

**IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT  
GENERAL ORDER 16-06  
effective March 23, 2016**

IN THE MATTER OF )  
LOCAL COURT RULES )  
AMENDING ARTICLES )  
1-5 and 15-23 )  
(Article Titles Listed Below) )  
)

*Thomas M. Hartwell*  
Clerk of the Circuit Court  
Kane County, IL

APR 21 2016

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ENTERED

WHEREAS the Sixteenth Judicial Circuit has acted to update the Local Court Rules,

IT IS HEREBY ORDERED that by a majority vote of the Circuit Judges of the Sixteenth Judicial Circuit, the attached Articles 1-5 and 15-23 of the Local Court Rules titled:

Article Number	Description
Article 1	Administration of the Court – General Powers
Article 2	Clerk of the Circuit Court
Article 3	Sheriff
Article 4	Jury Commission and Jurors
Article 5	Mandatory Residential Foreclosure Mediation Program
Article 15	Juvenile Proceedings – General Provisions
Article 16	Abuse, Neglect and Dependency
Article 17	Delinquency
Article 18	Adoptions
Article 19	Criminal Proceedings – General Provisions
Article 20	Felonies
Article 21	Driving Under the Influence of Alcohol
Article 22	Traffic and Ordinance Violations
Article 23	Kane County Drug Rehabilitation Court Rules and Procedures

are adopted in and for the Sixteenth Judicial Circuit, effective March 23, 2016, *nunc pro tunc*, and amends and supersedes the current versions of Articles 1-5 and 15-23.

Entered this 21<sup>st</sup> day of April, 2016

*Susan Clancy Boles*  
Susan Clancy Boles, Chief Judge

A true copy of the original of this document is on file in my office

Attest: April 21, 2016

*Thomas M. Hartwell*  
Circuit Court Clerk, Kane County, Illinois

By: *[Signature]*  
Deputy Clerk

**I. ADMINISTRATION OF THE COURT**

**ARTICLE 1. GENERAL POWERS**

**1.00 POWERS OF THE COURT TO ADOPT RULES**

- (a) These Local Court Rules are adopted pursuant to the Civil Practice Act 735 ILCS 5/1-104(b) providing that the Circuit Court may make rules regulating their dockets, calendars, business, and pursuant to Supreme Court Rule 21(a) providing that a majority of the Circuit Judges in each Circuit may adopt rules.
- (b) The Chief Judge may enter and amend Kane County General Orders pursuant to Supreme Court Rule 21.

**1.01 GENERAL RULES**

- (a) These Local Court Rules as set forth shall not be interpreted in a manner that is inconsistent with any Illinois Statute or Illinois Supreme Court Rule. If there is any conflict between any requirement under these Local Rules and any Illinois Statute or Illinois Supreme Court Rule, then the Statute or Supreme Court Rule is controlling.
  - (1) **Applicability:** These Local Court Rules apply both to civil and criminal proceedings. Together with the Illinois Supreme Court Rules, the Code of Civil Procedure 735 ILCS 5/1-101 et seq. and the Code of Criminal Procedure 725 ILCS 5/100-1 et seq., these Rules govern all proceedings except to the extent that the procedure in a particular kind of action is specifically regulated by a statute other than as therein provided.
  - (2) **Enforcement:** The Court shall enforce all rules and orders necessary to compel compliance with these Rules and may apply remedies provided in Supreme Court Rules 21 and 219, as well as such sanctions as passing the matter to the end of the call, striking it from the call, or continuing it to a later date.
  - (3) **Effective Date:** These Local Court Rules shall become effective upon publication, or as otherwise ordered by the Court.
- (b) The following short titles shall be used throughout these rules:

- (1) Code of Civil Procedure 735 ILCS 5/1-101 et seq.;
- (2) Code of Criminal Procedure 725 ILCS 5/100-1 et seq.;
- (3) Criminal Code 720 ILCS 5/1-1 et seq.;
- (4) Supreme Court Rules;
- (5) Unified Code of Corrections 730 ILCS 5/1-1-1 et seq.

**1.02 DIVISIONS OF COURT**

- (a) Felony and Special Court Division (CF) All Felony Cases, Drug Rehabilitation Court, Treatment Alternative Court (TAC).
- (b) Traffic & Misdemeanor Division (TR and CM) All traffic, petty, misdemeanor & ordinance violation cases.

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- (c) Civil Division (L, LM, SC, CH, P, MR, TX, MC, AR and ED) All matters pertaining to Small Claims, Law Medium and Law cases, both jury and non-jury and pre-trials of such cases, Arbitration, Chancery cases, Probate, Miscellaneous Remedies, Tax, Municipal Corporation, Eminent Domain and Elections.
- (d) Juvenile Division (J, JA, JD) All matters pertaining to Abuse and Neglect, Dependency and Delinquency, Adoptions, and all other matters under the Juvenile Court Act.
- (e) Family Division (D and F) All matters pertaining to Dissolution of Marriage or Civil Union, Legal Separation, Invalidity of Marriage or Civil Union, Paternity, actions to compel support under local or foreign court orders and other related matters.
- (f) Such Other Divisions as may be hereafter designated by the Chief Judge.

*Amend by Gen. Order 1, eff. Aug. 12, 1980*

## **1.03 PLACE AND HOURS OF HOLDING COURT**

- (a) Courtrooms of the Sixteenth Judicial Circuit are housed in multiple locations. In general, the following matters are heard in the respective buildings:
  - (1) Family, Felony, Domestic Violence, Driving Under the Influence (DUI), Treatment Alternative Court, Drug Rehabilitation Court  
Kane County Judicial Center
  - (2) Juvenile Delinquency  
Juvenile Justice Center
  - (3) Traffic, Misdemeanor, Petty Offenses, Ordinance Violations  
Kane County Branch Court
  - (4) Civil, Arbitration, Chancery, Small Claims, Probate, Abuse & Neglect, Foreclosure  
Kane County Courthouse Court Addresses and Maps
  - (5) Traffic, Misdemeanor, Petty Offenses, Ordinance Violations  
Aurora Branch Court Court Addresses and Maps
  - (6) Traffic, Misdemeanor, Petty Offenses, Ordinance Violations  
Elgin Branch Court Court Addresses and Maps
  - (7) Traffic, Misdemeanor, Petty Offenses, Ordinance Violations  
Carpentersville Branch Court Court Addresses and Maps
  - (8) Mental Health Cases  
Elgin Mental Health Center  
\*Friday mornings or as otherwise scheduled

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- (9) Mental Health Cases  
Presence St. Joseph Hospital  
\*As scheduled
  
- (10) Mental Health Cases  
Presence Mercy Medical Center  
\* As scheduled
  
- (b) The facilities of the Kane County Judicial Center and Kane County Court House shall be open Monday through Friday no later than 8:30 a.m. and shall close no earlier than 4:30 p.m., except for Holiday schedule and emergency closings for the safety and well-being of court personnel and the public by Order entered by the Chief Judge.
  
- (c) Other court facilities shall remain open during scheduled hours while court is in session as set out from time to time by General Orders of assignment.

## 1.04 GUIDELINES FOR COURT PERSONNEL IN ASSISTING SELF-REPRESENTED LITIGANTS

The Sixteenth Judicial Circuit adopts and follows the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers.

## 1.05 SELECTION OF A CHIEF JUDGE

- (a) Effective September 17, 2008 a majority of the Circuit Judges shall select, by secret ballot and pursuant to Article VI, Section 7(c) of the Illinois Constitution, one of their number to serve as Chief Judge for a term commencing the first Monday in December, 2008, and ending Monday, December 5, 2011. Thereafter, a Chief Judge shall be selected in like manner in September of the year the term is to begin for a two (2) year term commencing on the first Monday in December, and every two (2) years thereafter. In no event shall a Circuit Judge serve more than two (2) terms consecutively as Chief Judge.
  - (1) **Acting Chief Judge:** The Chief Judge shall appoint one of the Circuit Judges to act as Chief Judge in his or her absence, which shall have the same powers and duties as the Chief Judge. In the event the acting Chief Judge is also unavailable, the most Senior Circuit Judge on the premises shall act as Chief Judge.
  - (2) **Removal:** At any time by written request directed to the Chief Judge, a majority of the Circuit Judges may call a meeting at a time and place stated therein. A copy of such request shall be mailed or delivered to each Circuit Judge not joining therein at least five (5) days before the time fixed for such meeting. If a majority of all the Judges shall at such meeting vote for removal of the Chief Judge, the Judges shall proceed immediately to elect a new Chief Judge to take office at once.
  - (3) **Vacancy:** Whenever a vacancy occurs in the office of the Chief Judge, any two (2) Circuit Judges may call a meeting of the Circuit Judges to select a Circuit Judge to fill such vacancy to take office at once in the same manner as in (a) herein.

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- (b) When a vacancy arises in the office of the Chief Judge by virtue of the resignation, death or removal of a Chief Judge the election or selection called for in paragraphs (a)(2) and (a)(3) herein shall be for the balance of the elected term of the Chief Judge who has resigned, died, or has been removed.

*Amend. Gen. Order 13-40, eff. Sept. 8<sup>th</sup>, 2013*

## **1.06 AUTHORITY OF THE CHIEF JUDGE**

- (a) The Chief Judge may enter any General Orders in the exercise of his or her general administrative authority, including but not limited to orders providing for the assignment of Judges, general or specialized divisions, and time and places of holding Court, as provided by applicable statutes Supreme Court Rules or Local Court Rules. The Chief Judge may appoint personnel to assist him/her in the performance of his/her duties.
- (b) The Chief Judge may, from time to time, as he or she deems appropriate, issue General Orders in accordance with Supreme Court Rule 21(b).
- (c) Copies of all General Orders issued by the Chief Judge shall be filed with the Circuit Clerk, who shall maintain them as permanent Court records. All General Orders shall be available for inspection as public records.

## **1.07 PROCEDURE FOR SELECTION OF THE OFFICE OF ASSOCIATE JUDGE**

### **(a) NOMINATING COMMITTEE**

All Circuit Judges of the Sixteenth Judicial Circuit constitute the Nominating Committee.

### **(b) INTERVIEW COMMITTEE**

- (1) Following the posting of a Notice of Vacancy in the Office of Associate Judge, the Chief Judge shall appoint an Interview Committee for the purpose of review of certified applicants and report back to the Nominating Committee regarding the applicants for that particular vacancy.
- (2) The Chief Judge shall select five (5) Circuit Judges to serve on the Interview Committee, which Committee shall expire upon the submission of the Nomination List to the Chief Judge.
- (3) The Chief Judge shall designate one of that number to serve as Chairperson.
- (4) The Chief Judge shall not serve on the Interview Committee.
- (5) Each qualified applicant, except those who have previously interviewed within the last twenty-four (24) months, will be scheduled for one interview with the Interview Committee.
- (6) Interviews of the applicants shall be open to any Circuit Judge, and shall be videotaped for available review by any Circuit Judge. Video interviews of qualified candidates who have previously interviewed within the last twenty-four (24) months will be made available for review by the Interview Committee.
- (7) The Office of the Chief Judge shall provide the certified applications and all other materials received by the Office of the Chief Judge with respect to each qualified applicant to the Interview Committee. All materials forwarded to the Interview Committee shall be available for review by the Nominating Committee upon request.

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- (8) The Interview Committee shall review all available information, applications, other papers and documents submitted, and may conduct any further review deemed necessary into the qualifications of the applicants.
- (9) The Interview Committee shall report back to the Nominating Committee regarding the qualifications of the certified applicants in a manner as determined by the Circuit Judges.

