the estate of a deceased person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interests of all beneficiaries and creditors of the estate. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

You must be represented at all times by an attorney of record approved to so act by written order of the Court. Your attorney is required to reasonably supervise and guide your actions as personal representative unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the beneficiaries and creditors of the estate and by signing these Instructions you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as personal representative.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all papers with the Court, you, as personal representative, are ultimately responsible to see that the estate is properly and promptly administered, and you are personally liable for incorrect distributions, payments, or acts, as well as any unpaid taxes or costs of administration.

As personal representative, it is your responsibility to:

1. Inspect all documents and personal papers of the decedent and retain anything pertinent to tax reporting, location and value of assets, debts or obligations of or to the decedent, or any other items of significance to administration of the estate of the decedent.
2. Locate, collect and maintain all property owned by the decedent.
3. Keep motor vehicles and real estate insured and protected.
4. Immediately fill out a change of address at the post office to have the decedent's mail forwarded to you.
5. Determine the values of all assets on the date of death, obtaining appraisals if needed.
6. Inventory the contents of any safety deposit box.
7. Collect any proceeds of life insurance on the life of the decedent which is payable to the estate. Obtain Form 712 from the insurance company, if needed for taxes.
8. Sign your name as "Personal Representative for the Estate of (name of decedent)" on accounts and securities which are registered to the estate.
9. Open a separate checking account in your name as "personal representative for the estate of (the decedent)", and NEVER CO-MINGLE your funds or anyone else's funds with this account. Always make estate expenditures by check and retain proof of payment. Make sure the bank is willing to return cancelled checks to you if needed. Obtain a federal I.D. number for the checking account. Do not use your Social Security number or decedent's Social Security number.

It is recommended by the court that you leave the checkbook with your lawyer so that the lawyer can aid you in maintaining accurate records of receipts and expenditures for final accounting purposes.

 - A. DO NOT put any of your funds or *anyone* else's funds in the estate checking account.
 - B. Always pay for estate expenses by checks from the estate checking account. Do not pay any expenses with cash,
 - C. Keeps records of all deposits including the identity of the person or entity paying the money into the estate.
10. Determine all debts that the decedent owed. Look through decedent's tax returns and other papers. Talk to anyone who knew decedent's business. Consult your attorney as to payment of debts, costs of administration, bond premiums, and funeral bills. Some debts may be unenforceable. Some may have priority over others.
11. Have your attorney provide written notice of the administration of the estate to all known creditors of the estate.
12. NEVER borrow estate property or put it to your own personal use.

13. Within two (2) months of your appointment, you should prepare a Verified Inventory of the assets of the estate conforming with the requirements of I.C. 29-1-7.5-3-2 and have it available to be furnished to distributees on request.
14. DO NOT distribute any estate assets until assets (including personal property) are appraised, and consult with your attorney prior to making any distribution.
15. Prepare and file income tax returns for the tax year in which the decedent died and any returns *for* prior years if needed. Timely prepare and file any estate or fiduciary income tax returns and pay taxes as they come due.
16. After you fully complete the estate administration you must file a closing statement with the Court verifying that all proper claims, expenses and taxes have been paid, that all assets have been properly distributed, and that a copy of the closing statement has been sent to all distributees, fully accounting for all assets, expenses and distributions made to the beneficiaries.
17. Notify the Court and your attorney of any change in your address or telephone number.
18. Keep a record of the time you spend working on the estate. You are entitled to a reasonable fee, unless you waive a fee. Time records will help the Court determine your fee.
19. Always contact your attorney for advice if you are unsure as to any act as personal representative. Have your attorney counsel you in relation to the estate and explain anything that you do not fully understand.

I authorize my attorney to notify the Court in the event that he or she has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the beneficiaries and creditors of the estate even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

DATED this _____ day of _____, 20_____.

Signature, Personal Representative Signature, Personal Representative

Print, Personal Representative Print, Personal Representative

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a personal representative of an unsupervised estate.

