

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF DU PAGE        )

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

IN THE MATTER OF MODIFICATIONS AND        )        Administrative Order No. 04-9  
ADDITIONS TO THE CIRCUIT COURT RULES     )

WHEREAS, the Circuit Judges of the 18th Judicial Circuit adopted local Circuit Court Rules on January 16, 2002; and

WHEREAS, from time to time the Circuit Judges find it necessary to ratify and codify certain revisions, amendments and additions to said local Circuit Court Rules; and

WHEREAS, on August 17, 2004, the Circuit Judges replaced Rules 6.06, 35.03 and 1.23 with new Rule 1.23; added Rule 36.11; and corrected Rule 1.03(c)(2).

IT IS THEREFORE ORDERED that these changes, shown as adopted in Exhibit A attached hereto, were adopted into the local Circuit Court Rules to be effective as indicated.

ENTER:

\_\_\_\_\_  
ROBERT K. KILANDER  
Chief Judge

Dated: August 19, 2004  
Wheaton, Illinois

## ~~6.06 MOTIONS FOR CHANGE OF VENUE FROM JUDGE (Substitution of Judge)~~

~~Motions for change of venue from a judge in civil cases shall be presented to the judge assigned. If change of venue is granted, the Presiding Judge of the division shall reassign the case to another judge within the division.~~

## ~~35.03 SUBSTITUTION OF JUDGE IN THE TRAFFIC DIVISION~~

~~—— (a) When a motion is granted for a substitution of judge, as provided in the Code of Criminal Procedure (725 ILCS 5/114-5), in the Traffic Division, the case shall be transferred to the Presiding Judge of the Traffic Division for reassignment or disposition.~~

~~—— (b) In the interests of the administration of justice and convenience to the parties or witnesses, the judge granting the motion for substitution of judges may in lieu of a transfer to the Presiding Judge set the case to a future date in the same court location and request the Presiding Judge of the Division to effect a temporary reassignment of judge for that date.~~

## ~~1.23 SUBSTITUTION OF JUDGES -- CHANGE OF VENUE~~

~~—— (a) Except in criminal cases in the Traffic Division, in every case in which (1) a substitution of judge has been requested in accordance with the Code of Criminal Procedure (725 ILCS 5/114-5) or (2) a change of venue on account of prejudice of the judge is granted in accordance with the Code of Civil Procedure (735 ILCS 5/2-1001) or (3) on the Court's own motion, the case shall be transferred to the Presiding Judge of the Division in which the case is pending, for reassignment within the Division.~~

~~—— (b) In every case in which the Presiding Judge of any Division determines, after receiving a case transferred in accordance with paragraph (a) for reassignment, that the case was assigned to an incorrect Division, the Presiding Judge shall transfer the case to the Chief Judge for assignment outside the Division.~~

~~—— (c) In every case not covered by paragraph (b), after receiving a case transferred in accordance with paragraph (a), the Presiding Judge shall reassign the case within the Division.~~

~~—— (d) Every case transferred to the Chief Judge, in accordance with paragraph (b), shall be reassigned by the Chief Judge or the Chief Judge's designee as provided under Rule 1.20(c).~~

~~—— (e) When a motion is granted for a substitution of judge in any traffic case, said case shall be transferred to the Presiding Judge of the Traffic Division for reassignment.~~

### **1.23 MOTION FOR SUBSTITUTION OF JUDGE FOR CAUSE**

(a) Except for Traffic Division cases being heard in one of the Field Courts, the following procedure shall be followed in all cases in which a Motion for Substitution of Judge for Cause has been filed:

(1) All Motions for Substitution of Judge for Cause must be filed, with proper notice, before the judge from whom substitution is sought.

(2) After a Motion for Substitution of Judge for Cause is filed, the named judge shall transfer the motion to his or her Presiding Judge for assignment or hearing. A Motion for Substitution of Judge for Cause filed against a Presiding Judge shall be transferred to the Chief Judge for assignment or hearing. Parties shall immediately obtain a hearing date from the judge to whom the transfer is made.

