

ARTICLE VIII

CRIMINAL PROCEEDINGS

8.0 APPLICABILITY OF RULES

Except where clearly indicated otherwise, the rules contained in this Section shall be applicable to all cases assigned to the Criminal and Traffic Courts.

8.05 COURTROOMS AND CASE ASSIGNMENTS

A. Courtroom assignments within the Criminal and Traffic Courts shall be regulated by Administrative/General Order issued by the Presiding Judge of each county.

B. Motions for Substitution of Judge:

1. If a motion for substitution of judge is granted, the case shall be transferred to the Presiding Judge of the county for reassignment. If the Presiding Judge is named in the motion, the case shall be transferred to the next most senior Circuit Judge of that county for reassignment.
2. A motion for substitution for cause shall be transferred to the Presiding Judge of that county to be assigned for hearing. If the Presiding Judge is named in the motion, the case shall be transferred to the next most senior Circuit Judge of that county for assignment for hearing.

8.10 CONSOLIDATION OF OFFENSES

When a misdemeanor or traffic offense is the basis for a Petition to Revoke Sentence against a Defendant with a felony case, the misdemeanor or traffic

offense shall be assigned to the judge hearing the felony case for all further proceedings.

8.15 ASSIGNMENT TO TRIAL CALLS

For the purpose of 725 ILCS 5/114-5, a matter shall be considered placed upon the call of a judge when the matter is first scheduled to be heard on a contested hearing before that judge.

8.20 CRIMINAL DEFENDANT'S APPEARANCE BY A TWO-WAY AUDIO/VIDEO COMMUNICATION SYSTEM

A. Whenever the appearance in person in court, in a criminal proceeding is required of anyone held in a place of custody or confinement operated by the State or any of its political subdivisions, including counties and municipalities, the chief judge of the circuit by rule may permit the personal appearance to be made by means of two-way audio-visual communication, including closed circuit television and computerized video conference, in the following proceedings:

1. The initial appearance before a judge on a criminal complaint, at which bail will be set;
2. The waiver of a preliminary hearing;
3. The arraignment on an information or indictment at which a plea of not guilty will be entered;
4. The presentation of a jury waiver;
5. Any status hearing; and
6. Any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony will be taken.

- B. The two-way audio-visual communication facilities must provide two-way audio-visual communication between the court and the place of custody or confinement, and must include a secure line over which the person in custody and his or her counsel, if any, may communicate.
- C. Nothing in this Section shall be construed to prohibit other court appearances through the use of two-way audio-visual communication, upon waiver of any right the person in custody or confinement may have to be present physically.
- D. Nothing in this Section shall be construed to establish a right of any person held in custody or confinement to appear in court through two-way audio-visual communication or to require that any governmental entity, or place of custody or confinement, provide two-way audio-visual communication.
- E. A hearing to deny bail to the defendant may not be conducted by way of the two-way audio- visual communication system.

8.25 PETITIONS TO EXPUNGE RECORDS OF ARREST

Any petition to expunge records of felony or misdemeanor arrest pursuant to 20 ILCS 2630/5.2, 730 ILCS 5/5-5-4 and 730 ILCS 5/5-6-3.13 shall be in writing and shall be brought before the Presiding Judge of the county or any Judge designated by the Presiding Judge.

8.30 PROCESSING RETURNS ON BENCH WARRANTS

- A. After a defendant is taken into custody, the defendant should be taken before a judge at the next available bond call when practicable, but in no case, more than 48 hours after arrest.

- B. The Bond Court Judge shall, if necessary, set a bond in accordance with the law. The Bond Call Judge shall set the case for status on the assigned Judge's calendar.

8.35 RELEASE ON INDIVIDUAL BOND WITHOUT POSTING CASH SECURITY

- A. Until further order by the court and pursuant to Supreme Court Rule 553, the Chief Judge may designate law enforcement officers, by Office, who are authorized to release on individual bond without posting cash security, persons 17 years of age or older arrested for or charged with an offense covered by Supreme Court Rules 526, 527 or 528.
- B. Pursuant to Supreme Court Rule 553(d), this type of release by the above designated law enforcement officers may be done except when:
 - 1. The accused has previously been convicted of a criminal misdemeanor or felony;
 - 2. The accused has previously been admitted to bail on one or more criminal charges and the charge or charges are currently pending;
 - 3. The accused, at the time of arrest, is in possession of a dangerous weapon;
 - 4. The accused is on parole, probation, conditional discharge, or supervision for a misdemeanor or felony;
 - 5. There is an outstanding warrant, detainer or bond forfeiture against the accused;
 - 6. The accused is unable or unwilling to establish his identity or submit to being fingerprinted as required by law; or

7. Detention is necessary to prevent imminent bodily harm to the accused or to another.
- C. Persons under 18 years of age, who have been charged or arrested for a misdemeanor offense, who cannot make bail, may be released on individual bond as set by statute if the authorities cannot, within a reasonable time, locate a parent or adult standing in the place of a parent to execute the bond as surety.

8.40 STATUTORY FEE FOR FAILURE TO APPEAR WARRANTS

Those persons authorized to release individuals on bond in the 23rd Judicial Circuit shall be authorized to release a person who has posted their bond but is unable to post the statutory fee imposed by 725 ILCS 5/110-7(I) for failure to appear. In that event, the statutory fee shall be collected as court costs imposed in the case.

8.45 INTERSTATE COMPACT TRANSFER OF ADULT PROBATION

- A. Pursuant to 730 ILCS 5/5-9-1.13, any person subject to the conditions of probation who seeks to transfer to another state subject to the Interstate Compact for Adult Offender Supervision must make provisions to pay any court ordered restitution prior to the transfer. In addition, the defendant shall pay to the court a \$125.00 transfer fee before the transfer can be granted.
- B. Said fee payment shall be to the Circuit Court Clerk who shall then place the fee in the Kendall County or DeKalb County General Fund via the Interstate Compact fee line item, if one exists. Said proceeds shall be used to defray the costs of the Kendall County or the DeKalb County Sheriff's Department who will be required to retrieve offenders that violate the terms of their

transfers to other states. Upon return to Illinois, these persons shall also be subject to reimbursing Kendall County or DeKalb County for the actual costs of returning them to Illinois.

(Rule 8.45 amended by General Order 18-2; *effective March 30, 2018.*)