

In the
Indiana Supreme Court



IN THE MATTER OF THE)
) Case No. 06S00-0612 -MS- 535
APPROVAL OF LOCAL RULES)
)
FOR BOONE COUNTY)

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Boone Circuit and Superior Courts request the approval of amended local rules: for the appointment of special judges in accordance with Ind. Trial Rule 79(H), reassignment of criminal cases in accordance with Ind. Criminal Rule 2.2, court reporter services in accordance with Ind. Administrative Rule 15, and caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Boone Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR06-TR79-BLR-26, LR06-CR00-BLR-13, LR06-AR15-BLR-23, and LR06-AR01-BLR-31, comply with the requirements of Ind. Trial Rule 79, Ind. Criminal Rule 2.2, Ind. Administrative Rule 15, and Ind. Administrative Rule 1(E), and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Boone County Local Rules, LR06-TR79-BLR-26, LR06-CR00-BLR-13, LR06-AR15-BLR-23, and LR06-AR01-BLR-31, set forth as an attachment to this Order, are approved effective January 1, 2007, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website not less than thirty (30) days prior to the effective date.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Steve David, Boone Circuit Court, 310 Courthouse Square, Lebanon, IN 46052; the Hon. James R. Detamore, Boone Superior Court #2, 112 Courthouse Square, Lebanon, IN 46052; and the Hon. Matthew C. Kincaid, Boone Superior Court #1, 307 Courthouse Square, Lebanon, IN 46052; and to the Clerk of the Boone Circuit and Superior Courts, and to post this Order on the Court's website dealing with local rule amendments.

The Clerk of the Boone Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 22nd day of December, 2006.



Randall T. Shepard
Chief Justice of Indiana

**In the
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IN THE MATTER OF)
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REQUEST FOR APPROVAL)
) Case No.
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)
FOR COURTS OF RECORD IN)
)
BOONE COUNTY)

REQUEST FOR APPROVAL OF LOCAL RULES

The judges of the courts of record of BOONE County have decided to adopt the local rules indicated below and request Supreme Court approval for the following local rules for which Supreme Court approval is required:

1. Special judge selection rule pursuant to Trial Rule 79(H);
2. Reassignment of criminal cases pursuant to Criminal Rule 2.2;
3. Court reporter rule pursuant to Administrative Rule 15;
4. Caseload allocation rule pursuant to Administrative Rule 1.

The local rule(s) indicated above have been published for comment pursuant to the schedule established by T.R. 81 (B) for not less than 45 days.

LR06-TR79-BLR-26

SPECIAL JUDGE SELECTION

(Enacted in Compliance With T.R. 79 (H))

- A. Pursuant to T.R. 79, parties to a civil action may agree (with concurrence with judge selected) to any particular special judge.
- B. In the absence of an agreement as to a particular special judge, the parties, alternatively, may agree to have the regular sitting judge appoint a special judge from a list of local judges, magistrates or senior judges.
- C. In the absence of an agreement as to a particular special judge or an agreement to have the regular sitting judge appoint a special judge, the regular sitting judge shall select a special judge in a manner consistent with TR 79(F) by naming a panel consisting of the two (2) remaining judges from Boone County and a third panel member selected on a rotating basis from the list set forth in paragraph G of this rule.
- D. Should none of the above methods set forth in paragraphs A, B, and/or C produce a special judge, the regular sitting judge shall select (on a rotating basis) one of the judges or magistrates from the list set forth in Paragraph G.
- E. If a special judge is not selected or cannot/does not assume jurisdiction due to reasons permitted under TR 79(H), the regular sitting judge shall certify to the Indiana Supreme Court for naming of a special judge.
- F. The available panel of judges from Boone County shall consist of the following:
 - 1. The Judge of the Boone Circuit Court
 - 2. The Judge of the Boone Superior Court I
 - 3. The Judge of the Boone Superior Court II
- G. Also included on the list contemplated in Paragraphs C and D of the rule hereinabove for Boone County, Indiana, are the judges and magistrates or their successors of Hendricks and Hamilton Counties as follows:
 - 1. The Judge of the Hendricks Circuit Court
 - 2. The Judge of the Hendricks Superior Court I
 - 3. The Judge of the Hendricks Superior Court II