Signature, Attorney

Print, Attorney

DAR-0013

COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE OF SUPERVISED ESTATE

Please read carefully before you date and sign. One copy of this form must be filed with the Court. Keep one copy for your records.

Introduction:

You have been appointed as the personal representative of the estate of a deceased person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interests of all beneficiaries and creditors of the estate. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

This is a SUPERVISED ADMINISTRATION. This means that your actions are supervised almost entirely by the court; therefore, before you take any action of importance to the Estate, such as the transfer or sale of assets, you must first seek the permission of the court. If you have any questions as to whether to seek court permission, you should discuss this with your attorney before taking any action,

You must be represented at all times by an attorney of record approved to so act by written order of the Court. Your attorney is required to reasonably supervise and guide your actions as personal representative unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the beneficiaries and creditors of the estate and by signing these Instructions you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as personal representative.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed, Although your attorney will file all papers with the Court, you, as personal representative, are ultimately responsible to see that the estate is properly and promptly administered, and you are personally liable for incorrect distributions, payments, or acts, as well as any unpaid taxes or costs of administration.

As personal representative, it is your responsibility to:

1. Inspect all documents and personal papers of the decedent and retain anything pertinent to tax reporting, location and value of assets, debts or obligations of or to the decedent or any other items of significance to the administration of the estate of the decedent.
2. Collect proceeds of life insurance on the life of the decedent which is payable to the estate. Obtain Form 712 from the insurance company, if needed for taxes.

3. Sign your name as 'Personal Representative for the Estate of (name of decedent)' on accounts and securities which are registered to the estate.
4. Locate, collect and maintain all property owned by the decedent. Keep motor vehicles and real estate insured and protected. Inventory the contents of any safe deposit box.
5. Prepare an inventory describing all property belonging to the estate, with date of death values, no later than two (2) months after your appointment, and file it with the Court and serve a copy on all known heirs; beneficiaries and distributees of the estate. Obtain appraisals if necessary.
6. Open a separate checking account in your name as "personal representative for the estate of (the decedent)", and NEVER CO-MINGLE your funds or anyone else's funds with this account. Always make estate expenditures by check and retain proof of payment. Make sure the bank is willing to return cancelled checks to you if needed. Obtain a federal I.D. number for the checking account. Do not use your Social Security number or decedent's Social Security number. It is recommended by the court that you leave the checkbook with your lawyer so that the lawyer can aid you in maintaining accurate records of receipts and expenditures for final accounting purposes.
 - A. DO NOT put any of your funds or anyone else's funds in the estate checking account.
 - B. Always pay for estate expenses by checks from the estate checking account. Do not pay any expenses with cash.
 - C. Keeps records of all deposits including the identity of the person or entity paying the money into the estate.
7. Ascertain all debts that the decedent owed. Look through decedent's tax returns and other papers. Talk to anyone who knew decedent's business. Consult your attorney as to payment of debts, costs of administration, bond premiums, and funeral bills. Some debts may be unenforceable, some may have priority over others. DO NOT MAKE any distribution to an heir or devisee without prior consent from your attorney. Always obtain receipts for all distributions made.
8. Immediately fill out a change of address at the post office to have the decedent's mail forwarded to you.
9. Prepare and file income tax returns for the tax year in which the decedent died and any returns for prior years if needed. Timely prepare and file any estate or fiduciary income tax returns and pay taxes as they come due.
10. Have your attorney provide written notice of the administration of the estate to all known creditors of the estate.
11. If the decedent owned a business or was involved in contracts which were not yet fully performed have your attorney obtain directions from the Court as to those matters.
12. DO NOT MAKE any distribution of personal property or real estate to an heir or devisee without prior Court order.
13. NEVER borrow estate property or put it to your own personal use.

14. Accounting:

Indiana law requires the estate to be closed within one (1) year of your appointment as personal representative. Before the estate can be closed, you must file with the Court a final accounting of your actions as personal representative.

A. Have your attorney file your final accounting, consisting of three (3) schedules, after the administration of the estate has been completed.

B. The first schedule must include all assets listed on the inventory, any income and additional assets obtained during administration, and any adjustments to the inventory.

