

Judicial Officers: Authority and Responsibility

Court Operations & Closures

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Personnel - Statutory Authority

Judges are allowed to appoint staff to serve the court: bailiffs under Ind. Code 33-38-2, court reporters under I.C. 33-41-1, juvenile probation officers under I.C. 31-31-5, adult probation officers under I.C. 11-13-1, and other staff as may be required for the operation of the court.

Daily Operation of the Court

Operation of the Court is up to the individual choice of the judge subject to provisions of the Indiana Constitution, rules adopted by the Indiana Supreme Court, and statutes of the Indiana General Assembly.

Indiana Constitution of 1851

Article 1, Section 12

All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase, completely, and without denial; speedily, and without delay.

Article 7, Section 4

The Supreme Court shall have no original jurisdiction except in admission to the practice of law; discipline or disbarment of those admitted; the

unauthorized practice of law; discipline, removal and retirement of justices and judges; supervision of the exercise of jurisdiction by the other courts of the State; and issuance of writs necessary or appropriate in aid of its jurisdiction...

Ind. Rules of Trial Procedure 72

- (A) Trial courts are always open. The trial courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning process and of making and directing all interlocutory motions, orders, and rules. Terms of court shall not be recognized. ...

- (C) Clerk's office and orders by clerk. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays, but the circuit court judge may provide by local rule or order that its clerk's office shall be open for specified hours on Saturdays or legal holidays other than New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. All motions and applications in the clerk's office for issuing process, including final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but the clerk's action may be suspended or altered or rescinded by the court upon cause shown. ...

Statutory Provisions

I.C. 33-32-2-4: ...

- (b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk: ... may close the office on those days that the judge of the circuit court orders the

court closed in accordance with the customs and practices of the county ...

Occasionally questions arise within a county about the propriety of closing court and clerk offices during regular business hours because of perceived financial constraints or other reasons. County Commissioners have at times proposed reducing the work week from five days to four days resulting in closure of the courthouse on a normal workday.

These issues have previously been discussed with the Supreme Court which has provided guidance.

Trial Rules have the same force as law and control over statutes that conflict on matters of procedure. See I.C. 34-8-1-3 and case annotations. Procedural law sets out the rules and methods and how courts are conducted to obtain the rights established by the substantive law.

The days and hours of operation for other county government officials are also set by the statutes that create those offices and require offices be open all days of the year except for legal holidays with the same provision that they **may** close in accordance with the custom and practice of the county.

The Indiana Attorney General has advised that the concept of closure according to customs and practice as may be espoused by the Board of Commissioners does not mandate an officer to close their office at times contrary to statute. 1955 Ind. OAG 37.

Due to the Supreme Court's authority to adopt its procedural rules for Indiana courts, the provisions of Ind. Trial Rule 72 are controlling and the conflicting provisions of I.C. 33-32-2-4 are without force or effect. *State ex rel. Western Parks v. Bartholomew County Court*, 270 Ind. 41, 383 N.E.2d 290, 1978 Ind. LEXIS 838 (1978), *McEwen v. State*, 695 N.E.2d 79, 1998 Ind. LEXIS 45 (1998), *State v. Holtsclaw*, 977 N.E.2d 348, 2012 Ind. LEXIS 897 (2012).

Thus, while the circuit court judge may require that offices be open at other times that are in addition to the regular business hours, the judge cannot reduce the time. Similarly, the county cannot reduce the periods the courts and clerks are open.

Courts and clerks may reduce staff and services but cannot altogether close the courts or the clerk's office during the regular work week on a regular basis. Lawyers and parties must have a facility for transacting court business during regular business hours, every working day, and a court available, with sufficient jurisdiction, to hear urgent matters, during all regular working days and hours. In the rare instance when a closure is necessary during regular business days, the public must have a clearly communicated and available means of access to the court system, e.g., judicial officers on call and documents delivered to and received by the Sheriff who is open for business all days and hours of the year.