### (c) NOMINATING COMMITTEE MEETING

- (1) The Chief Judge shall set the date for the meeting of the Nominating Committee to select the final candidates.
- (2) The Interview Committee shall report on the certified applicants at the meeting of the Nominating Committee.
- (3) The Circuit Judges shall, by secret ballot, reduce the number of candidates to the required number for consideration pursuant to Supreme Court Rule 39.
- (4) As soon as practicable thereafter, the Chief Judge shall first notify the final qualified candidates selected by the Nominating Committee, and then the Director of the Administrative Office of the Illinois Courts as required by Rule, followed by public announcement thereof.
- (5) If, due to extraordinary circumstances, any Circuit Judge is unavailable to attend the meeting of the Nominating Committee to select the Final Candidates, at the request of the absent Circuit Judge, and with approval of a majority of the Circuit Judges present, reasonable efforts will be made to accommodate that Circuit Judge to attend remotely by an audio and/or audio and visual presence. When a Circuit Judge attends remotely in such manner, that Circuit Judge may then vote under seal of confidentiality with the assistance of another Circuit Judge of his or her choice. Proxy voting without any remote audio attendance, or under any other circumstances, is strictly prohibited.

### (d) CONFIDENTIALITY

Except for the names of the final required number of qualified candidates selected by the Nominating Committee, all proceedings of the Interview and Nominating Committees, including, but not limited to, applications and documents received, discussions, nominations, lists, summaries, and balloting, shall be held in strict and absolute confidence by the Circuit Judges, and shall not be disclosed to any person except another Circuit Judge of the Sixteenth Judicial Circuit.

*Amend. Gen. Order 15-05, eff. April.22<sup>nd</sup>, 2015*

### **1.08 AUTHORITY OF PRESIDING JUDGES**

Each Presiding Judge of the various divisions of the Court shall be accountable for the effective and efficient administration of the division over which they preside subject to the General Orders of the Circuit and the authority of the Chief Judge.

### **1.09 JUDGES MEETINGS**

The Judges of the Sixteenth Judicial Circuit shall meet as often as practicable. Circuit Judges shall meet no less than twice per year to consider business of this Court and to

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take such action as required. The place and circumstances shall be announced in advance by the Chief Judge. A special meeting of the Circuit Judges may be called at any time by the Chief Judge or upon two (2) day notice by any two (2) Circuit Judges by notice delivered to all Circuit Judges.

### **1.10 ASSIGNMENT OF CASES**

- (a) All cases shall be assigned by the Chief Judge.
- (b) Cases shall be randomly assigned, by classification in accordance with the Supreme Court Manual on Record Keeping, to a Judge who regularly hears cases of that classification, unless otherwise ordered by the Chief Judge or the Presiding Judge of the Division.
- (c) The assignment of cases and judges to the various divisions of the Circuit Court shall be governed by General Order.

### **1.11 PHOTOGRAPHING, RECORDING, BROADCASTING, OR TELEVISIONING COURTROOM PROCEEDINGS IN OR NEAR COURTROOMS**

- (a) Except as otherwise provided, the taking of photographs, audio or video recordings or broadcasting by radio, television or other electronic means, in connection with any judicial proceeding, is prohibited, whether in any courtroom or from the same floor of any courthouse of this Circuit on which a courtroom is located, or at any remote location during a teleconference proceeding.
- (b) The provisions of this Rule 1.11 shall apply with regard to all judicial proceedings, except that:
  - (1) Official court reporters or privately retained court reporters authorized by the Court to transcribe the proceedings may make audio recordings in the performance of their regular duties;
  - (2) Incidental to ceremonial proceedings, any judge of this Circuit may, at his or her discretion, permit the taking of photographs, audio or video recordings, and broadcasting by radio or television, within the area of his or her courtroom, chambers, or court offices.
- (c) The purpose of this order is to implement the provisions of the Supreme Court Rules and for the orderly administration of justice. This Rule 1.11 shall not be applied in such a way as to conflict with any Supreme Court Rule.

### **1.12 EXTENDED MEDIA COVERAGE**

- (a) This local rule shall be construed consistently so as to not conflict with Illinois Supreme Court M.R. 2634, or Sixteenth Judicial Circuit Local Rule 1.11 PHOTOGRAPHING, RECORDING, BROADCASTING, OR TELEVISIONING COURTROOM PROCEEDINGS IN OR NEAR COURTROOMS.
- (b) Extended Media Coverage shall be subject, at all times, to the authority of the Judge presiding at the proceeding.

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- (c) Extended media coverage shall not be distracting or interfere with the solemnity, decorum and dignity of the court making decisions that affect the life, liberty or property of citizens.
- (d) Nothing in this rule shall limit or restrict power, authority or responsibility otherwise invested in the Chief Judge, and the Judge presiding over the case to:
  - (1) Control the conduct of the proceedings;
  - (2) Maintain decorum and prevent distractions;
  - (3) Guarantee the safety of the courtroom, including any party, witness, or juror, and/or
  - (4) Ensure the fair and impartial administration of justice in the pending case.

### (e) DEFINITIONS

- (1) **“Extended media coverage”** means any media recording or broadcasting of proceedings by the use of television, radio, photographic, or recording equipment for the purpose of gathering and disseminating news to the public.
- (2) **“News Media”** in general, means established news gathering and reporting agencies and their representatives whose function is to inform the public.
- (3) **“Judge”** means the circuit or associate judge presiding in a trial court proceeding.
- (4) **“Chief Judge”** means the chief judge of the circuit.
- (5) **“Judicial proceedings” or “proceedings”** includes all public trials, hearings or other proceedings of a trial court when extended media coverage is requested, except those specifically excluded by these provisions.
- (6) **“Media Coordinator”** means a member of the News Media who has requested extended media coverage, or in the case of more than one media person requesting extended media coverage, a representative chosen by all of the media requesting extended media coverage and approved by the judge. The Media Coordinator shall work with the Chief Judge and the Judge, or with their designee, in a court proceeding with extended coverage. In the event a Media Coordinator is not available for a particular proceeding, the judge may deny extended media coverage or may appoint an individual from among local working representatives of the media to serve as the coordinator for the media in the proceeding.
- (7) **“Court Media Liaison”** is the Court Administrator or a designee of the Court Administrator approved by the Chief Judge. The Court Media Liaison shall work with the Media Coordinator on all matters pertaining to extended media coverage.

### (f) GENERAL

- (1) Broadcasting, television, recording, photographing and otherwise memorializing information may be permitted in the courtroom during sessions of the court, under the following conditions:

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- (A) Permission first shall have been granted by the Judge, who may prescribe such conditions of coverage as provided for in this policy. The Chief Judge shall have discretion to deny all extended media coverage.
- (B) In prosecution for sexual abuse, or when sexual abuse is an essential element of a proceeding there shall be no extended media coverage of the testimony of a victim unless the testifying victim consents. Further, an objection to coverage by a testifying victim in any other forcible felony prosecution, and by police informants, undercover agents(s), and relocated witnesses shall be presumed valid. This list is not exclusive. The Judge shall exercise broad discretion in deciding whether there is cause for prohibition.
- (2) The Judge may appoint a Guardian ad Litem to secure the protection of the interests of a minor or a disabled adult.
- (3) Extended media coverage is prohibited in any court proceeding required, under Illinois law to be held in private. No coverage shall be permitted in any juvenile, dissolution, adoption, child custody, evidence suppression or trade secret cases.
- (4) Extended media coverage of jury selection is prohibited. Extended media coverage of the jury and individual jurors is prohibited.
- (5) There shall be no audio, visual or internet, pick up or broadcast or recording of a conference in a court proceeding or in a court facility between attorneys and their clients, between co-counsel, between attorneys and opposing counsel, or attorneys and the Judge.
- (6) Audio, internet or visual equipment authorized by these provisions shall not be operated during a recess in a court proceeding.
- (7) The quantity and type of equipment permitted in the courtroom shall be subject to the discretion of the Judge.
- (8) Upon application of the media, the Judge may permit the use of equipment or techniques at variance with provisions in this policy, provided the variance request is included in the Request for Extended Media Coverage provided for in g(2). Ruling upon a variance application shall be at the sole discretion of the Judge. Variances may be allowed by the Judge without advance application or notice if all counsel and parties consent to it.
- (9) The Judge may refuse, limit, amend or terminate photographic or electronic media coverage at any time during the proceedings in the event the Judge finds that provisions established under this policy, or additional rules imposed by the Judge have been violated or that substantial rights of individual participants or rights to a fair trial will be prejudiced by the manner of coverage, if it is allowed to continue; or if it is necessary to guarantee the safety of the courtroom, including any party, witness, juror or attendee of the proceeding.
- (10) Members of the News Media must abide by all Sixteenth Judicial Circuit Local Court Rules regarding filming and photography outside the courtroom, but still within the courthouse, including but not limited to Local Rules 1.11 and 1.12. The News Media is not permitted to film/photograph/record any person present for any grand jury proceeding. Coverage is only allowed during proceedings taking place inside the courtroom, in the presence of the Judge.

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- (11) The rights of extended media coverage may be exercised only by the News Media.
- (12) A decision by a Judge to deny, limit or terminate extended media coverage is not appealable.
- (13) A Judge may authorize extended media coverage of ceremonial proceedings at variance with provisions in this rule as the Judge sees fit.

### (g) PROCEDURES

- (1) **Requests for Extended Media Coverage.** Requests for extended media coverage shall be filed with the Clerk of the Circuit Court by any News Media who requests coverage. Filing must occur at least fourteen (14) days before the proceeding for which extended media coverage is sought, unless extended or reduced by court order. When the proceeding is not scheduled at least fourteen (14) days in advance, filing must occur as soon as practicable after the proceeding is scheduled. Requests shall be filed using a form Request for Extended Media Coverage as designated hereafter by General Order.
- (2) **Notice of Request.** Using a form Notice of Filing of Request for Extended Media Coverage as designated hereafter by General Order, the News Media which requests coverage or, if more than one request is filed, the Media Coordinator shall provide written notice of filing and a copy of the Request(s) for Extended Media Coverage to the following persons:
  - (A) Attorneys of Record;
  - (B) Parties appearing without counsel;
  - (C) Court Media Liaison;
  - (D) Judge presiding over the case for which extended media coverage is sought;
  - (E) The form Notice of Filing of Request for Extended Media Coverage and Request for Extended Media Coverage shall be transmitted no later than 4:30 p.m. the first business day following filing to the above named parties. Failure to provide notice to all counsel of record and to parties appearing without counsel may result in denial of the request for extended media coverage. Upon receipt of notice, the Judge shall inform the Chief Judge.
- (3) **Objections by Parties.** Any party objecting to extended media coverage shall file with the Clerk of the Court a written objection stating the reasons therefor at least three (3) days before the commencement of the proceeding, unless such time is otherwise extended or reduced by the Judge. Objections shall be filed using a form Objection to Extended Media Coverage as designated hereafter by General Order.
- (4) **Objections by Witnesses.** Parties shall notify any witness they are intending to call at trial or hearing of the witness's right to object to extended media coverage. Parties shall use a form Notice of Filing of Request for Extended Media Coverage as

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designated hereafter by General Order, and must file a copy with proof of service thereof with the Clerk of the Court. Objections by a witness must be filed prior to the commencement of the proceeding using a form Objection to Extended Media Coverage as designated hereafter by General Order.

**(5) Notice of Objections**

- (A) Parties and witnesses represented by counsel shall serve any objections on the persons listed in paragraph (g)(2) and to the Media Coordinator or News Media.
- (B) Upon the filing of an objection by a party or witness not represented by counsel, the Clerk of the Circuit Court shall provide a copy of any such objection filed to the persons listed in paragraph (g)(2), and to the Court Media Liaison, who shall then forward a copy to the Media Coordinator or News Media.
- (C) Notice of Objection shall be transmitted to the Judge and the Court Media Liaison on the date of filing, and to the other persons listed in (g)(2) no later than 4:30 p.m. on the first business day following the filing of the Objection. Time for filing of objections may be extended or reduced at the discretion of the Judge.
- (D) The Judge, in appropriate circumstances, may extend the right of objection to persons not specifically provided for in this rule.

**(6) Disposition of Requests.**

- (A) After the time for objections has elapsed, the Judge shall make a determination as to whether the Request should be granted and/or whether any Objection thereto should be sustained, and, if so, to what extent. All timely Requests and/or Objections shall be heard and determined by the Judge prior to the commencement of the proceedings. The Judge may rule on the basis of the written request or objection alone.
- (B) In addition, the objecting party or witness, and all other parties, may be afforded an opportunity to present additional evidence by affidavit or by other means as the Judge directs. The Judge may permit presentation of evidence by the Media Coordinator in the same manner.
- (C) If granted, the duration of the permitted Extended Media Request is within the Court's discretion, except that every party added or additional witness disclosed after such an order is granted must receive notice and have an opportunity to file an objection in the matter set out herein.
- (D) The Judge may use the form of order as designated by General Order in ruling on the request.