C. The second schedule must be an itemized list of expenditures. Documentation for each expense shall include: (a) the payee; (b) check number or other identifying number on the instrument; (c) the amount disbursed; and (d) if the reason for disbursement is not apparent from the description of the payee, a description of the reason for the disbursement sufficient to substantiate the reason for the disbursement as part of the administration of the estate. Cancelled checks or facsimile copies of paid checks for each expenditure must be attached as evidence of payment, or in the alternative, an Affidavit in Lieu of Vouchers must be filed.

D. The third schedule must be a recapitulation indicating the remaining estate property after subtracting expenditures. A proposed distribution must be furnished to all interested parties, including beneficiaries of the estate.

15. After the Court approves your final account, make distribution to the proper people and file a supplemental report with the Court, attaching receipts, or in the alternative, an Affidavit in Lieu of Vouchers must be filed.

16. Notify the Court and your attorney of any change in your address or telephone number.

17. NEVER pay yourself or your attorney any fees from the assets of the estate without a prior Court Order, unless your attorney confirms to you that the law or local court rules allow you to reimburse yourself from estate assets for necessary expenses that you previously paid with your personal funds.

18. Keep a record of the time you spend working on the estate. You are entitled to a reasonable fee, unless you waive a fee.

19. Always contact your attorney for advice if you are unsure as to any act as personal representative. Have your attorney counsel you in relation to the estate and explain anything that you do not fully understand.

20. Do not sell an estate asset without prior Court Order unless the Will, in very specific terms, authorizes sale without court order, Consult your attorney about this.

I authorize my attorney to notify the Court in the event that he or she has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the beneficiaries and creditors of the estate even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

DATED this _____ day of _____, 20_____.

Signature, Personal Representative Signature, Personal Representative

Print, Personal Representative Print, Personal Representative

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a personal representative of a supervised estate.

Signature, Attorney

Print, Attorney

DAR-0014

**ACKNOWLEDGEMENT BY PERSONAL REPRESENTATIVE OF RECEIPT OF LOCAL
RULE REGARDING FEES IN PROBATE MATTERS**

The undersigned, _____, having being appointed as the personal representative for the estate of _____, in Cause Number _____, does hereby acknowledge that the undersigned has received and had the opportunity to review LRI 8-ARO1-DLR-0008 regarding personal representative's and attorney's fees for probate matters in Delaware County, Indiana.

Executed this _____ day of _____, 20__.

I affirm under the penalties for perjury that the forgoing representations are true.

(_____)
Personal Representative

(Amended effective December 14, 2020)

DAR-0015

COURT'S INSTRUCTIONS TO GUARDIANS

Read carefully, date and sign one copy and return it to the court within ten (10) days. Keep a copy for your records.

You have been appointed guardian of an individual who, because of age or some incapacity, is unable to care for his or her own financial and/or personal affairs. It is important that you understand the significance of this appointment and your responsibility as guardian.

Upon being appointed guardian, you are required to post a bond in the amount set by the court and to take an oath to faithfully discharge your duties as guardian. The bond assures the court that you will properly protect the assets of the protected person.

Listed below are SOME of your duties. These apply whether or not the protected person is your relative. Ask the attorney for the guardianship to fully explain to you each of the items below and to inform you about other duties you have in your particular circumstances. Although the attorney will file all the papers with the court, the ultimate responsibility to see that all reports and papers are accurately prepared and filed rests with you.

As guardian, you are required:

1. To file with the court, within ninety (90) days after your appointment, a verified inventory of all property belonging to the protected person.
2. To file with the court, within thirty (30) days of the first anniversary of your appointment and, thereafter, every two (2) years, a verified account, this details all property and income received by, and all expenses paid from, the guardianship.
 - A. Vouchers or receipts or, in the alternative, an Affidavit in Lieu of Vouchers should be attached in order to verify each expenditure.
 - B. The present residence and general welfare of the protected person must be stated.
 - C. A report from the treating physician is required if the incapacitated person is an adult.
3. To pay bond premiums and court costs as they become due,
4. To file federal and state tax returns and to pay taxes for the protected person in a timely fashion.
5. To open an account, in your name as guardian, in which all of the cash assets of the protected person are deposited. This account shall be used for all payments and disbursements on behalf of the guardianship and the protected person. Cancelled checks or other written proof of payment should be maintained.