4. The Judge of the Hendricks Superior Court III
5. The Judge of the Hendricks Superior Court IV
6. The Judge of the Hamilton Circuit Court
7. The Judge of the Hamilton Superior Court I
8. The Judge of the Hamilton Superior Court II
9. The Judge of the Hamilton Superior Court III
10. The Judge of the Hamilton Superior Court IV
11. The Judge of the Hamilton Superior Court V
12. The Judge of the Hamilton Superior Court VI

NON-DISCRETIONARY FILING OF CRIMINAL CASES

Effective July 1st, 1995, all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit using the following procedure:

- A. All cases, in which one or more counts are charged under Title IX of the Indiana Code, whether as felonies or misdemeanors, shall be assigned to Superior Court II.
- B. All cases charged as misdemeanors exclusively under Indiana Code 35-48-4, 35-42-2-1, 35-43-5 or 7.1 shall be assigned to Superior Court II. All other cases charged as misdemeanors shall be assigned to Circuit Court. In those circumstances where the nature of the charges would result in a conflict in the assignment of such cases between Superior Court II and Circuit Court, such cases shall be assigned to Superior Court II and Circuit Court on an alternating basis, beginning with Circuit Court.
- C. All cases in which one or more counts are charged under Indiana Code 35-36-1-3 (4) or (5) shall be assigned to Circuit court.
- D. Recognizing that the Circuit Court exercises exclusive jurisdiction in the area of juvenile matters, all felony cases, except as set forth in Letters A and C above shall be rotated between the Circuit, Superior I and Superior II Courts by assigning thirty percent (30%) of such felony cases to Circuit, fifty percent (50%) to Superior I, and twenty percent (20%) to Superior II.
- E. Subject to the exceptions set forth in A and C above, in the event a case charges both felony and misdemeanor offenses, the case shall be considered a felony and assigned pursuant to D above.
- F. The rotation of cases under paragraph D hereinabove shall be accomplished by using one set of one hundred balls. The set for felony cases under paragraph D shall contain 50 balls designated for Superior I, 30 balls designated for Circuit Court, and 20 balls designated for Superior Court II. The balls (those to be selected from and those selected) shall be maintained by the Clerk of the Court and placed in a secure location. Each time a felony case is referred to in paragraph D is filed, the Clerk shall draw a ball and assign the case to the Court so designated. The ball drawn shall be held by the Clerk with the other balls that have been drawn until all balls have been drawn and the process begun again. Whenever a ball is drawn, the Clerk shall note such on a log sheet kept by the Clerk and a Selection Sheet will be placed in each file that identifies who did the particular draw, the number of the ball if applicable, and how it was done.

- G. If, after assignment, a case is dismissed and later refiled, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with Indiana Criminal Rule 2.2 so as to provide a procedure for non-discretionary assignment of criminal cases.
- H. In cases assigned pursuant to D above, where a charge or charges are filed against more than one Defendant and such charge or charges arise out of the same factual allegations or same criminal episode, such cases shall be assigned to the same Court in which the first such case was assigned pursuant to D above. In such event, the subsequent case or cases shall be assigned to the same Court as the first one was and another ball shall be removed from the draw as necessary to simulate that all such cases were drawn by the specific Court to whom they are being assigned.
- I. Notwithstanding Item D above, whenever the Defendant is charged in a cause wherein the basis for the charge or charges has resulted/ or results in the filing of a CHINS proceeding in Circuit Court, then such cause shall be transferred to the Circuit Court, upon request by the Prosecutor, the Department of Child Services, or the Court, on its own motion.
- J. Notwithstanding any of the foregoing, the Judges of Boone County may agree to transfer any criminal case between or among themselves upon good cause shown by the prosecutor or counsel for the Defendant, or upon their own motion, when in the interests of judicial economy or the interests of justice so require.
- K. In order to comply with Criminal Rule 13 (c), a list of alternative judges shall be maintained in the offices of the Circuit, Superior I and Superior II Courts. On this list shall be contained the names of the regular sitting Judges in the counties contiguous to Boone County. Whenever the appointment of an alternative sitting Judge is ordered by any of the regular sitting judges of the court where the Judge sits, the Judge shall assign the case to one of the Judges on this list on a rotating basis.
- L. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).

