

STATE OF INDIANA)	MARION CIRCUIT AND
)	SUPERIOR COURTS
)	
COUNTY OF MARION)	
)	
In Re Local Court Rules)	

Notice of Proposed Local Rule Amendments, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts in compliance with the provisions of Trial Rule 81 give Notice of proposed amendments to their local court rule concerning **Writ of Attachment: Procedure** at **LR49-TR4.12-202**. And, pursuant to Trial Rule 81(D), the Judges find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of amendments to local rules. Accordingly, the Courts issue the following proposed amendments to the Marion County Local Court Rules and ask for comment from the bar and the public. Underlining indicates proposed additions and ~~striking through~~ indicates deletions. The amended rule will be effective on **October 30, 2015**.

Comments to this proposed Local Rule amendment will be received through **Noon on October 28, 2015**. Comments to this proposed amended Local Rule should be e-mailed to the Office of the Court Administrator, c/o Amitav Thamba, at Amitav.Thamba@indy.gov or mailed to:

Amitav Thamba
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T-
1221 Indianapolis, IN 46204

All of the above is so ORDERED this 28th day of September, 2015.

/s John M.T. Chavis, II

* Judge John M.T. Chavis, II
Presiding Judge

* Original signature on file with the Court.

LR49-TR4.12-202 WRIT OF ATTACHMENT: PROCEDURE

A. Writ of Attachment Upon failure of a judgment defendant or garnishee to appear as ordered for a scheduled hearing when either copy or personal service has been obtained and unless otherwise directed by the Court, the judgment creditor may schedule a hearing on a Rule to Show Cause as to said individual. If the individual is personally served with the Order to Appear on the Rule to Show Cause and subsequently fails to appear, the Court may make the matter eligible for a writ of attachment of the individual.

The submission of a writ of attachment shall be made within 30 (thirty) days of the date of eligibility. The judgment creditor shall provide any identifying information available to assist in the enforcement of the attachment and shall provide properly completed forms as may be required by the Court from time to time. These forms include:

1. 3 (three) copies of the Order for the writ of attachment which sets the appropriate cash bail (IC 34-49-1(b) requires a minimum cash bail in the amount of \$100.00)
2. Warrant Information Card, including all identifying information available to the Judgment Creditor
3. Any telephone numbers at which the Court may notify the judgment creditor or attorney of the individual's attachment

B. Writ of Attachment-Law Enforcement. Any law enforcement officer may attach any individual named in the writ of attachment. Once the individual is taken into custody, the individual is to be brought directly to the Arrestee Processing Center ("APC"). Upon arrival at the "APC", the law enforcement officer serving the writ must immediately notify the court staff. The APC court staff will promptly recall the writ and schedule the case to be heard by the APC judicial officer as soon as possible. The individual will wait in the front lobby of the APC until the judicial officer is available to conduct a hearing. The judicial officer on duty at the APC will conduct a hearing and the individual will be released and will be notified of their next court date which will be scheduled for a Hearing on the next available Pro Sup docket. shall be processed through the Arrestee Processing Center. The Marion County Sheriff's Office shall provide the Court with prompt notification that the individual has been attached. If the attached individual is unable to make bail, the Marion County Sheriff's Office shall bring the individual before the Court issuing the writ of attachment as soon as is reasonably practicable. Where an individual has posted bail prior to appearing before the Court, the Marion County Sheriff shall provide notice to the individual of the new date and time for a hearing before the Court with a caution that failure to re-appear shall be grounds for re-arrest and a higher bail.

~~The Supervising Judge of the Arrestee Processing Center shall have the authority to release on his or her own recognizance any attached individual unable to post cash bail in instances of emergencies and/or jail over crowding.~~

1. APC "Hearing" When No Judicial Officer Present. If the individual is taken into custody at a time when there is no judicial officer present at the APC, the APC court staff shall recall the writ and conduct the hearing out of session by filing out an "Off Record Form." The "Off Record Form" will require the individual provide their current contact information and employment information under penalties of perjury.

C. Writ of Attachment-Hearing. Upon completion of the APC hearing, the APC court staff will provide notification to the Court that issued the writ. Upon receipt of notice of the attachment of a judgment defendant or garnishee defendant by a law enforcement officer, the That Court shall attempt to contact the judgment creditor or attorney of record at the telephone numbers provided to the Court. The Court will notify them of the court hearing scheduled on the Pro Sup docket and will advise the judgment creditor or attorney to appear in person to question the judgment defendant at this time. The Court shall schedule the matter for a hearing as soon as possible and will advise the judgment creditor or attorney to appear in person to question the judgment defendant at this time. The judgment creditor or shall be given at least 2 (two) hours' notice to appear and question the judgment defendant as directed by the Court. If the judgment creditor or attorney fails to appear for that hearing within the 2 (two) hour period, the Court may, in its sole discretion, ~~release the defendant and dismiss the proceedings supplemental or provide the judgment defendant with a new date and time to appear and be questioned by the judgment creditor or attorney.~~

D. Writ of Attachment-Calendaring, Expiration and Recall. A writ of attachment expires 120 (one hundred and twenty) days after the date of issuance. Upon issuance of a writ, the Court staff shall use the electronic case management system to calendar the writ to ensure its immediate recall upon expiration. The judgment creditor may petition for recall of the writ at any time prior to the expiration date upon written motion which shall state the reason for the recall. Upon recall of a writ of attachment, the proceedings supplemental shall be dismissed by the Court.

(Amended effective ~~August 15, 2014~~ October 30, 2015)