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## (h) TECHNICAL

- (1) **Equipment specifications.** Equipment to be used in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound, light or other sensory distraction. In addition, equipment must satisfy the following criteria, where applicable:
  - (A) **Still cameras.** Still cameras and lenses must be unobtrusive without distracting light or sound.
  - (B) **Television or video devices and related equipment.** Television cameras or other video devices together with any related equipment to be located in the courtroom must be unobtrusive in both size and appearance, without distracting sound or light.
  - (C) **Audio equipment.** Microphones, wiring and audio recording equipment shall be unobtrusive and shall be of adequate technical quality to prevent interference with the covered judicial proceedings. Any changes in existing audio systems must be approved by the Judge. Microphones for use of counsel and judges shall be equipped with power switches to facilitate compliance with subsections herein.
  - (D) **Visual or Audio signal.** No light or signal which is visible or audible to participants in the proceeding shall be used on any equipment during extended coverage to indicate whether it is operating.
  - (E) **Advance approval.** It shall be the duty of the media personnel to demonstrate to the Judge reasonably in advance of the proceeding that the equipment sought to be used meets the criteria set forth in this section. Failure to obtain advance judicial approval for equipment may preclude its use in the proceeding. All media equipment and personnel shall be in place at least fifteen minutes prior to the scheduled time of commencement of the proceeding.
  - (F) **Expense.** The cost of any equipment or set up under these guidelines will not be incurred at public expense.
  - (G) **Lighting.** Other than light sources already existing in the courtroom, no flashbulbs or other artificial light device of any kind shall be employed in the courtroom. With the approval of the Judge, however, modifications may be made in light sources existing in the courtroom, provided modifications are installed and maintained without public expense.
- (2) **Pooling and Equipment.** The following limitations on the number of photographic and broadcast media personnel in the courtroom and the amount of equipment shall apply:
  - (A) **Still Photography.** Not more than two (2) two still photographers, each using not more than two camera bodies and two lenses, shall be permitted in the courtroom during a judicial proceeding at any one time.

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- (B) **Television.** Not more than two (2) television cameras, each operated by not more than one camera person, shall be permitted in the courtroom during a proceeding. Other than the television cameras, recording and broadcast equipment shall be located outside of the courtroom.
- (C) **Audio.** Only one audio system for broadcast shall be permitted in a proceeding. Where possible, audio for all media shall be from any existing audio system present in the courtroom. If no technically suitable audio system exists, microphones, wiring and recording equipment shall be furnished and temporarily installed by the News Media without public expense, shall not interfere with the sound quality of any existing courtroom audio system, shall be operated by one person, shall have a means of immediately disabling the system (a/k/a “kill switch”) by the Judge and shall be located in places designated in advance by the Judge or designee. When possible, electronic audio recording equipment and any operating personnel shall be located out of the courtroom. Sufficient video and audio tape capacities should be provided to obviate the need to make changes except during court recess.
- (D) **Pooling.** The media are encouraged to pool equipment and personnel. Where the limitations on equipment and personnel under these provisions make it necessary, the media shall be required to pool equipment and personnel. Pooling arrangements shall be the sole responsibility of the Media Coordinator. No judicial officer or court personnel shall mediate disputes. Priority consideration shall be extended to one of the two television cameras to televise an entire proceeding from beginning to end. In the absence of agreement or in the event of unresolved disputes relating to pooling arrangements, the kind of extended coverage sought shall be prohibited and excluded from the proceeding.
- (E) **Clothing and Equipment.** No equipment or clothing on any Extended Media Coverage personnel shall bear any insignia or identification of the individual medium or network involved in extended coverage.
- (3) **Location of equipment and personnel.** Equipment and operating personnel shall be located in, and coverage of the proceedings shall take place from, an area or areas designated by the Judge. The area or areas designated shall provide reasonable access to the proceeding to be covered. No equipment or personnel involved in extended media coverage shall impede pedestrian traffic movement into, or from the courthouse, including but not limited to courthouse corridors and courtroom entrances and exits.
- (A) **Television, video, and still photography.** Camera equipment should be set up outside the courtroom rail, or if there is no rail, then in the area reserved for spectators. The Court Media Liaison will direct media to their assigned spots.
- (B) **Equipment and operators.** Shall not impede the view of persons seated in the public area of the courtroom.
- (4) **Movement during the proceedings.** Television cameras and audio equipment may only be installed before proceedings begin or removed from the courtroom only when

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the court is not in session. In addition, such equipment shall at all times be operated from a fixed position. Changing film or lenses is only allowed during recesses. Still photographers and broadcast media personnel shall not move about the courtroom while proceedings are in session, nor shall they engage in any movement attracting undue attention. Still photographers shall not assume body positions inappropriate for the courtroom. Even if hand held cameras are used, the operator must remain in his/her assigned spot.

- (5) **Equipment Storage.** Equipment shall not be stored in the courthouse overnight, over a holiday or weekend. Equipment left in place overnight, including wiring and electrical, is left at the sole risk of the media. The Sixteenth Judicial Circuit assumes no liability for the protection of such property.

### (i) OTHER PROVISIONS

- (1) **Restrictions and prohibitions.** The following restrictions and prohibition shall be applicable to all proceedings.
- (A) Audio or visual equipment authorized by this rule shall not be operated during a recess in a court proceeding.
  - (B) Focusing on and photographing of materials on counsel tables is prohibited.
  - (C) Use of parabolic or other highly sensitive long range microphones is prohibited.
- (2) **Expenses.** No court facility may be altered, unless approved in advance by the Chief Judge. Expenses for alterations shall be borne by the News Media.
- (3) **Decorum.** Proceedings in the courtroom shall not be disrupted. Members of the News Media in the courtroom shall:
- (A) Not make comments in the courtroom during the court proceedings;
  - (B) Not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;
  - (C) Not conduct interviews in the courtroom;
  - (D) Comply with the orders and directives of the Judge, his or her designees and Court Security; and
  - (E) Be properly attired and maintain proper courtroom decorum at all times when covering a judicial proceeding. The Judge has discretion to determine proper attire and courtroom decorum.

At the conclusion of the proceedings and after the Judge leaves the courtroom, all News Media will leave the courtroom and may assemble only in designated areas to meet with the parties, families and their attorneys if the parties, families and attorneys wish to be interviewed or comment to the media.

- (4) **Inapplicability to individuals; use of material of advertising prohibited.** The privileges granted by this rule to photograph, televise and record court proceedings may be exercised only by persons or organizations that are part of established News Media as defined in e(2) herein. Film, videotapes, photography and audio reproduction shall not be used for advertising purposes.
- (5) **Access to the Building.** Court security policies require all persons and equipment entering the courthouse to pass through screening. News Media will not be permitted to bypass screening and should allow sufficient time to get through the screening in advance of the commencement of proceedings.

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- (6) **Media Disputes** It shall be the responsibility of the media to settle disputes among media representatives, facilitate pooling where necessary, and implement procedures which meet the approval of the Judge of the particular proceeding prior to any coverage and without disruption to the court.
- (7) **Non-exclusivity.** These guidelines shall not preclude coverage of any judicial proceeding by news reporters or other person who are employing only the means of taking notes or drawing pictures if permitted by the Judge.
- (8) **Sanctions.** In addition to contempt and any other sanctions allowed by law, the Chief Judge or Judge may remove anyone violating these rules from the courtroom and revoke the privileges contained in this rule.
- (9) **Professional Conduct.** Nothing herein shall alter the obligation of any attorney to comply with the provisions of the Illinois Rules of Professional Conduct governing trial publicity.
- (10) **Revocation of Permission.** If any News Media fails to comply with the conditions set by the Chief Judge, Judge, Court Media Liaison or this rule, permission to broadcast or photograph the trial or hearing may be revoked.

### (j) JURY ADMONISHMENT AND INSTRUCTION

#### (1) Jury Admonishment

The judge shall give the following admonishment to the jury at the commencement of any criminal or civil trial with an approved request for extended media coverage:

- (A) In this case, I have approved a request to allow the News Media to film and photograph the proceedings. This is permitted by the Illinois Supreme Court and is subject to numerous restrictions contained in the Policy for Extended Media Coverage in the Circuit Courts of Illinois.
- (B) The policy in place regarding cameras in the courtroom is very strict and the court closely monitors every policy provision. In general, the policy permits the News Media to film and photograph the courtroom setting, the participants in the trial, and any persons who might be in the audience. The policy does not permit the News Media to film or photograph any of you as jurors or the jury panel as a whole in the courtroom and outside the courtroom.
- (C) The presence of cameras does not make this case more important than any other. All trials are equally important to the court and the involved parties. You should not draw any inferences or conclusions from the fact that cameras are present at this particular trial.
- (D) The News Media is generally able to choose which portion or portion(s) of the trial they wish to attend. Therefore, their attendance may be periodic from day-to-day. Also, for legal reasons, the News Media may not be permitted to film and photograph certain witnesses. You are not to concern yourself with why certain witnesses are filmed and photographed and others are not.

## Kane County Local Rule

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- (E) Whether a particular witness is filmed or photographed is not any indication as to the value of, or weight to be given to, that witness's testimony.
- (F) You should ignore the presence of any cameras. If you find at any time that you are distracted or unable to concentrate because of the cameras, please notify me immediately.

### (2) Jury Instruction

The judge shall give the following instruction to the jury when News Media was present at any portion of a criminal or civil trial:

- (A) In this case, the News Media was permitted to film and photograph the proceedings pursuant to the Illinois Supreme Court Policy for Extended Media Coverage in the Circuit Courts of Illinois.
- (B) In your deliberation, you should not draw any inferences or conclusions from the fact that cameras were present at this particular trial. Nor should you concern yourself with why certain witnesses were filmed and photographed and others were not. Whether a particular witness was filmed or photographed is not any indication as to the value of, or weight to be given to, that witness's testimony.

*Amend Gen. Order 13-22, eff. May 21<sup>st</sup>, 2013*

### 1.13 JUDICIAL REVIEW OF LOCAL ELECTORAL BOARD ELECTIONS

- (a) Whenever the Kane County Board of Elections or the Aurora Election Commission is charged with the responsibility for printing ballots, providing election materials, or providing for absentee voting in any federal, state, or local election, it shall be a necessary party to any proceeding for judicial review of decision of electoral boards pertaining to such elections.
- (b) The Petitioner in any proceeding which falls under (a) of this Rule shall serve upon the Kane County Board of Elections or the Aurora Election Commission, written notice of the filing of any such proceeding within twenty-four (24) hours of the filing of the petition.

### 1.14 SELECTION OF THE PUBLIC DEFENDER

- (a) Selection and appointment of the Public Defender shall be pursuant to 55 ILCS 5/3-4000 et seq. and as provided within these rules.
- (b) A majority of the Circuit Judges shall, by secret ballot, appoint properly qualified persons to the Office of Public Defender.
- (c) The Public Defender so appointed shall hold office so long as properly qualified, death or resignation not intervening, at the pleasure of the judges competent to so appoint.

# Kane County Local Rule

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- (d) Commencing in 2011 and every four (4) years thereafter, said appointments shall be reviewed by the judges competent to so appoint no less than sixty (60) days before June 30<sup>th</sup> of the year in question.

*Gen. Order 10-08, eff. May 24<sup>th</sup>, 2010*

## **1.15 COURT REPORTING SERVICES**

### **(a) EMPLOYEES**

- (1) The number of court reporter employees designated to serve the Circuit shall be determined by Court Reporting Services.
- (2) The Chief Judge shall appoint employees to vacant court reporter positions, consistent with Supreme Court Rule 46 and the Administrative Regulations for Court Reporting Services in the Illinois Courts of July 1<sup>st</sup>, 2015, as amended. Said employees shall serve at the pleasure of the Chief Judge.
- (3) The Chief Judge, or the Court Reporting Supervisor (CRS) under the direction of the Chief Judge, shall assign all such court employees to their duties, consistent with Supreme Court Rule 46, the Administrative Regulations for Court Reporting Services in the Illinois Courts of July 1<sup>st</sup>, 2015, and general administrative powers.