LR06-AR15-BLR-23

COURT REPORTERS

The Local Rule for Court Reporters in the Circuit and Superior Courts of Boone County, is patterned after Model Option 2 of Administrative Rule #15.

- A. Court Reporters shall be paid an annual salary applied for by the Court and approved by the County Council, which salary shall be payment for regular work hours, gap hours, or overtime hours as the case may be, and which salary shall not include payment for the preparation of any transcripts.
- B. The salary shall be based upon a 35-hour work week. Should Court Reporters work gap hours from 35 to 40 hours per week on regular court business, they shall be entitled to overtime at the hourly rate or comp time on an hour-for-hour basis. Should Court Reporters work more than 40 hours in one week on regular court business, the Court Reporters should be paid time-and-a-half or receive comp time at the rate of one-and-a-half times the overtime hours worked.
- C. All transcripts, including indigent transcripts, transcripts done for private attorneys, deposition transcripts or any and all other such transcripts shall be prepared by the Court Reporters on their own time, off the court premises and pursuant to their own private business arrangements. Such transcripts shall be prepared on equipment purchased and owned by the Reporters, on paper obtained and paid for by the Court Reporters, and no materials or machinery belonging to the court shall be used in the preparation of such transcripts.
- D. Occasionally, it will be necessary for a Court Reporter to use the court's recording equipment for the purpose of taking a private deposition.
- E. Court Reporters may collect a per page rate not to exceed \$4.25 and a minimum fee of up to ten times the maximum per page rate;
- F. Index and Table of Contents pages shall be charged at the same per page rate as is charged for the balance of the transcript;
- G. An additional hourly labor charge based upon the Court Reporter's annual court compensation may be collected for time spend binding the transcript and exhibit binders;
- H. A reasonable charge for office supplies required and utilized for binding and electronic transmission of the Transcript may be collected pursuant to Indiana Rules of Appellate Procedure 28 and 29; the costs of which shall be determined pursuant to a Schedule of Transcript Supplies established and published annually by the Judges.

BOONE COUNTY'S LOCAL CASE LOAD PLAN

We, the undersigned Judges of Boone County, hereby adopt Local Rule 21 entitled "The Boone County Plan for Allocation of Judicial Resources."

WHEREAS, the Supreme Court of the State of Indiana issued its Order for Development of Local Case Load Plans on July 16, 1999; and

WHEREAS, said Order required the Judges of Boone County to adopt a Local Rule for the Allocation of Judicial Resources; and

WHEREAS, the Courts of Boone County, pursuant to Legislative direction and the evolution of time, have acquired certain subject matter expertise that the Judges of Boone County believe should not be altered, but instead should be preserved and enhanced upon, i.e., Circuit Court has exclusive jurisdiction over all juvenile matters, including, but not limited to, Status Offenses, Delinquent Offenses, CHINS proceedings and Paternity matters; Superior I has exclusive jurisdiction over all Estates, Guardianships, Probate matters and Adoptions; and Superior II has exclusive jurisdiction over all Small Claims and certain Alcohol and Drug Offenses;

WHEREAS, the Judges of Boone County have met and discussed the Supreme Court's Order and have established the following plan for Allocation of Judicial Resources within Boone County which maintains the integrity of the courts in Boone County:

IT IS THEREFORE ORDERED by the Judges of Boone County that for calendar year 1999 and beyond, within 60 days of the Supreme Court's issuance of the previous year's Weighted Caseload Report, as reported by the Division of State Court Administration, a calculation shall be made as to Boone County's average caseload, i.e., (Sum of all Court weighted caseloads within Boone County / number of courts in county = county average.) To the extent that each Court is within a range of 0.40 percentage points (or that percentage determined by the Supreme Court) above or below the county average, no action will be taken by the Courts until the following year when the calculation is again made.

To the extent that any Court exceeds a range of 0.40 percentage points (or that percentage determined by the Supreme Court) above or below the county average, then the Judges of Boone County agree to alter or modify the distribution of cases in the County to bring each Court within the range of 0.40 percentage points (or that percentage determined by the Supreme Court) by amending Local Rule 11, Non-Discretionary filing of Criminal Cases.