(3) No judge may be subpoenaed to testify at the hearing on a Motion for Substitution of Judge for Cause. However, the named judge may prepare an affidavit regarding the facts of the case and file it with proper notice.

(4) At the hearing on the motion, the Court shall render its decision after considering the verified pleadings, affidavit, if any, any additional information the court deems admissible, and such argument as the court deems necessary.

(5) If the Motion for Substitution of Judge for Cause is granted, the case shall be reassigned instanter to a different judge within the division by the Presiding Judge or Chief Judge. If the motion is denied, the case shall be returned instanter to the named judge for further proceedings. Parties shall immediately obtain a future date from the appropriate judge.

(b) When a Motion for Substitution of Judge for Cause has been filed in a Traffic Division case being heard in one of the Field Courts, all of the above rules shall apply, except the case shall be transferred to the Presiding Judge of the Traffic Division on a date approximately two weeks following the motion's presentment, at which time the motion shall be heard. Depending upon the ruling made, the case shall be transferred back to the originating Field Court on the arresting officer's next regular court date, or on an alternate date in a different Field Court with consideration being given to witness schedules.

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36.11

## **PROBATION AND COURT SERVICES RECORDS**

(a) A Court Order is Required to Divulge the Contents of the Case Records of the Department of Probation and Court Services: The Department of Probation and Court Services must strictly comply with the following paragraph of the Probation and Probation Officers Act.

The duties of probation officers shall be:

... (4) To preserve complete and accurate records ..., which records shall be open to inspection by any judge or by any probation officer pursuant to order of court, but shall not be a public record, and its contents shall not be divulged otherwise than as above provided, except upon court order. [730 ILCS 110/12, par. (4)]

(b) Exceptions to the Probation and Probation Officers Act: The Department of Probation and Court Services shall divulge the contents of its records in the following circumstances, without court order:

(1) Violations of Probation, Conditional Discharge or other Orders of the Court: The Department of Probation and Court Services is authorized to divulge the contents of its records that support an allegation of a violation of a court order to the Office of the State's Attorney for the exclusive purpose of proving the violation.

(2) Fulfillment of Specific Conditions of Court Orders: The Department may divulge the contents of its records to anyone authorized by the Department to be involved in the fulfillment of the conditions of a court order.

(3) Duty to Warn: The Department of Probation and Court Services is required to divulge the contents of its record when there is a "duty to warn". The duty is established when an individual makes a "specific" threat to harm or kill a "specific" identifiable victim.

(4) Mandated Reporter Requirements: The Department may share contents of its records with the DCFS hotline when there is ... "reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child." [325 ILCS 5/4]

(5) Sharing Information with Other Appropriate Authorities About Criminal Conduct: The Department may share the contents of its records with appropriate authorities when the Department has reliable information of criminal conduct.

(c) Sharing Information with Law Enforcement that does not Conflict with the Law: The Department of Probation and Court Services may divulge records with law enforcement if:

\_\_\_\_\_ C The information is already of public record.

C The information is based on visual public observation of the probation officer and court service personnel.

\_\_\_\_\_ (d) The Department of Probation and Court Services and its employees are required to seek the guidance and direction from the Court on any matters of uncertainty regarding this policy.

### 1.03 COURT REPORTING SERVICES

#### (a) Employees

\_\_\_\_\_ (1) The number of court reporting services employees designated to serve the circuit shall be determined by the Supreme Court, with the aid of the Administrative Office of the Illinois Courts.

\_\_\_\_\_ (2) The Chief Judge shall appoint employees to vacant court reporting services positions, consistent with Supreme Court Rule 45 and The Administrative Regulations of 10/20/03, as amended, which employees shall serve at the pleasure of the Chief Judge.

(3) The Chief Judge, or the Reporter Supervisor under the direction of the Chief Judge, shall assign all such employees to their duties, consistent with Supreme Court Rule 45, The Administrative Regulations of 10/20/03 and general administrative powers.

#### (b) Electronic Recording

(1) Electronic reporting systems have been approved for use and installed in this Circuit. Pursuant to subparagraph (a)(3) above, court reporting services employees shall be assigned to be trained and to operate the electronic recording systems.