### **(b) TRANSCRIPTS**

- (1) A request for a transcript may be obtained by calling the Court Reporter Supervisor within the Office of the Chief Judge or submitting completed Transcript Request form. [Hot Link]
- (2) Transcripts generated from stenographic notes shall be prepared and certified by qualified official court reporting services employees pursuant to relevant statute, regulation and rule.
- (3) 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.

*Gen. Order 10-16, eff. Oct. 13<sup>th</sup>, 2010*

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## ARTICLE 2: CLERK OF THE CIRCUIT COURT

### 2.00 OFFICE OF THE CIRCUIT CLERK

The Circuit Clerk shall maintain his/her principal office at such duly selected location or branch locations as determined by the Circuit Clerk and the Chief Judge and any additional branch locations which may be necessary to facilitate the transaction of business.

### 2.01 ACCEPTABLE FORMAT AND PAYMENT OF COURT FILINGS

- (a) All statutory filing fees shall be paid at the time that any document, pleading or case is filed with the Circuit Clerk.
- (b) The Circuit Clerk shall provide various pre-printed or electronic forms used in the Circuit Clerk's Office and Courts. Contents of printed forms must be approved by the Chief Judge, or his/her designee, prior to print and distribution. All new designs, revisions and modifications to forms must be routed through the Circuit Clerk prior to final approval by the Chief Judge, or his/her designee. The appropriate Kane County Bar Association Committee may be included in the process. The Circuit Clerk shall set policy on the form design, approval process and distribution. Distribution includes hard copy, electronic format, and other technologies as they become available. Alphanumeric and/or bar codes may be used to facilitate image scanning and data entry.
- (c) Forms available from the Circuit Clerk's Office, previously approved by the Chief Judge's Office, may be duplicated provided they contain the same verbiage, standardized heading and are coded to match.
- (d) The Circuit Clerk shall make available to self-represented litigants blank forms in the approved format; however, shall also accept standardized forms from the Illinois Supreme Court or other entities which provide such forms. Hand written documents not in the required format as prescribed in this rule shall only be accepted for filing from self-represented litigants. Any hand written document by a self-represented litigant must be legible, written in black or blue ink, and on white paper measuring 8½ inches by 11 inches. An exception to the hand written rule is that litigants/attorneys may write on Circuit Clerk's preprinted forms only.

### 2.02 DOCUMENTS (Physical Hard Copy)

- (a) All documents, as defined by Supreme Court Rule 2 (b)(3), shall be filed with the Clerk of the Court pursuant to Supreme Court Rules and this rule.
- (b) All documents created by word processing programs must be formatted as follows: The size of the type in the body of the text must be no less than 12 point font, and footnotes no less than 10 point font; the size of the document must be 8 ½ by 11 inches and no less than 20 pound weight; and the margins on each side of the page must each be a minimum of 1 inch; and the top right 2" x 2" corner of the first page of each pleading shall be left blank for the clerk's file stamp. The document shall include the case caption, and case

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number. The case number shall be in the upper right hand corner not placed in such a position that it will be obliterated by the Clerk's file stamp and there should be no handwriting in the margins.

- (c) All documents with multiple pages shall not contain staples, be permanently bound, or be a continuous form. All paper shall have the case number printed on each page. The first page shall be numbered "Page 1 of \_\_\_ Pages" and each page thereafter shall be numbered consecutively or sequentially. It is suggested that a reference be made on the original document to indicate the number of pages attached, i.e. Exhibit A (10 pages).
- (d) All documents shall be typed in black ink. Suggested font is Times New Roman or any other San Serif type. Signatures and dates shall be in black ink or in an electronic format approved by the Supreme Court. All documents shall have a minimum of 1.5 line spacing.
- (e) Exhibits attached to pleadings, motions, and the like shall be labeled consecutively with either an alphabetical or numeric symbol on the lower right corner of the first page of each exhibit. Unless required by Statute or Supreme Court Rule, the original document filed with the Clerk of the Circuit Court shall not have attachments that are duplicates or reproductions of previously filed documents. Instead, a reference to the filing date and title of the document shall be used to replace the reproductions.
- (f) The Clerk of the Circuit Court is not required to accept for filing any document that does not comply with the Supreme Court Rules or these rules.

### 2.03 RECORDKEEPING

The Circuit Clerk shall assign numbers on all cases filed, in accordance with the Supreme Court Manual on Recordkeeping and the Administrative Orders of this Court.

### 2.04 ACCEPTABLE COURT FILINGS

- (a) Any document to be filed in any cause or proceeding may be filed in person or by United States mail, or as otherwise permitted by Supreme Court Rule or as allowed by the Circuit Clerk.
- (b) Any document to be filed in any cause or proceeding pending in the Court may be filed either at the main Circuit Clerk's office, satellite offices, or at the appropriate branch court.
- (c) Pleadings, motions and other papers filed with the Circuit Clerk, and not served in compliance with Supreme Court Rules 11 and 12, may be stricken.
- (d) In furtherance of an expeditious case processing flow at the lowest possible cost, each party commencing an action or proceeding in case types L, LM, SC, TX, AR, AD, JA, JD, OP, ED, MR, CH, F, D, P, J, MC, MH shall complete the New Case Information

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Sheet provided by the Circuit Clerk, and present the said document at the time of filing the complaint, petition, or other paper initiating said action or proceeding.

- (e) The first pleading and/or appearance and all subsequent papers and orders shall contain the name, address, telephone number, fax number and email address of the attorney (or party if self-represented) filing said paper, and any other information as required by Supreme Court Rule. The attorney shall also include his or her attorney registration number issued by the Attorney Registration and Disciplinary Commission (ARDC).
- (f) If an attorney of record is no longer with the firm, the attorney of record shall file a motion to withdraw, and the new attorney to appear on the case shall file an appearance form.

### 2.05 REMOVAL OF DOCUMENTS FILED

No pleading, file content or other document filed in this Court shall be removed from the Circuit Clerk's office except by authorized Circuit Clerk or judicial personnel or as otherwise provided by the Illinois Supreme Court Manual on Recordkeeping.

### 2.06 COPIES OF DOCUMENTS FILED

Upon request and the payment of the appropriate fee, the Circuit Clerk shall provide copies of any pleading or document filed in this Court pursuant to 705 ILCS 105/27.2, unless otherwise specifically ordered.

### 2.07 APPLICATION FOR WAIVER OF COURT FEES

Forms of Application for Waiver of Court Fees as provided in Supreme Court Rule 298, shall be as provided through the Circuit Clerk's website.

### 2.08 JUDGE'S NOTES

- (a) At the request of any Judge, the Clerk of the Circuit Court may for the sake of convenience and judicial economy keep and maintain a judge's trial and/or hearing notes in the court file. These notes are the property of the judge and shall not be filed of record by the Clerk. Judges notes shall be placed in an envelope, which shall be sealed and marked as "Judicial Notes – Impounded Documents" together with the name of the Judge requesting the notes to be preserved and stored.
- (b) The Circuit Clerk may at the time of microfilming or file destruction (pursuant to the Local Records Act and the retention schedules established by the Supreme Court of Illinois) dispose of judge's notes found in a court file by returning them to the judge or, if the judge approves, is retired, or deceased, by destroying them using approved methodology.

### 2.09 MAINTAINING DAILY COURT CALL SHEETS

The Clerk shall maintain a daily call sheet for each Judge showing cases set for hearing and the hour of the day they shall be heard.

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**2.10 *PRO HOC VICE***

Supreme Court Rule 707 – Permissions for an Out-of-State Attorney to Provide Legal Services in proceedings in Illinois.

**2.11 ADMINISTRATION OF THE COURT E-FILING (RESERVED)**

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## ARTICLE 3: SHERIFF

### 3.00 COURT SECURITY

The Sheriff shall provide court security in certain courtrooms and additional court security at any session of Court when requested by the Chief Judge or his/her designee.

### 3.01 COURTHOUSE ENVIRONS

- (a) The Sheriff shall have the duty to enforce all Illinois laws and Kane County ordinances including, but not limited to, the enforcement of all parking restrictions and limitations pertaining to the courthouse parking lots.
- (b) Nothing in this Local Rule shall limit or restrict the authority of municipal law enforcement officials to enforce laws applicable to courthouse environs.
- (c) Until further order of the Chief Judge or the Sixteenth Judicial Circuit, Courthouse Security Policy is to allow sworn uniformed police officers, not on personal business, entry with their side-arm weapon into the Courthouse. Said officer's entry is subject to the approval and consent of the Kane County Sheriff or his designee.
- (d) As to all places which the Court conducts business as a Court of law or chancery, there is reserved to the Court, upon discretion of the Judge presiding in such Court, the right to order or direct a search by reasonable and lawful means available of any person and their property entering a Court location. If such a search is directed and there is discovered any weapon listed as a dangerous weapon under 720 ILCS 5/33A-1, such weapon shall be subject to immediate seizure by the personnel authorized to conduct the search.
- (e) As to all Court locations in Kane County, in addition to the procedures in Section (d) above, the following search procedures shall be employed at all Court locations equipped with metal detectors and/or x-ray screening devices:
  - (1) All persons entering Court locations in Kane County employing metal detectors and/or x-ray screening devices shall be required to pass through a metal detector and all packages, brief cases, files, boxes, backpacks, purses and the like shall be caused to pass through x-ray screening devices.
  - (2) A person who activates the metal detector may be denied entry to the Court facility without further questioning or search. A person whose package, brief cases, files, boxes, backpacks, purses and the like, upon passing through the x-ray screening device, discloses suspicious objects may be denied entry without further questioning or search.
  - (3) A person who activates the metal detector may be permitted to pass through the detector a second time after removing all metal objects. If upon entering the detector a second time, a person activates the detector, that person shall not be permitted to enter the court facility unless the person consents to a pat-down search conducted by personnel of the same sex and the officer authorized to conduct the search is satisfied that there is no weapon or dangerous material present.

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- (4) A person whose package, briefcase, file, box, backpack, purse, or the like contains suspicious objects upon passing through the x-ray screening device shall submit such items for inspection by the officer authorized to conduct such inspection. If such officer is satisfied there is no weapon or dangerous material present, the person may proceed to enter the Court facility.
  - (5) All packages, briefcases, files, boxes, backpacks, purses, and the like are subject to search for dangerous materials at the time of screening or as deemed necessary by authorized security officers; but in no event may printed documents be examined.
- (f) In furtherance of the protection of the public and those working in the Kane County Courthouse located at 100 South Third Street, Geneva, IL, the following additional procedures shall be implemented upon the effective date of this Order:
- (1) The north, south, and east doors shall be secured and shall not be used by the general public, except as an emergency exit.
  - (2) Judges, courthouse employees and county employees working in the Kane County Courthouse located at 100 South Third Street, Geneva, IL, shall be issued a county identification card upon compliance with procedures established by the Sheriff of Kane County and the Court Administration for the Sixteenth Judicial Circuit. Persons possessing the county identification card may not permit persons who do not possess the card to enter the courthouse doors with them. Anyone who violates this provision of the Local Rules will lose their county identification card privilege. All persons possessing the county identification card remain subject to all other provisions of the Local Rules.
  - (3) The west doors of the Courthouse will be open on Mondays from 7:30 a.m. to 4:30 p.m. and Tuesday through Friday from 8:30 a.m. to 4:30 p.m.
  - (4) The north doors of the Courthouse will be open for Judges only.
  - (5) If a courtroom is in session after the regular Court hours set forth herein, the bailiff/security assigned to that Court shall contact building maintenance to ensure proper lighting of all necessary hallways and staircases.
  - (6) The Director of Courthouse Security shall daily require his or her staff to check with all Judges regarding the need for security after 4:30 p.m. and assign staff as necessary.
- (g) In furtherance of the protection of the public and those working in the Kane County Judicial Center located at 37W777 Route 38, St. Charles, IL, the following additional procedures shall be implemented upon the effective date of this Local Rule:
- (1) All Court staff and public shall enter the Judicial Center through the main front entrance.
  - (2) Public access shall be from 7:30 a.m. - 4:30 p.m. except for scheduled education programs or Probation appointments or matters extended by order of the court.
  - (3) If a courtroom is in session after the regular Court hours set forth herein, the bailiff/security officer assigned to that court shall contact building maintenance to ensure proper lighting of all necessary hallways and staircases.