6. To obtain approval from the court to litigate matters concerning guardianship assets.
7. To file a final accounting upon termination of the guardianship. This should detail all property and income received and all expenses paid, with receipts to verify each expenditure.

A guardian is obliged to encourage self-reliability and independence of the protected person and to consider recommendations relating to the appropriate standard of support.

You must protect and preserve the protected person's property and conserve any property of the protected person in excess of the protected person's needs. Accurate accounts must be kept and guardianship funds should never be combined with your personal funds.

You may not make expenditure of investments from guardianship funds without court approval. Unauthorized use of guardianship assets may result in personal liability and/or criminal prosecution.

If any questions arise during the guardianship, you should consult with your attorney.

GUARDIANS:

A GUIDE TO PERFORMING YOUR FIDUCIARY DUTIES

I. INTRODUCTION

You have just taken an oath to faithfully discharge your duties as a guardian. This oath was intended to impress upon you that you have been placed in a position of the utmost trust and responsibility.

Most guardians are given the power and duty to handle an incompetent person's financial affairs. Occasionally, however, the court appoints a guardian when the incapacitated adult or minor has no assets or the powers granted the guardian do not encompass the property of the incapacitated person. If your appointment does not include control of any financial affairs, then your duties are limited to the specific purpose for which the guardianship was established.

Most of the remainder of this guide pertains to guardians who are appointed for the purpose of managing the property of a protected person. The specifics of your duties to handle the protected person's property will be discussed shortly, but you'll go a long way toward success by simply remembering that the property you will be handling is not your own. You must handle the property of the protected person as you would have the protected person handle your property.

II. SPECIFIC DUTIES

The person over whom you have been appointed guardian is under some disability which prevents him from competently handling his financial affairs. Your job is to handle this aspect of life for him. There's really nothing mysterious about what you'll be doing. Just as you personally have an income, pay bills, buy clothing and pay taxes, the protected person will in all likelihood have an income, owe bills, need

clothing and be required to pay taxes. The only difference between the two of you is that you can handle these tasks on your own while the protected person requires your assistance to accomplish them,

Indiana Law specifically details the duties of the guardian. We now turn to an examination of that law.

A. BOND

In order to protect the protected person, every guardian must post a sufficient bond with the court before undertaking his duties. The amount of the bond is fixed at an amount equal to all of the protected person's personal property, plus the annual rental value of any real estate. While there is no exception to the bond requirement, there may be an alternative. If the protected person owns assets above and beyond those necessary to provide for his needs, you may petition the court for permission to place the excess funds in a restricted account. Typically, a restricted account is a Certificate of Deposit with the following words typed on the face of the document: "not to be cashed without order of Delaware Circuit Court No. ____". If the guardianship is over a minor, the following words may be added: "or upon protected person reaching the age of 18". Provided there exist no other reasons for requiring bond, the restricted funds will then be exempt from the bond requirement.

Finally, you may be wondering why the court may have required only a minimal bond upon your appointment. The reason is simple—neither the court nor you are yet fully aware of the extent of the protected person's assets. Upon your filing of an inventory, the bond may be adjusted accordingly.

B. INVENTORY

Indiana Law requires that every guardian of another persons' property file an inventory of that property within ninety (90) days of the date of his appointment. The inventory serves an important purpose: it appraises both you and the court of the extent of the protected person's property.

The inventory which you file must contain every item of the protected person's property which shall come to your possession or knowledge. The property must be classified as to its type (e.g., stocks, bank accounts, real estate) and, if encumbered by a mortgage or other lien, this fact must also be noted.

The fair market value of each item of the protected person's property must be indicated in the inventory. Many items, such as bank accounts, will pose no valuation problems. However, where there is reasonable doubt as to the value of property, the law permits the employment of a disinterested appraiser to assist in the valuation process. If an appraiser is employed, his name and address must be indicated on the inventory.