(2) The production of the physical medium storing the electronic recording of any court proceedings shall be monitored by trained court reporting services employees who shall certify that each retained electronic recording was fully and accurately recorded at the time and place indicated. Said certification shall be affixed to and accompany the electronic recording medium, and the medium shall be securely preserved in an unaltered and unalterable condition.

(3) Digital computer recordings of testimony are created for only one purpose. That purpose is to preserve the words spoken in formal courtroom proceedings, hearings and trials in a particular case, so that a transcript – the official record - may be subsequently produced. The digital computer recordings are owned by the Circuit Court of the 18<sup>th</sup> Judicial Circuit, and may only be used pursuant to rule.

\_\_\_\_\_ (4) Any spoken words in the courtroom that are not a part of a proceeding, hearing or trial of a specific case are not intended recordings; other than by authorized operators of the CourtSmart system to orient themselves on recording content, they may not be listened to or used in any way.

(5) Playback of any portion of the computer recording of a proceeding, hearing, or trial of a specific case is authorized in only four situations:

- (i) During the proceeding, hearing or trial at the direction of the Judge;
- (ii) By a court reporting services employee for the purpose of creating a

transcript as the Official Record;

(iii) At the direction of the Court for the use of the Court;

(iv) Pursuant to the procedure outlined in (c)(3) below.

(6) In all other instances, the contents of the electronic recording medium shall be disseminated by transcript only, which transcript, and not the medium, shall be the official record. Only the Chief Judge may authorize exceptions to these rules upon good cause shown.

(c) Transcripts

(1) A request for a transcript, from either the electronic recording systems or from a court reporting services employee, is obtained by completing a "Transcript Request Form", available in the court reporters' office.

(2) Transcripts generated from the electronic recording systems shall be prepared in accordance with applicable statutory authority, rule and administrative regulation and shall utilize the following certification:

*I, \_\_\_\_\_, certify the foregoing to be a true and accurate transcript of the electronic recording of the proceeding of the above entitled cause, which recording contained the operator's certification as required by Local Rule 1.03(e)(b)(2).*

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(License or Restricted License Number)

Date: \_\_\_\_\_

(3) If the accuracy of a certified transcript generated from the electronic recording system is questioned, the following procedure shall be used: *(added effective 7/26/02)*

(i) Every challenged portion of the transcript shall be identified in writing and provided to the Reporter Supervisor. A copy of the challenged portion of the transcript shall be given to the certifying court reporting services employee to make the necessary corrections.

(ii) If the certifying court reporting services employee and the person challenging the transcript's accuracy cannot agree upon the challenged portions, those portions shall be identified in writing and provided to the Reporter Supervisor.

(iii) The Supervisor shall cause identified portions to be reviewed against the archived electronic recording for accuracy, and designate necessary corrections

to be made by the certifying court reporting services employee.

(iv) If the certifying court reporting services employee, in good faith, is unable to certify the corrections designated, the dispute will be placed before the judge that heard the transcribed proceeding, with notice to all necessary parties.

(v) The certifying court reporting services employee shall personally appear and present the questioned transcript. The Reporter Supervisor shall present the disputed corrections, along with a digital recording of the proceedings. The judge shall review the material presented, make any necessary changes in the certifying reporter's transcript, and issue a court order certifying the transcript as accurate.

(4) Transcripts generated from stenographic notes shall be prepared and certified by qualified official court reporting services employees pursuant to relevant statute, regulation and rule and are not affected by subparagraphs (b), (c)(2) and (c)(3) above.

(5) Unless specifically authorized by court order to the contrary, only a transcript certified by one of the official court reporting services employees of this Circuit is the Official Record. The Official Record shall be given preference for use in all courtrooms and as a part of the Record on Appeal for any case from this Circuit.

(d) Authority

This Rule, written pursuant to Supreme Court Rule 45, adopted 4/19/04, incorporating *The Administrative Regulations: A Comprehensive Document Governing Reporting Services for Illinois Courts*, has been amended effective 6/15/04.