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- (4) The Director of Courthouse Security shall require his or her staff to check with all with all Judges regarding the need for security after 4:30 p.m. and assign staff as necessary.

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## ARTICLE 4: JURY COMMISSION AND JURORS

### 4.00 SELECTION OF JURY COMMISSION

- (a) Kane County having previously determined that jury commissioners shall be elected or appointed in accordance with 705 ILCS 310/1, three (3) competent and discreet electors of Kane County shall be selected by a majority vote of the Circuit Judges of the Sixteenth Judicial Circuit to serve as Jury Commissioners as follows:
- (1) The Chief Bailiff so named at the Kane County Judicial Center, or another Bailiff there so chosen, shall be elected as Jury Commissioner A for an initial term of one (1) year;
  - (2) The Chief Bailiff so named at the Kane County Court House, or another Bailiff there so chosen, shall be elected as Jury Commissioner B for an initial term of two (2) years;
  - (3) The Kane County Court Administrator, or another assistant of the Chief Judge of the Sixteenth Judicial Circuit so chosen, shall be elected as Jury Commissioner C for an initial term of three (3) years.
- (b) Following successful completion of the initial term, each Jury Commissioner shall then be elected for a term of three (3) years.
- (c) Prior to entering into the duties of office for any term, each Jury Commissioner shall take and subscribe to an oath of office before a Judge of the Sixteenth Judicial Circuit, and shall execute a five hundred (\$500) bond to the People of the State of Illinois with sureties waived for the faithful discharge of his/her duties as commissioner.

### 4.01 DUTIES OF JURY COMMISSIONERS AND ASSISTANTS

- (a) The preparation of the general jury list, summoning, selection, drawing, examination, and verification of persons for jury service shall be transacted by two (2) Jury Commission Clerks, who shall be compensated for their services as fixed by the County Board after submission of budget by the Chief Judge.
- (b) The Chief Judge may, by general order, approve the jury commissioners and clerks to excuse jurors summoned for undue hardship, and to temporarily excuse jurors summoned for later service.
- (c) The duties of the jury commissioners will otherwise be as provided by statute.
- (d) The Jury Commissioners and the Jury Commission Clerks shall collectively be known as the Kane County Jury Commission.

### 4.02 COMPENSATION OF JURY COMMISSIONER

The compensation of a Jury Commissioner shall be fixed by the County Board, not to exceed the sum of one thousand dollars (\$1000) per year.

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## 4.03 COMPENSATION OF JURORS

- (a) All prospective and impaneled grand and petit jurors shall be compensated from the Kane County Treasury for per diem services and travel expenses, in accordance with 55 ILCS 5/4-11001. The rate of per diem and mileage shall be determined by the County Board.
- (b) All coroner's jurors shall be compensated from the Kane County Treasury in accordance with 55 ILCS 5/4-11002.

## 4.04 FAILURE TO RESPOND TO JURY SUMMONS

- (a) Whenever a person lawfully summoned to jury duty has failed to provide a reasonable and timely excuse, the Jury Commission shall defer such person's jury duty to not less than thirty (30) days or more than one hundred eighty days (180) days from the original date of service and issue a new notice advising the person of his or her new service date.
- (b) At such time as the services of a previously delinquent prospective juror are required, but not less than thirty (30) days from the original date of service, the Jury Commission shall cause to be issued a summons, in accordance with established procedures.
- (c) If a juror lawfully summoned to jury duty fails to respond, the Jury Commission may, at its discretion, contact said person directing him or her to appear before the Jury Commissioners for a hearing at a date and time as the Jury Commissioners may determine or reinsert their names back into the system.
- (d) At said hearing the Jury Commissioners shall take testimony from delinquents and may, at their discretion, excuse a person from jury duty, defer the jury duty to a later date or file a petition for a Rule to Show Cause for contempt of court with the Chief Judge pursuant to 705 ILCS 305/15.

## 4.05 JURY SERVICES AT CORONER'S INQUEST

The Kane County Jury Commission shall provide jurors to the Kane County Coroner upon request according to such rules and procedures as it deems appropriate. To the extent practicable, the manner of selection of such jurors shall be similar to the manner in which petit and grand jurors are selected.

## 4.06 SEALING OF JUROR RELATED COURT DOCUMENTS

- (a) At the completion of all jury trials, the judge shall provide to the clerk the judge's juror profiles, juror list(s), and any signed verdict forms. In one envelope, the clerk shall insert the juror profiles, juror list(s), and any juror seating chart prepared by the clerk or the judge. In a separate envelope, the clerk shall insert any signed verdict forms. All such juror court documents with identifying information shall then be impounded in the court file until further order of court.
- (b) Anyone seeking to access these impounded documents in the court file with identifying juror information must file and notice a petition setting forth good cause for disclosure.

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## ARTICLE 5: MANDATORY RESIDENTIAL FORECLOSURE MEDIATION PROGRAM

### 5.00 PURPOSE OF MANDATORY MEDIATION PROCESS

The foreclosure mediation program is designed to reduce the burden of expenses sustained by lenders, borrowers and taxpayers as a result of residential mortgage foreclosures. It is also designed to aid the administration of justice by promoting judicial efficiency. Further, the program is aimed at keeping families in homes, if possible, and to prevent vacant and abandoned houses in Kane County that negatively affect property values and de-stabilize neighborhoods.

### 5.01 ACTIONS ELIGIBLE FOR MEDIATION

From the effective date of this rule, the parties in all residential real estate foreclosure (as defined by the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1203 and 15-1219) filed in Kane County are subject to the mediation program as set forth herein. Foreclosures of non-residential or commercial property are not eligible for mediation.

### 5.02 STAFF AND TRAINING

- (a) The Mandatory Residential Mediation Program is established as and remains under the sole authority of the Sixteenth Judicial Circuit Court through the Chief Judge and the Judge presiding over the foreclosure court call as provided within these rules.
- (b) All mortgage foreclosure judges, the Program Coordinator, key court personnel and volunteers designated by the Chief Judge shall complete training regarding mortgage foreclosure mediation as approved by the Chief Judge.
- (c) The position of Program Coordinator is established to oversee the daily operations of the Program, and whether or not a direct employee of the Sixteenth Judicial Circuit, serves only with the approval of the Chief Judge and the Judge presiding over the foreclosure court call.
- (d) With the approval of the Chief Judge after consultation with the Judge presiding over the foreclosure court call, the designated duties of the Program Coordinator as set out within these rules may be assigned, delegated, or referred to other court employees, housing counseling agencies, legal aid organizations, bar associations, or other third parties as recognized by the court.
- (e) The Program Coordinator, and any other employee working in the Mandatory Residential Mediation Program, serves at the pleasure of the Chief Judge.

### 5.03 MEDIATION PROCEDURE

- (a) The first page of every foreclosure complaint shall clearly designate whether the property is residential in nature and therefore falls within the mediation program.
- (b) A party may file a motion asking the Court to reconsider whether the property is residential in nature and falls within the mediation program.

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- (c) A First Notice describing the mediation program along with a checklist and questionnaire must be served on the defendant in residential foreclosure case with the summons (or alias summons). The First Notice shall inform the defendant that to participate in the mediation program, he must comply with the pre-screening process and file an appearance. The First Notice shall describe mediation and the pre-screening process. The First Notice shall include referral information to local HUD-certified housing counseling services, local pro bono legal counseling services through legal aid agencies and the Kane County Bar Association, and the Kane County Law Library and Self-Help Legal Center. If the plaintiff serves the defendant by publication, the clerk shall mail the First Notice to the defendant along with the publication notice.
- (d) Within fourteen (14) days of receipt of the First Notice, the defendant must contact the Program Coordinator to complete the Initial Conference. If the defendant fails to contact the Program Coordinator within fourteen (14) days of receipt of First Notice, the Program Coordinator shall send the Second Notice by mail providing the deadline for completion of the Initial Conference. If the defendant does not contact the Program Coordinator within forty-five (45) days of confirmation of service, the Program Coordinator shall send a report of non-participation to Court. The Court may remove the case from mediation on its own motion or on the plaintiff's motion.
- (e) Promptly upon service of process on the defendant, the plaintiff shall provide to the Program Coordinator confirmation of service. The Program Coordinator shall prescribe the manner and content of confirmation of service. The plaintiff shall provide the Program Coordinator any particularized checklist necessary for its loss mitigation program.
- (f) The Program Coordinator shall send the Second Notice scheduling an Initial Conference with the defendant for a specific date and time. Failure to receive this Second Notice does not relieve the defendant of the responsibility to contact the Program Coordinator within forty-five (45) days as described in paragraph (d) above.
- (g) The Initial Conference may be held by telephone.
- (h) In order to participate further in the foreclosure mediation process, the defendant must have an appearance on file.
- (i) If the defendant is eligible and interested in mediation, the Program Coordinator shall begin the Pre-screening Phase. The Program Coordinator will inform the plaintiff's attorney that the defendant is interested in mediation and that a Pre-screening Meeting has been scheduled.
- (j) The defendant shall complete the Pre-screening Phase within thirty (30) days of the Initial Conference (or by entry into the program as described in paragraph (p) following). During this phase, the Program Coordinator shall determine if the defendant has collected the documents listed on the checklist appropriate for the defendant (either the standard

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checklist or the checklist plaintiff has specifically provided for the defendant). If the defendant has not collected the required information, the program Coordinator shall have the discretion to extend the Pre-screening Phase an additional thirty (30) days. The Program Coordinator shall inform the parties of the extension. In addition, the Program Coordinator shall advise both parties of the progress of the Pre-screening Phase and facilitate the exchange of documentation. If the defendant fails to provide the required documents listed on the checklist appropriate for the defendant within the allotted time for the Pre-screening Phase, the Program Coordinator shall send a report of non-participation to the Court. The Court may remove the case from mediation on its own motion or on the plaintiff's motion.

- (k) After receiving the defendant's documents, the plaintiff will have forty-five (45) days to complete and send a plaintiff's questionnaire to the Program Coordinator. The plaintiff can request an additional fifteen (15) days if necessary.
- (l) Upon the completion of all required forms and questionnaires by both parties, the Program Coordinator shall schedule a mediation session to occur within sixty (60) days.
- (m) Alternatively, for good cause shown on motion of a party to the Court, or in the discretion of the Program Coordinator, the Program Coordinator may schedule a pre-mediation meeting to be conducted by a mediator. Said mediator will be assigned to the case for the mediation session and all subsequent sessions if any.
- (n) The defendant and the defendant's counsel, if any, are required to attend the mediation (or pre-mediation meeting described in paragraph (m) above). Plaintiff's counsel is also required to appear in person at the mediation session (or pre-mediation meeting described in paragraph (m) above). A plaintiff's representative with full settlement authority must participate in the mediation or pre-mediation meeting described in paragraph (m) above either in person or by teleconference. If any party fails to participate in good faith, the Court may impose appropriate sanctions.
- (o) Upon the conclusion of the mediation session, the Program Coordinator and the mediator shall file a report with the Court indicating the outcome. If the parties reach an agreement, the parties and their attorneys shall sign a summary of the terms of the agreement. At the request of the parties, the Court may retain jurisdiction of the case to review any trial period that the parties may enter prior to a loan modification becoming permanent. If the parties reach no agreement, the foreclosure action shall resume.
- (p) For good cause shown and at the discretion of the presiding judge, any party may motion the Court for entry into the mediation program. Defendants will have seven (7) days from the Order of entry to contact the Program Coordinator.