C. TAKING POSSESSION OF THE PROTECTED PERSON'S PROPERTY

Your letters of guardianship represent your authority to act for the protected person. By representing these to persons or institutions who may be holding the protected person's property, you will be permitted to take that property into your possession.

The phrase "take possession" should not be construed literally. It is not intended that you run out and gather everything the protected person owns so that you can store it in your basement. Rather, you need to contact the persons or institutions holding your protected person's property, either show them or provide them with your copies of your letters, and arrange for the funds or property to be held in the protected person's name with your name listed as guardian. So that no one except you can draw on said funds, do not surrender the original copy of your letters of guardianship—certified copies of your letters may be obtained from the Delaware County Clerk's Office.

D. PAYING THE PROTECTED PERSON'S BILLS AND EXPENSES

Your primary purpose as guardian of an adult incompetent's estate is to manage his financial affairs. As part of your management responsibility you will be required to pay all valid bills, expenses and claims of the protected person while constantly bearing in mind your duty to preserve the assets of your protected person.

In order to pay these bills, a checking account must be open. This account will be in your name as guardian. The fact that it is a guardianship account must be clearly stated on the face of each check. The bills and expenses which a particular protected person incurs will vary according to the circumstances. If your protected person lives in his own home, there will be utility and other bills associated with home ownership. On the other hand, if the protected person resides in a nursing home, these bills may be eliminated and included in a single monthly payment to the nursing home.

In addition to the ordinary and necessary expenses of your protected person, extraordinary claims may have to be paid on occasion. For example, a hospital might present you with a bill for services which it claims to have provided the protected person prior to your appointment as guardian or an individual might approach you and claim that the protected person owes him money on a contract.

The question which you should ask when presented with any bill, expense or claim on your protected person's property is whether the obligation is valid. Your resolution of this inquiry is critical for, if you negligently honor an invalid claim, the court may hold you personally liable for the amount of the protected person's funds expended.

You may also find it necessary or desirable to provide your protected person with a periodic allowance. Once again, since you have a duty to preserve the assets of the protected person, you must take care that the purpose for which the allowance is desired is a valid one.

In either case, whether you are paying bills or are desirous of providing a periodic allowance, you should consult with your attorney. If there is any question as to the legitimacy or necessity of a bill or claim, authority should be obtained from the court before making payment.

These responsibilities as they relate to a minor are different from those of an adult. A minor's guardian has all the responsibility and authority of a parent and, therefore, is personally responsible for the financial support of the minor. As a general rule, the guardian may not spend the minor's funds, but, instead, must preserve them. Only upon a showing to the court that the parents' income is insufficient to provide for the minor's support will the court approve the expenditure of the minor's funds.

E. THE CURRENT REPORT

The law requires that you file a written report of your activities as guardian within thirty (30) days of the first anniversary of your appointment. Thereafter, such reports are due every two years. You fulfill this duty by filing a current report and accounting. If all of a minor's assets are in a restricted account, the court may waive this accounting requirement.

The current report should contain all information pertinent to the protected person's condition, including his or her present residence and general welfare. If the protected person is an adult, a report of the treating physician verifying the incapacitated state of the person and propriety of the living arrangements must be included with the current report.

Regarding the accounting, the current report must include three schedules. The first will show the total amount of the protected person's property included in the inventory and any additional assets received to the date of the accounting. The second schedule must list all expenditures which were made on behalf of the protected person and, if such amounts are approved by the court, they will be credited against the amount of property for which you are chargeable. Finally, the third schedule will be a recapitulation, and it will show the balance on hand after subtracting the credits you are claiming from the total amount of the property which has come into your hands. The balance on hand should list what assets you still hold. In order to verify your expenditures made on behalf of the protected person, you are required to attach cancelled checks or an Affidavit in Lieu of Vouchers, to the current report.

