

In the
Indiana Supreme Court



CAUSE NUMBER: 94S00-1401-MS-57

ORDER AMENDING INDIANA RULES OF CRIMINAL PROCEDURE

On December 18, 2013, this Court issued an Order creating a new Criminal Rule 25, effective January 1, 2015. Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Indiana Criminal Rule 25 is amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

Rules of Criminal Procedure

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Rule 25. Right to Counsel in Juvenile Delinquency Proceedings

(A) **Right to Counsel.** A child charged with a delinquent act is entitled to be represented by counsel in accordance with Ind. Code Section 31-32-4-1.

(B) **Mandatory Appointment of Counsel in Certain Juvenile Delinquency Proceedings.**

However, counsel for the child must be appointed:

- (1) when there is a request to waive the child to a court having criminal jurisdiction; or
- (2) when a parent, guardian, or custodian of the child has an interest adverse to the child; or
- (3) before convening any hearing any proceeding in which the court may find facts (or the child may admit to facts) on the basis of which the court may impose the following:

- (a) wardship of the child to the Department of Correction~~;~~;
- (b) placement of the child in a community based correctional facility for children;
- (c) confinement or continued confinement of the child in a juvenile detention center following the earlier of an initial or detention hearing;

- (d) placement or continued placement of the child in a secure private facility following the earlier of an initial or detention hearing;
- (e) placement or continued placement of the child in a shelter care facility following the earlier of an initial or detention hearing; or
- (f) placement or continued placement of the child in any other non-relative out of home placement following the earlier of an initial or detention hearing; or

(4) when a child is taken into custody and detained pursuant to Ind. Code Section 31-37-4-1, ~~or 2, or 5.~~

unless or until a valid waiver has been or is made under subsection (C) below.

(C) Waiver. Following the appointment of counsel under subsection (B), any waiver of the right to counsel shall be made in open court, on the record and confirmed in writing, and in the presence of the child's attorney.

(D) Withdrawing Waiver. Waiver of the right to counsel may be withdrawn at any stage of a proceeding, in which event the court shall appoint counsel for the child.

(E) Effective Date. This rule shall become effective January 1, 2015.

This amendment shall take effect January 1, 2015.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit and Superior Courts are directed to bring this Order to the attention

of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, on October 30th, 2014.

/s/Loretta H. Rush
Loretta H. Rush
Chief Justice of Indiana

All Justices concur.