### **5.04 QUALIFICATION, APPOINTMENT, AND COMPENSATION OF MEDIATORS**

- (a) The Program Coordinator shall recommend mediators who have been certified as eligible for approval by the Chief Judge to act as foreclosure mediators. To be eligible as a mediator, an individual must:

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- (1) Be a member in good standing of the Illinois bar or a retired judge; and
  - (2) Demonstrate completion of foreclosure mediation training approved by the Chief Judge; and
  - (3) Submit an application in the required form; and
  - (4) Be recommended by the Program Coordinator
- (b) The Chief Judge is granted the authority under this rule to expand the eligibility requirement for mediators under (a) above to include licensed real estate professionals in good standing.
- (c) Final and/or continued approval of any eligible mediator is at the discretion of the Chief Judge.
- (d) The Program Coordinator shall prepare and maintain a list of approved mediators for assignment to foreclosure mediation on an annual basis.
- (e) The Program Coordinator has the discretion to determine the frequency and order of assignment of foreclosure mediations to any mediator on the list of approved mediators.
- (f) A mediator shall not mediate a matter that presents a clear conflict of interest. A conflict of interest arises when any relationship between the mediator and the mediation participants or the subject matter of the dispute compromises or appears to compromise the mediator's impartiality.
- (g) A mediator shall not be involved in any capacity other than mediator in any case to which the mediator is assigned. A mediator may not use any information obtained during the mediation process for any purpose outside of mediation unless required to do so by law.
- (h) A mediator shall be compensated at the rate of a minimum of fifty dollars (\$50.00) for a pre-mediation meeting, if any. For a mediation session, a mediator shall be compensated at the rate of one hundred dollars (\$100.00) per case. It is contemplated that under the design of this program, only one mediation session will be necessary. For good cause shown, including, but not limited to, an unexpected change in circumstances, the mediator may determine that a second mediation session is necessary and appropriate to aid the parties in achieving resolution. In such a case, the mediator will be compensated an additional minimum fifty dollars (\$50.00) for the additional mediation session. In no event will the mediator's compensation exceed two hundred dollars (\$200.00) per case, unless otherwise provided by general order entered by the Chief Judge.
- (i) All professional rules of conduct applicable to the respective profession of the mediator apply to the mediators in this program.

### **5.05 DISCOVERY**

Unless otherwise ordered by the Court, discovery shall be stayed until after the conclusion of the mediation process.

### **5.06 CONFIDENTIALITY**

## Kane County Local Rules

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Unless otherwise authorized by the Court or the parties, all oral and written communications to the Program Coordinator or the mediator, other than written agreements between the parties, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying cause of action.

### **5.07 IMMUNITY**

The Program Coordinator and any person approved to act as a mediator under these rules, while acting within the scope of his or her duties, shall have judicial immunity in the same manner and to the same extent as a judge in the State of Illinois as provided in Supreme Court Rule 99.1.

### **5.08 LANGUAGE ACCESS**

It is the policy of this Program to provide meaningful language access to limited English proficient (LEP) program participants at all stages of participation. Written materials originated by the Program shall be readily available in English, Spanish, Polish, and Laotian and other language translations shall be reasonably made available upon request. Phone translation service shall be available for all phone and in-person communications, and in person-translators shall be available for mediation hearings. Language Access services shall be provided at no additional cost to the participants.

### **5.09 FILING FEES AND SUSTAINABILITY FUNDING**

- (a) Effective on a date certain as set by General Order of the Chief Judge, filing fees paid by the plaintiff for all foreclosures in Kane County shall be increased fifty dollars (\$50.00). The additional fifty dollars (\$50.00) filing fee shall be placed in a fund for this mandatory foreclosure mediation program, which shall begin on that date.
- (b) It is contemplated that the program will be sustained as needed and be self-sufficient as a result of the filing fee. The program will be re-assessed by the Chief Judge for financial viability at least annually, and/or immediately if any of the resources provided for funding are reduced or discontinued.

### **5.10 REPORTS**

- (a) The Chief Judge shall report quarterly to the Administrative Office of Illinois Courts on the revenues and expenditures of the program in the manner directed by that office.
- (b) The Chief Judge shall maintain statistical data on the participation in the Foreclosure Mediation Program including the number of residential foreclosures, the number of defendants who participate in the initial conference with the Foreclosure Mediation Program Coordinator, the number of defendants who complete the Pre-screening Meeting, and the number of mediation sessions. The Chief Judge shall also maintain statistical data on the results of participation in the pre-mediation and/or formal mediation phases of the Foreclosure Mediation Program, including the number of loans modified or otherwise worked out between the parties and other foreclosure alternatives, such as short sale or deed in lieu of foreclosure. The Chief Judge shall report this data to the Administrative Office of the Illinois Courts at such times and in such manner as required.

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## IV. JUVENILE PROCEEDINGS

### ARTICLE 15. GENERAL PROVISIONS

#### 15.00 PURPOSE AND POLICY

These rules set forth procedures for the Juvenile Court in Kane County. They supplement the Juvenile Court Act 705 ILCS 405/1-1 et seq., the Code of Civil Procedure 735 ILCS 5/1-101 et seq. and the Rules of the Illinois Supreme Court. They are designed to facilitate the movement of cases through the Court by reducing unnecessary delay, strengthening case flow management, and encouraging involvement of parents and other parties so as to ensure the best interests of the children.

#### 15.01 JUVENILE COURT JUDGES

All Juvenile Court matters, including both shelter and detention hearings shall be heard by the assigned Juvenile Court Judge, or by any Judge sitting in his or her stead. The Judge entering the adjudicatory order shall, whenever possible, conduct the dispositional hearing.

#### 15.02 SUBSTITUTION OF JUDGES

All substitution of Judge requests shall be governed by 735 ILCS 5/2-1001 and shall be transferred to the Presiding Judge of the Division for reassignment.

#### 15.03 RELEASE OF CONFIDENTIAL INFORMATION

All requests for release of information of juvenile law enforcement and juvenile court records shall be governed by 705 ILCS 405/1-7 and 705 ILCS 405/1-8 of the Juvenile Court Act.

#### 15.04 EXPUNGEMENTS

All requests for expungement of law enforcement and juvenile court records shall be governed by 705 ILCS 405/1-9 and 705 ILCS 405/5-915 of the Juvenile Court Act and shall be heard by the Chief Judge or a Judge designated by the Chief Judge.

#### 15.05 INTERSTATE COMPACT ON JUVENILES

All requests for return of a minor pursuant to the Interstate Compact on Juveniles Act 45 ILCS 10/0.01 et seq. requiring Court approval shall be heard by the assigned Juvenile Court Judge or by any Judge sitting in his or her stead.

#### 15.06 FILING OF PETITIONS

The filing of petitions for abuse, neglect and dependency shall be governed by 705 ILCS 405/2-13 of the Juvenile Court Act. The filing of petitions for delinquency shall be governed by 705 ILCS 405/5-520 of Juvenile Court Act.

#### 15.07 APPOINTMENT OF COUNSEL

- (a) If any Respondent in a juvenile court action qualifies for counsel by statute or the rules for court appointed counsel, the Public Defender shall be first appointed.

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- (b) If any other Respondent qualifies for court-appointed counsel and a conflict exists, counsel shall be appointed pursuant to the Chief Judge's General Order in effect at the time designating conflict counsel.
- (c) If any other minor Respondent in a delinquency case qualifies for court-appointed counsel and after the Public Defender and all conflict counsel options have been exhausted then the Multiple Defender's Division (MDD) shall be appointed.

### 15.08 APPOINTMENT OF A GUARDIAN *AD LITEM* (GAL)

- (a) The court may appoint CASA as the Guardian *Ad Litem* (GAL) of the child(ren) alleged to have been abused and/or neglected, pursuant to 705 ILCS 405/2-17.1 of the Juvenile Court Act, and as amended by General Order No. 14-31.
- (b) The Court may then appoint counsel to represent CASA, pursuant to 705 ILCS 405/2-17 of the Juvenile Court Act and said counsel as designated by the Chief Judge's General Order in effect at the time, and further certified, pursuant to Illinois Supreme Court Rule 906.

### 15.09 ATTENDANCE AT HEARINGS

- (a) Attendance at juvenile court hearings shall be governed by 705 ILCS 405/1-5.
- (b) Representatives of the Department of Children and Family Services, CASA, the Department of Corrections and Kane County Court Services who have a direct interest in the case may be admitted to court hearings and conferences unless expressly excluded by the Court.
- (c) Any other interested party may be present by leave of Court.

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## ARTICLE 16. ABUSE, NEGLECT AND DEPENDENCY

### 16.00 PRE-HEARING CONFERENCE

- (a) The Court, at any stage of the proceeding, may convene a pre-hearing conference on its own motion or upon the request of any party.
- (b) Depending upon the circumstances of the case, the purpose of the pre-hearing conference shall include, but not be limited to:
  - (1) Review efforts to locate and serve the parties;
  - (2) Resolve discovery disputes;
  - (3) Identify significant issues of law and fact for trial;
  - (4) Develop a list of possible witnesses and receive stipulations to uncontested facts;
  - (5) Explore resolution of the matter without trial;
  - (6) Confirm scheduling and estimate the length of trial; and
  - (7) Enter such order as the Court deems appropriate.
- (c) Each party shall have a continuing obligation to update the Court and all other parties regarding information provided during the pre-hearing conference in a timely fashion.

### 16.01 DISCOVERY

- (a) All provisions for civil discovery set out in the Supreme Court Rules are applicable only with leave of Court for good cause shown.
- (b) Exchange of Information without leave of Court. Parties may voluntarily exchange information upon reasonable written requests for information, documents, records, list of witnesses or evidence available for inspection without leave of Court.
- (c) All attorneys and respondents shall comply with the rules of confidentiality, and accessibility of juvenile court records as set forth at 705 ILCS 405/1-8.

### 16.02 SCHEDULING

All court dates shall be obtained by or as directed by the assigned Juvenile Court Judge, or by any Judge sitting in his or her stead.

### 16.03 JUVENILE CHILD MEDIATION PROGRAM (RESERVED)

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## ARTICLE 17. DELINQUENCY

### 17.00 SECURE CUSTODY AND DETENTION OF MINORS

- (a) A minor determined to require secure detention pursuant to 705 ILCS 405/5-410(2) shall be detained in the Kane County Juvenile Justice Center unless otherwise directed by court order.
- (b) The Kane County Juvenile Justice Center is hereby designated as the place for reception of minors under eighteen (18) years of age, from Kane County, who are detained pursuant to 705 ILCS 405/5-410 of the Juvenile Court Act.
- (c) The Kane County Juvenile Justice Center shall be under the direction and control of the Chief Judge and Kane County Court Services.

### 17.01 DISCOVERY IN DELINQUENCY PROCEEDINGS

Discovery shall be governed by Illinois Supreme Court Rules 412 (Disclosure to Accused) and 413 (Disclosure to Prosecution).

### 17.02 SCHEDULING

- (a) The setting of Detention Hearings shall be governed by 705 ILCS 405/5-415.
- (b) Detention Hearings shall be scheduled through the Circuit Clerk's Office and will be heard on the earliest available court date pursuant to 705 ILCS 405/5-415.
- (c) All court dates shall be obtained by Court Order from the Juvenile Court Judge, or by any Judge sitting in his or her stead, or upon proper motion filed at the Circuit Clerk's Office, along with appropriate notice pursuant to 705 ILCS 405/5-530.
- (d) Juvenile Drug Court shall be heard by the assigned Juvenile Court Judge or by any Judge sitting in his or her stead on the day so designated by said Juvenile Court Judge.

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## ARTICLE 18. ADOPTIONS

### 18.00 PETITIONS

All Adoption matters shall be heard by the assigned Juvenile Court Judge.