By now you should have realized that accurate record keeping is essential to the preparation of an acceptable current account. Remember that YOU are responsible for the protected person's property and that you are held personally liable for the expenditures of any amount which cannot be substantiated.

F. THE FINAL REPORT

A written Final Report is required in all guardianships. Most guardianships are established because of the protected person's age: he is either too young (under eighteen) and, therefore, legally disqualified from handling his own financial affairs or old age has in some way deprived him of the ability to handle this aspect of his life. Therefore, most guardianships terminate either upon the protected person's reaching majority or upon death.

When it is time to terminate the guardianship, you will need to file a final report. The report must indicate the reason for terminating the guardianship and must detail the disposition which you propose to make of the protected person's assets.

If the protected person is living, a hearing will be set to review the Final Report. A copy of the report must be furnished to the protected person and the protected person can file written objections before the hearing date. The court will examine the report to assure that your proposed disposition of the protected person's property is acceptable. The final account will be examined to assure that the expenditures which you made since the last accounting are permissible. Assuming the court approves, you will then be discharged from your duties and the guardianship will be closed.

III. CONCLUSION

As guardian, you may be faced with difficult decisions as to how you should be handling the affairs of your protected person. You should realize that you need not make these decisions alone. If there is an expenditure which you desire to make or a sale of any of the protected person's personal or real property, you should consult with your attorney who will petition the court for its approval. If the court agrees with your proposal, it will enter an order to proceed. If the court disagrees, then an expenditure or sale for which you might have been held personally liable will have been avoided.

You are encouraged to contact your attorney to assist you with your duties. Since Indiana law and Delaware County Court policy forbids employees (including judges and court personnel) from practicing law, an attorney will be your sole source for counseling on legal matters.

Finally, don't be overwhelmed by your duties. Remember that the property you'll be handling is not yours, and if you handle the protected person's affairs as you would have him handle yours, then you should not have any problems.

I acknowledge receipt of a copy of the above instructions and have read and will follow these instructions carefully. I agree to properly carry out my duties.

Signature, Guardian

Signature, Guardian

Print, Guardian

Print, Guardian

Dated this _____ day of _____, 20____.

I acknowledge that I have carefully and completely discussed the above Instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a guardian of an incapacitated person.

Signature, Attorney

Print, Attorney

Dated this _____ day of _____, 20____.

ATTORNEY'S UNDERTAKING AND OBLIGATION

STATE OF INDIANA)
) SS: IN THE DELAWARE CIRCUIT COURT NO. ____
COUNTY OF DELAWARE) CAUSE NO.:

IN THE MATTER OF THE
GUARDIANSHIP:

ATTORNEY'S UNDERTAKING AND OBLIGATION

I, the undersigned guardian, having been appointed by the Delaware Circuit Court No. ___ on
this date, hereby authorize my attorney, _____, to deposit all of the net
guardianship assets, in the amount of \$_____, in an account or in a court approved investment
with my name as guardian with the restriction that withdrawal of principal or interest may be made
ONLY on written order of Delaware Circuit Court No. ____.

Date: _____
Guardian

I, the undersigned, as an officer of this court and as attorney for the above guardian, hereby
assume and undertake personal responsibility to the above-named protected person and to the Delaware
Circuit Court No. ____; to make the restricted deposit above designated and to deliver copies of the
SIGNATURE CARD and/or PASSBOOK and/or such other account or investment documents evidencing
such restricted deposit, and the amount thereof, to the court within ten (10) working days from this date
or to refund all of said funds to the court forthwith upon demand.

Date: _____
Attorney for Guardian

Address:

Phone:

DAR-0017
Election Issues

The Board of Judges of Delaware County adopts the following local rule governing any legal actions arising during a Primary or General election.

If the Clerk of Delaware County and/or the Delaware County Election Board must file a legal action to obtain a court order during the Election, the Clerk and/or Board shall consult the Presiding Judge of the Delaware County Circuit Court Board of Judges, and the Presiding Judge shall issue any orders related to the Election.

