

Proposed amendments to the Indiana Rules of Criminal Procedure (May 2024)

*The proposed amendments to the Rules of Criminal Procedure would do the following:

- Rule 1.4 (A)(5)— clarify when discovery procedures apply in the investigative process
- Rule 2.4(B)— correct a drafting error
- Rule 2.5(B)— change “pro se defendant” to “self-represented defendant”
- Rule 2.7(A)— clarify that a defendant must file a separate legal memorandum with a motion to dismiss
- Rule 4.2— add new paragraph (C) to clarify when the time period tolls if a defendant is charged in one Indiana county prior to being incarcerated in a different county

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Rule 1.4. Investigation Process

(A) Precharge Subpoena Duces Tecum.

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(5) After ~~charges are filed~~an initial hearing, the discovery procedures set forth in Rule 2.5 apply.

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Rule 2.4. Change of venue or judge

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(B) Change of Judge.

~~Except as provided for in Rule 3.3(C),~~ It the state or defendant may request a change of judge only for bias or prejudice. The motion must be accompanied by an affidavit signed by the defendant or prosecuting attorney. The affidavit must set forth facts and the reasons for the belief that bias or prejudice exists. If the defendant signs the affidavit, the defendant’s attorney must file a certification that the attorney believes in good faith the facts recited in the affidavit are true. The court must grant the request if the facts recited in the affidavit support a rational inference of bias or prejudice.

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Rule 2.5. Discovery

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(B) Disclosures by the State

(1) The state must disclose and furnish all relevant items and information under section (B)(2) to the defense within thirty days from the date of the initial hearing, an appearance by defense counsel, or an appearance by a self-represented ~~pro se~~ defendant, whichever is later.

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Rule 2.7. Written Motions and Legal Memoranda

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(A) Motion to Dismiss.

A separate legal memorandum must accompany ~~any~~ defendant's motion to dismiss. Additional requirements are prescribed by Ind. Code § 35-34-1-4.

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Rule 4.2. Commencement of Rule 4 Time Periods for Those Incarcerated Outside of State or in Another County

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(B) If a defendant is charged in one Indiana county ~~prior to or~~ during the time the defendant is incarcerated in a different county, the Rule 4 time periods commence on the earlier of: (1) the date the court in the non-custodial county orders the defendant's appearance; or (2) the date the defendant provides written notice to the court where the charge is pending of the defendant's location and requests initiation of proceedings in the non-custodial county.

(C) If a defendant is charged in one Indiana county prior to the defendant being incarcerated in a different county, the Rule 4 time period tolls from the defendant's failure to appear in the non-custodial county until the earlier of: (1) the date the court in the non-custodial county orders the defendant's appearance; or (2) the date the defendant provides written notice to the court where the charge is pending of the defendant's location and requests initiation of proceedings in the non-custodial county.

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