*Gen. Order 08-15, eff. Sept. 17<sup>th</sup>, 2008*

### 18.01 TERMINATION OF PARENTAL RIGHTS BY DEFAULT

- (a) Petitioners seeking to default any necessary party to an adoption proceeding based upon service by publication must file a supporting affidavit establishing the action taken that demonstrates honest and well-directed efforts to ascertain the whereabouts of the person sought to be defaulted by such service. Said affidavit shall detail search efforts, including but not limited to, searches of military records, the Illinois Department of Corrections, administrative agencies (i.e., the State Disbursement Unit), social media, and all other search efforts.
- (b) The factual showing of the inability to serve or locate the person sought to be defaulted has also been defined as a showing of due diligence or more succinctly a showing that would lead a reasonable person to conclude "that kind of search or investigation which a diligent person intent on ascertaining a fact, would usually and ordinarily make." An affidavit as to military service status of any named person sought to be defaulted must also be filed in all cases where the identity of a putative father has been made known to the Petitioner or any other party to the proceedings.
- (c) Counsel seeking an Order of Default terminating the parental rights of any person should make certain that at the time of service, either personal, substitute or by publication that the complaint on file is legally sufficient to support a termination of parental rights.

### 18.02 CONSENTS

- (a) All consents to adoption shall, whenever practicable, be taken by the Juvenile Court Judge assigned to hear adoption matters. If said Judge is not available, then consents may be taken by another Juvenile Court Judge.
- (b) All consents shall be taken before an official court reporter, when practicable.
- (c) The form of consent shall be pursuant to 750 ILCS 50/10 of the Adoption Act.

*Gen. Order 08-15, eff. Sept. 17<sup>th</sup>, 2008*

### 18.03 ADOPTION OF FOREIGN-BORN CHILDREN

- (a) In all cases which seek the adoption of a foreign-born child, strict compliance with 750 ILCS 50/4.1 shall be required.
- (b) The petition filed in such cases must state facts which establish the date the proposed adoptee entered the United States and the immigration status of that person.

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- (c) In cases where a child is brought to the United States for the purposes of adoption, the petition must allege facts which establish that the child was legally free for adoption prior to entering the United States and that the placement of the child complies with rules promulgated by the agency of the federal government which regulates immigration and naturalization.
- (d) Compliance with the pleading requirements relating to the availability of the child for adoption found in 750 ILCS 50/4.1 shall be presumed in those cases where the petition for adoption establishes that the child sought to be adopted in this Court was the subject of a judgment of adoption entered by a court or civil authority of a foreign country or entered the United States subsequent to the creation of a guardianship in a foreign country which placed the child under the care of said guardian(s) and granted the guardian(s) full authority to place the child with an adoptive family.

### 18.04 SCHEDULING

- (a) All court dates for adoption matters, shall be scheduled by the Civil Scheduling Department at the Old Courthouse or by Court Order.
- (b) Consent for adoption may be scheduled through the Civil Scheduling Department at the Geneva Courthouse or may be presented to the assigned Juvenile Court Judge while Court is in session.

*Gen. Order 08-15, eff. Sept. 17<sup>th</sup>, 2008*

### 18.05 NOTIFICATIONS

- (a) Petitioner shall notify the GAL of the order of appointment, pursuant to 750 ILCS 50/13, and further provide the GAL with copies of all pleadings and pertinent documents and records within seven (7) days of the entry of the order.
- (b) Petitioner shall notify any child welfare agency designated by the Court to conduct an investigation, pursuant to 750 ILCS 50/6, within seven (7) days of the entry of such order.

*Gen. Order 08-15, eff. Sept. 17<sup>th</sup>, 2008*

### 18.06 CONFIDENTIAL INTERMEDIARIES

- (a) The appointment of a confidential intermediary shall be governed by 750 ILCS 50/18.3a.
- (b) All Petitions for Appointment of a Confidential Intermediary shall be accompanied by proof of registration with the Illinois Adoption Registry and Medical Information Exchange.
- (c) The signature on a Petition for Appointment of a Confidential Intermediary shall be certified pursuant to Section 1-109 of the Code of Civil Procedure.

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- (d) If the petitioner for the appointment of a confidential intermediary cannot appear in court to present the Petition, the Petition must be accompanied by a letter or motion requesting that the appearance of the petitioner be waived.
- (e) All Petitions for Appointment of a Confidential Intermediary shall be scheduled by the Circuit Clerk's Office to the docket of the assigned Juvenile Court Judge hearing adoption matters on the next available scheduled adoption date.
- (f) The Court shall appoint a qualified confidential intermediary from a list of persons who have been certified by the Department of Children and Family Services.
- (g) Upon request, the Circuit Clerk's Office shall make available to the public information and booklets from the Confidential Intermediary Service of Illinois.

*Gen. Order 08-15 eff. Sept. 17<sup>th</sup>, 2008*

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## V. CRIMINAL PROCEEDINGS

### ARTICLE 19. GENERAL

#### 19.00 APPLICABILITY OF RULES

- (a) Except where clearly indicated otherwise, the rules contained in this Article 19 shall be applicable to all cases assigned to the Criminal and Traffic Courts.
- (b) Rules contained in this Article shall be read in conjunction with applicable rules contained in this and other Articles, Illinois Compiled Statutes, and the Illinois Supreme Court Rules, and where conflicts exist, the Illinois Supreme Court Rules and the Illinois Compiled Statutes shall control.

#### 19.01 COURTROOMS, CASE AND TRIAL CALL ASSIGNMENTS

- (a) Courtroom designations within the Criminal and Traffic Courts shall be regulated by General Order issued by the Chief Judge.
- (b) Felonies are to be assigned by the Circuit Clerk's computer random assignment system among the designated felony courtrooms. The Chief Judge or designee shall retain the authority to directly assign a case, certain cases or class of cases to any court room outside of the random assignment where warranted for reasons of justice, efficiency or other circumstances.
- (c) A case shall be considered as being placed upon the trial call of a Judge the date of the defendant's first appearance, before the assigned Judge whether that appearance is in open court or by video.

#### 19.02 CONSOLIDATION OF OFFENSES

- (a) When more than one (1) felony case is filed against the same defendant, all such cases shall be assigned to the Judge to whom the earliest filed of all the cases was assigned, unless specifically exempted by order of the Chief Judge.
  - (1) For purposes of determining the earliest filed case, only pre-judgment felony cases shall be considered.
  - (2) If the granting of a motion for substitution of Judges as a matter of right causes fewer than all of the felony cases pending against a defendant to be transferred to a different Judge, the unaffected case or cases shall remain on the docket of the substituted Judge. This rule is limited by 725 ILCS 5/114-5 (b) which addresses the rights of all co-defendants when one of the co-defendants is granted an automatic or ten (10) day substitution.
- (b) Cases of defendants charged with acting together to commit a felony shall be assigned to the Judge to whom the lowest numbered case is assigned. However, if a co-defendant has an earlier filed pre-judgment felony case pending, that defendant's case shall be

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assigned instead to the Judge to whom the earlier filed felony (or felonies) has been assigned.

- (c) If a motion for joinder is filed involving defendants whose cases are pending before different Judges, the motion shall be heard by the Judge to whom the lowest numbered case is assigned.
- (d) If a co-defendant's motion for substitution of Judge results in reassignment, the remaining co-defendants' cases shall not follow unless a motion for joinder is granted.

### 19.03 SUBSTITUTION OF JUDGE

- (a) If a motion for substitution of Judge, under 725 ILCS 5/114-5(c) is granted, the case shall be reassigned by random computer assignment through the Circuit Clerk. The assignment will be from the pool of eligible felony Judges, other than those named in the motion. The Judge substituted from shall enter an order placing the case on the randomly selected Judge's court call.
- (b) If a motion for substitution of Judge is filed under 725 ILCS 5/114-5 (a), the Judge should proceed no further and send the file immediately to the Presiding Judge for hearing on the defendant's motion. The Presiding Judge may assign the hearing to another felony judge for hearing if warranted by circumstances. If the motion is denied the case shall return to the judge to whom it was assigned before the motion for substitution was filed. If the motion is granted the Presiding Judge will reassign the matter for further proceedings through the Circuit Clerk's random computer assignment system. The pool for re-assignment will consist of all eligible felony assignment judges other than the substituted Judge or Judges.
- (c) The Chief Judge or designee shall retain the authority to directly assign a case upon a motion for substitution to any Judge for hearing on further proceedings for reasons of justice, efficiency or other circumstances.

### 19.04 SPECIALTY COURTS

- (a) A defendant seeking to enter Pre-Trial Diversion (PTD), Drug Rehabilitation Court (DRC), Treatment alternative court (TAC), or any other specialty court must make application in the courtroom his/her case is currently assigned.
- (b) If a defendant is terminated from a Specialty Court the specialty court will set the defendant's case back to the originally assigned court room for further proceedings.
- (c) At any time prior to entering final judgement on the conviction and sentence the assigned court judge may permit the defendant to apply to a specialty court. The court cannot consider a specialty court if prohibited by statute or specialty court rules.

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### **19.05 APPOINTED COUNSEL**

Traffic, misdemeanor, and ordinance violation cases (other than DUI and Domestic Violence) where the Public Defender, MDD, Conflict Counsel, or other Court Appointed Counsel is appointed to represent a defendant shall be heard in the Kane Branch Court. Upon initial appointment of counsel in the Aurora, or Elgin Branch Courts, the case shall be transferred to the Kane Branch Court at 9:00 a.m. on the first available Monday court is in session for all further proceedings. Any failure to appear warrant issued thereafter in any such transferred case shall remain returnable to the Kane Branch Court.

### **19.06 BRANCH COURT JURY DEMANDS**

Any demand for a jury trial made in a Branch Court shall be set for trial setting before the Presiding Judge of the Traffic or Misdemeanor Division. No case shall be sent to the Presiding Judge for trial setting until all pre-trial motions, including motions in limine are heard and decided by the Branch Court Judge.

### **19.07 PETITIONS TO EXPUNGE RECORDS OF ARREST**

Any petition to expunge records of felony or misdemeanor arrest pursuant to 20 ILCS 2630/5, 20 ILCS 2630/5.2, or 730 ILCS 5/5-6-3.1 shall be in writing and shall be brought before the Chief Judge of the Circuit or any Judge designated by the Chief Judge.

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### ARTICLE 20: FELONIES

#### 20.00 PROCEDURE FOR DISCLOSURE AND FILING OF PRE-SENTENCE REPORTS

- (a) A copy of the pre-sentence report shall be sealed and filed in the court file. The envelope containing the pre-sentence report shall be marked "Pre-Sentence Report," case number and title.
- (b) If there is no attorney of record, the Probation Department shall notify defendant that a copy of the Pre-Sentence Report is available at the Probation Department.
- (c) All copies of the Pre-Sentence Report that have been distributed shall be retained by the party to whom they are tendered.
- (d) The Probation Department shall prepare a courtesy copy of the Pre-Sentence Report and all addendums for the personal use of the sentencing judge; courtesy copy shall be destroyed upon entering the sentence.

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## ARTICLE 21: DRIVING UNDER THE INFLUENCE OF ALCOHOL

### 21.00 APPLICABILITY

The provisions of this Article shall apply to all cases involving the operation of a motor vehicle under the influence of alcohol or other drug (DUI), whether the offense is charged under the Illinois Vehicle Code 625 ILCS 5/11-501 et. seq. or under a similar local ordinance. Where reasonable, these provisions shall be construed and applied consistent with the provisions of Local Court Rules Articles 19, 20, 21, 22, and 23.

### 21.01 DISTRIBUTION OF DUI EVALUATION REPORTS

- (a) In every case in which a professional evaluation is conducted, it shall be done in accordance with Sec. 5-4-1(a) of the Unified Code of Corrections, 625 ILCS 5/6-206.1(a) (3) and General Order 15-20, effective 9-1-15.
- (b) In every case in which a disposition is ordered which requires the involvement of the Department of Court Services, the Clerk shall transmit to the Department of Court Services a copy of the complete evaluation report.
- (c) Any evaluation report transmitted, pursuant to this Rule 21.01, shall be contained within a sealed envelope to ensure that only those persons and agencies with a legitimate lawful interest in the information shall have access to the evaluation report. Every recipient of an evaluation report, pursuant to this Rule 21.01, shall maintain the confidentiality of the information contained in the evaluation report, except the treatment level may be noted on the exterior of the sealed envelope contained in the Court file.