In the event the Presiding Judge is on the ballot for election, or in the event the Presiding Judge is not available, the Presiding Judge will designate an alternate Judge to the Clerk and the Election Board to preside over issues related to the Election. The designation shall be in writing, prior to Election Day, and the Presiding Judge may make the designation via email.

DAR-0018

EVIDENCE HANDLING, RETENTION AND DISPOSITION

A. Retention Periods for Evidence introduced in Civil Proceedings

Civil Cases, Including Adoption, Paternity, and Juvenile Proceedings. All models, diagrams, documents, or material admitted in evidence (including but not limited to drugs, guns, knives, weapons, other physical items) or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, four (4) months after the case is decided unless an appeal is taken. However, if the exhibit entered into evidence was the product of a seizure by law enforcement as a result of an arrest or search, the exhibit shall be returned to the law enforcement agency who seized the item for disposition according to I.C. § 35-33-5-5. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

B. Retention Periods for Evidence Introduced in Criminal Misdemeanor, Miscellaneous Criminal, Level 6, Level 5, Class D, and Class C Felonies.

Misdemeanor, Miscellaneous Criminal, Level 6, Level 5, Class D, and Class C Felonies. All models, diagrams, documents, or material admitted in evidence (including but not limited to drugs, guns, knives, weapons, other physical items) or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the court, three (3) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. However, if the exhibit entered into evidence was the product of a seizure by law enforcement as a result of an arrest or search, the exhibit shall be returned to the prosecuting attorney for disposition according to I.C. § 35-33-5-5. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The Court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

C. Retention Periods for Evidence Introduced in Criminal Level 4 Felonies.

Level 4 Felonies. All models, diagrams, documents, or material admitted in evidence (including but not limited to drugs, guns, knives, weapons, other physical items) or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, six (6) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. However, if the exhibit entered into evidence was the product of a seizure by law enforcement as a result of an arrest or search, the exhibit shall be returned to the prosecuting attorney for disposition according to I.C. § 35-33-5-5. If an appeal is

taken, all such exhibits shall be retained by the court reporter for six (6) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

D. Retention Periods for Evidence Introduced in Criminal Level 3, Level 2, Level 1, Class B, Class A Felonies, and Murder

Level 3, Level 2, Level 1, Class B, Class, A Felonies, and Murder. All models, diagrams, documents, or material admitted in evidence (including but not limited to drugs, guns, knives, weapons, other physical items) or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. However, if the exhibit entered into evidence was the product of a seizure by law enforcement as a result of an arrest or search, the exhibit shall be returned to the prosecuting attorney for disposition according to I.C. § 35-33-5-5. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

D. Notification and Disposition

In all cases, the court shall provide actual notice, by mail, to all attorneys of record and to parties only if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. If the case was a felony, misdemeanor, or infraction case, notice shall issue to the current elected prosecuting attorney. If there is a dispute or question by a party regarding which party owns the exhibit, either party may file an appropriate pleading with the court to bring the matter before the court. Counsel and parties have the duty to keep the court informed of their current addresses and notice to the last current address shall be sufficient. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, a detailed receipt shall be given by the court reporter/assistant court reporter to the party receiving and removing the evidence, the receipt will be made part of the court file.

In all cases, evidence which is not retaken after notice should be disposed of by the sheriff on the court's order. The sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the sheriff with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes, I.C. 35-33-5-5(c)(2).

Nothing in this rule prevents the court reporter/assistant court reporter from immediately disposing of any documentary exhibits after they have been electronically imaged.

(Amended effective December 14, 2020)

STATE OF INDIANA)
) SS:
COUNTY OF DELAWARE)

IN THE DELAWARE CIRCUIT COURT NO. _____

CAUSE NO. 18C0 _____

Plaintiff/Petitioner

vs.

Defendant/Respondent

RECEIPT OF EVIDENCE

Comes now the ____ plaintiff/petitioner ____ defendant/respondent in the above-captioned case and verifies receipt of the following evidence/exhibits from the court reporter/assistant court reporter:

DATED: _____

Plaintiff/Petitioner/Defendant/Respondent Signature

DATED: _____

Court Reporter/Assistant Court Reporter Signature