The Judges of Boone County have determined that this method can be implemented with very little administrative effort and that it will have a minimal effect

on the Prosecuting Attorney's office and a negligible effect on the Local Bar Association. The statistics for the previous year's criminal filings are readily available and the necessary adjustments can be made very quickly and modifications made to Local Rule 11 can be easily distributed to the Clerk's Office and the Prosecutor's Office.

A report will be made annually to the State Court Administration, within the same time period prescribed above, certifying compliance with the Supreme Court's Order in Cause No. 94S00-9907-MS-390. In addition, an amended Local Rule 11 will be implemented by Boone County Judges, when applicable. Moreover, the Judges of Boone County have agreed to review this Rule every two years to determine whether other adjustments should be made in the distribution of cases in Boone County outside the spectrum of Local Rule 11.

Appendix A

Boone County 2006 WCL Plan

	Actual 2005 New Filings			Assignment of cases based upon plan			Comments	Application of plan guidelines and assumptions to 2005				
	Circuit	Sup. 1	Sup 2	Total	Circuit	Sup. 1		Sup 2	Total	Circuit	Sup. 1	Sup 2
MR				0				0.00%				
CE				0				0.00%				
FA	7	2	1	10	70.00%	20.00%	10.00%	100.00%	Historical-- 2005 data	7	2	9
FB	7	7	8	22	31.82%	31.82%	36.36%	100.00%	Historical-- 2005 data	7	7	14
FC	13	17	14	44	29.55%	38.64%	31.82%	100.00%	Historical-- 2005 data	13	17	30
FD	71	82	127	280	25.36%	29.29%	45.36%	100.00%	Historical-- 2005 data	71	82	153
PC	9	2	1	12	75.00%	16.67%	8.33%	100.00%	Historical-- 2005 data	9	2	11
CM	74	1	962	1,037	7.14%	0.10%	92.77%	100.00%	Historical-- 2005 data	74	1	75
MC	35	10	30	75	46.67%	13.33%	40.00%	100.00%	Historical-- 2005 data	35	10	45
IF			487	487	0.00%	0.00%	100.00%	100.00%	Historical-- 2005 data	0	0	487
OV,OE				0					Historical-- 2005 data	0	0	0
JC	277			277	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	277	0	277
JD	149			149	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	149	0	149
JS	81			81	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	81	0	81
JP	126			126	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	126	0	126
JM	176			176	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	176	0	176
JT	11			11	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	11	0	11
PR				0					Historical-- 2005 data	0	0	0
PL	24	40	9	73	32.88%	54.79%	12.33%	100.00%	Historical-- 2005 data	24	40	64
MF	134	40		174	77.01%	22.99%	0.00%	100.00%	Historical-- 2005 data	134	40	174
CC	158	151	30	339	46.61%	44.54%	8.85%	100.00%	Historical-- 2005 data	158	151	309
CT	165	58	6	229	72.05%	25.33%	2.62%	100.00%	Historical-- 2005 data	165	58	223
SC			1,681	1,681	0.00%	0.00%	100.00%	100.00%	Historical-- 2005 data	0	0	1,681
DR	120	102	37	259	46.33%	39.38%	14.29%	100.00%	Historical-- 2005 data	120	102	222
RS	3			3	100.00%	0.00%	0.00%	100.00%	Historical-- 2005 data	3	0	3
MH		16		16	0.00%	100.00%	0.00%	100.00%	Historical-- 2005 data	0	16	16
AD		12		12	0.00%	100.00%	0.00%	100.00%	Historical-- 2005 data	0	12	12
AH				0					Historical-- 2005 data	0	0	0
ES,EU		162		162	0.00%	100.00%	0.00%	100.00%	Historical-- 2005 data	0	162	162
GU	6	44		50	12.00%	88.00%	0.00%	100.00%	Historical-- 2005 data	6	44	50
TR		2		2	0.00%	100.00%	0.00%	100.00%	Historical-- 2005 data	0	2	2
PO	33	7	86	126	26.19%	5.56%	68.25%	100.00%	Historical-- 2005 data	33	7	40
MI	103	11	2	116	88.79%	9.48%	1.72%	100.00%	Historical-- 2005 data	103	11	114
GB				0				0.00%	Historical-- 2005 data	0	0	0
TOTAL	1,782	766	3,481	6,029						1,782	766	3,481