### 21.02 TRANSDERMAL ALCOHOL MONITORS

- (a) The use of transdermal alcohol monitors and Remote Breath Monitors (RBM) by the Court shall be subject to the rules set forth in this article, and shall be limited to the devices set forth below:
  - (1) Secure Continuous Alcohol Monitor (SCRAM) or any other provider deemed suitable by the Chief Judge
  - (2) Remote Breath Monitors
- (b) Alcohol monitoring may be ordered as a condition of bail, or as part of an agreed sentence.
- (c) The cost of monitoring shall be borne by the Defendant, except in cases of indigency, as determined by the monitoring agency/court.
- (d) A court order for alcohol monitoring shall be on a form approved by the Court after review by the monitoring agency. The monitoring agency shall determine if the Defendant can afford the cost of monitoring and if so shall set the amount of fees. If a Defendant considered for monitoring claims to be indigent, the Court shall make a preliminary finding of indigence and refer the Defendant to the monitoring agency for

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application of a sliding scale fee. In no event shall fees be reduced without first obtaining input from the monitoring agency or its representative. The State's Attorney may act as the monitoring agency representative for purpose of input.

### **21.03 SCHEDULING OF CASES**

- (a) The first court dates for DUI offenses shall be set by the arresting law enforcement agency. The first return date shall be not less than fourteen (14) days but within forty-nine (49) days after the date of arrest, whenever practicable.
- (b) Petitions to Rescind Statutory Summary Suspensions shall be set by notice of motion by the State's Attorney's Office, or by order of the presiding Judge in DUI Court.
- (c) Evidentiary motions shall be filed promptly with notice of filing, but in no event not less than forty-five (45) days prior to trial, except with leave of court and for good cause shown and as may be necessary to avoid injustice.

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## ARTICLE 22. TRAFFIC AND ORDINANCE VIOLATIONS

### 22.00 APPLICABILITY

- (a) The provisions of the Article shall apply to all matters assigned to the traffic Division, whether based upon an alleged violation of the Criminal Code, the Illinois Vehicle Code 625 ILCS 5/1-100 et. seq. or a local traffic or non-traffic ordinance, unless and until the case is transferred to another division. The provisions of the Article shall, to the extent practicable, be so construed and applied consistently with the provisions of any other Articles set forth herein, as well as the Illinois Supreme Court Rules.
- (b) The Traffic Courts shall be located at the following locations:

**Kane County Branch Court**

530 S. Randall Road  
St. Charles, IL 60174

**Aurora Branch Court**

1200 East Indian Trail  
Aurora, IL 60505

**Elgin Branch Court**

Elgin Police Department  
150 Dexter Court  
Elgin, IL 60120

**Carpentersville Branch Court**

Carpentersville Police Dept.  
1200 L.W. Besinger Drive  
Carpentersville, IL 60110

### 22.01 JURY DEMANDS

- (a) When a jury is demanded in the Traffic Courts, the Traffic Court Judge shall transfer the case to the Presiding Judge of the Traffic and Misdemeanor Division for jury trial.
- (b) When a defendant waives the right to a jury trial after demanding a jury trial, the case shall be sent back to the court of origin or bench trial setting.

### 22.02 INSUFFICIENT PAYMENTS

The Kane County Circuit Clerk shall, upon receiving an insufficient payment amount on a minor traffic or conservation offense, pursuant to Supreme Court Rule 529, schedule the case on a court call at least twenty-eight (28) days, but no more than forty-five (45) days on a regularly scheduled date for the originating agency, and shall notify the defendant of the newly scheduled date and amount required to satisfy the outstanding fines and costs due in the case. If the defendant has paid the amount due five (5) days prior to the scheduled court date, and is not otherwise required to appear in court, then the defendant need not appear on the scheduled court date and the clerk shall remove the case from the court call. If the defendant has not paid the amount due five (5) days prior to the scheduled court date, then the defendant must appear on the scheduled court date.

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## **ARTICLE: 23: KANE COUNTY DRUG REHABILITATION COURT RULES AND PROCEDURES**

### **23.00 MISSION**

The Illinois General Assembly has recognized that there is a critical need for a criminal justice program that will reduce the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. It is the mission of the Kane County Drug Rehabilitation Court, established here under the provisions of 730 ILCS 166/1 et. seq. to accomplish these goals through an immediate and highly structured judicial intervention process for substance abuse treatment of eligible defendants that brings together substance abuse professionals, local social programs and intensive judicial monitoring in accordance with the Illinois Supreme Court Problem-Solving Courts Standards. The Kane County Drug Rehabilitation Court (hereinafter referred to as "KCDRC") is a post-adjudicatory program for defendants who have admitted guilt or have been found guilty and agree to enter a drug court program as part of the defendant's sentence.

### **23.01 ETHICAL CONSIDERATIONS**

The KCDRC team shall utilize a non-adversarial, collaborative approach and maintain professional integrity and accountability. Each member of the Problem-Solving Court Team shall adhere to the ethical standards and Codes of their profession.

### **23.02 DEFINITIONS**

The KCDRC "Team" shall include a Judge, prosecutor(s), defense attorney(s), probation officers, licensed treatment provider(s), coordinator and law enforcement representatives. A "Participant" is a defendant who has been admitted into the KCDRC program.

### **23.03 ELIGIBILITY**

- (a) Only defendants who apply for admission to the KCDRC will be considered for admission.
- (b) No defendant shall be admitted to the KCDRC unless he or she is a resident of Kane County. Once admitted, continued Kane County residency is required unless the KCDRC Judge orders otherwise.
- (c) A defendant shall be excluded from KCDRC if any one of the following apply:
  - (1) The crime is a crime of violence as set forth in 23.03 (c) (4) of this subsection.
  - (2) The defendant denies his or her use of/or addiction to drugs.
  - (3) The defendant does not demonstrate a willingness to participate in a treatment program.
  - (4) The defendant has been convicted of a crime of violence within the past ten (10) years excluding incarceration time, including, but not limited to; first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, armed robbery, aggravated arson,

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arson, aggravated kidnapping, kidnapping, aggravated battery resulting in a great bodily harm or permanent disability, stalking, aggravated stalking, or any offense involving the discharge of a firearm.

- (5) The crime is a driving under the influence of alcohol offense under 625 ILCS 5/11-501(a) (1) or (a) (2).
- (6) The defendant is a registered sex offender.
- (7) The defendant is an active gang member.
- (8) The prosecutor does not agree to the admission of the defendant who:
  - (A) Is charged with a Class 2 or greater felony violation of:
    - i. Section 401, 401.1, 405, or 405.2 of the Illinois Controlled Substances Act;
    - ii. Section 5.5.1 or 5.2 of the Cannabis Control Act;
    - iii. Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56 or 65 of Methamphetamine Control and Community Protection Act.
  - (B) Has previously, on three (3) or more occasions, completed a drug court program, been discharged from a drug court program, or been terminated from a drug court program.
- (9) The defendant is not moderate-high to high criminogenic risk or does not have high behavioral health treatment needs as determined by the use of validated risk assessment tools and clinical assessment tools.
- (10) The defendant has been charged with drug dealing offenses primarily for purposes of financial gain and not to support their addiction.
- (11) No defendant shall be admitted to the KCDRC if, at the time of plea of guilty, felony charges are pending alleging a crime which would make the defendant ineligible to enter the KCDRC, under 23.03 (c) (4) of this local rule.

### **23.04 PROCEDURE**

- (a) The Chief Judge shall establish the format of operation of the KCDRC, including but not limited to, scheduling and the approval of forms.
- (b) The Chief Judge shall assign a Judge to preside over all KCDRC cases. No defendant shall be permitted to remain in the KCDRC under the supervision of any other Judge, unless the Chief Judge so orders. This does not apply to those cases in which the defendant is also being monitored or treated by the drug court of another Circuit or another county.
- (c) KCDRC shall maintain written policies and procedures that comply with The Illinois Supreme Court Problem-Solving Court Standards. All policies and procedures shall comply with applicable state and federal laws, applicable Supreme Court policies and procedures, and the policies and procedures of the Sixteenth Judicial Circuit, Kane County, Illinois. Policies and procedures shall incorporate interventions and approaches consistent with evidence-based practices and principles.
- (d) KCDRC shall maintain a written handbook which will be provided to each participant which sets forth all KCDRC requirements. The handbook will include, among all other

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requirements, the participant's responsibilities, the program phases and requirements for phase advancement, the use and administration of incentives, sanctions and therapeutic adjustments, the drug and alcohol testing requirements and the possible program outcomes; the requirements for successful completion; the procedures for neutral discharge, voluntary withdrawal and unsuccessful discharge from the program; and the participant's rights at a hearing on a petition to terminate from KCDRC or to revoke probation.

- (e) Successful and neutral discharge decisions shall be made by the KCDRC team collaboratively. Prior to unsuccessful discharge, the participant shall be served with a petition to terminate the participant from KCDRC or to revoke probation which shall set forth the claimed violations of the program. The KCDRC judge shall ensure that a participant is advised of and accorded all rights set forth in Supreme Court Rule 402, including, but not limited to, the right to counsel and a hearing. At a hearing on a petition to terminate a participant from KCDRC or to revoke probation, the KCDRC judge shall not consider any information obtained through team staffing's, status review hearings or otherwise, unless newly received evidence at the hearing. The KCDRC judge should disqualify himself/herself under the circumstances listed in Supreme Court Rule 63C. A participant retains the right to move for substitution of judge pursuant to section 114-5(d) of the Code of Criminal Procedure.

### **23.05 SUBSTANCE ABUSE TREATMENT**

- (a) The KCDRC shall maintain a network of licensed treatment providers. A licensed treatment provider may be a person who individually holds, or a person who is a qualified staff member of an entity that holds, a currently valid license or certification from the appropriate United States or State of Illinois governmental department or agency to provide substance abuse treatment, mental health treatment, behavioral health treatment, medical treatment and/or related services.
- (b) The KCDRC Judge may, at his or her discretion, employ additional services or interventions, as he or she deems necessary on a case by case basis.

### **23.06 VIOLATIONS, SANCTIONS, TERMINATION, DISCHARGE**

- (a) Incentives, sanctions, and therapeutic adjustments shall be administered to motivate a person to comply with KCDRC program requirements. The KCDRC team shall have input into the decision of what constitutes an appropriate response to a participant's behavior with the final decision to be made by the judge. Prior to the administration of any sanction, incentive or therapeutic adjustment, the judge shall advise the participant in open court of the team's recommendation and the participant shall be permitted to address the court about the matter before the judge's final decision.
- (b) A defendant admitted to the KCDRC may, at any time, move orally or in writing to voluntarily terminate his or her participation in the KCDRC. If the request is oral, the defendant shall be provided with a written voluntary termination form ([LINK](#)) and shall

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sign it. Upon being presented with a signed voluntary termination form, the KCDRC Judge shall, without delay, transfer the case to the originally assigned felony courtroom.

- (c) If the KCDRC Judge finds from the evidence presented at a hearing on a petition to revoke defendant's probation or to terminate defendant from KCDRC;
- (1) The defendant is not performing satisfactorily in the assigned program;
  - (2) The defendant is not benefiting from education, treatment, or rehabilitation;
  - (3) The defendant has engaged in criminal conduct rendering him or her unsuitable for the KCDRC program; or
  - (4) The defendant has otherwise violated the terms and conditions of the KCDRC program or his or her sentence, then KCDRC Judge may revoke defendant's probation and terminate defendant from KCDRC and the matter shall proceed to a sentencing hearing in accordance with the Unified Code of Corrections.
- (d) A neutral discharge may be allowed for a participant who has been substantially compliant with the KCDRC program rules, but, after having exhausted reasonable efforts, is unable to successfully complete program requirements to qualify for a successful discharge. A neutral discharge shall terminate the defendant's sentence and discharge the defendant from further proceedings in the original prosecution. Successful and neutral discharge decisions shall be made by KCDRC team collaboratively.
- (e) Upon successful completion of the terms and conditions of the KCDRC program, the Court may, with the State's agreement, vacate defendant's plea and the judgment of conviction and dismiss the original charges against the defendant or successfully terminate the defendant's sentence or otherwise discharge him or her from any further proceedings against him or her in the original prosecution. No order of successful discharge from the KCDRC shall enter unless, immediately prior to the date of discharge, the defendant has completed a minimum of twelve (12) consecutive months without the use of prohibited substances.