

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR WARRICK COUNTY)

Case No. 87S00-0908-MS- 363

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Warrick Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and appointment of special judges in accordance with Ind. Criminal Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Warrick Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR87-CR-2.2-9 and LR87-AR-7, comply with the requirements of Ind. Administrative Rule 1(E) and Ind. Criminal Rule 13, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Warrick County Local Rules, LR87-CR-2.2-9 and LR87-AR-7, set forth as an attachment to this Order, are approved effective January 1, 2010, 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. David O. Kelley, Warrick Circuit Court, One County Square, #360, Boonville, IN 47601-1594; the Hon. Keith A. Meier, Warrick Superior Court, One County Square, #300A, Boonville, IN 47601; the Hon. Robert R. Aylsworth, Warrick Superior Court, One County Square, #380, Boonville, IN 47601-1862; and to the Clerk of the Warrick Circuit Court. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Warrick Circuit Court 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 10th day of August, 2009.

A handwritten signature in black ink, appearing to read "Randall T. Shepard", written over a horizontal line.

Randall T. Shepard
Chief Justice of Indiana

LR87-CR 2.2-9 ASSIGNMENT AND REASSIGNMENT OF CRIMINAL CASES

1. INITIAL CASE ASSIGNMENT. As used herein, the term *MONTH* for criminal case filing shall mean the following:

- 1.1. Circuit Court JANUARY, APRIL, JULY & OCTOBER
- 1.2. Superior Court No. 1 FEBRUARY, MAY, AUGUST, &
NOVEMBER
- 1.3. Superior Court No. 2 MARCH, JUNE, SEPTEMBER, &
DECEMBER

The monthly rotation will be from 12:01 a.m. on the first day of the month until midnight on the last day of the month.

2. Except as otherwise provided in these rules, all misdemeanor and felony cases shall be assigned to a Court in the monthly rotation set forth in paragraph 1.0 above on the day on which the offense alleged in the charging document or Indictment occurred. In the event of multiple offenses, the date of the earliest offense alleged in the charging document or Indictment shall control the court assignment.

3. All criminal case filings that do not allege a specific date of commission for each of the offenses charged shall be randomly assigned to the Warrick Circuit and Superior Courts. The Clerk of the Circuit and Superior Courts shall place three pieces in an opaque container marked "C", "S-1", or "S-2". At the time a case is filed, the Clerk shall randomly remove one piece from the container. If the piece is marked "C", the case shall be assigned to the Circuit Court. If the piece is marked "S-1", the case shall be assigned to the Superior Court No. 1. If the piece is marked "S-2", the case shall be assigned to the Superior Court No. 2. After each selection, the piece shall be returned to the container for use in the next random assignment.

4. Cases which are filed in which the offense occurred prior to the effective date of these Rules shall be assigned to a court based on the assignment schedule set forth in paragraph 1.0 above, except as set forth herein as to cases with no specific date of offense.

5. DISMISSAL, REILING AND SUBSEQUENT FILING: When the State of Indiana dismisses a felony or misdemeanor case that has been assigned or reassigned under these local rules, and the State of Indiana chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken. Additional criminal charges filed against a defendant who has a felony or misdemeanor charge pending shall be assigned to the court before whom such initial charge is pending. A case is “pending” if it has not been concluded or if any post-sentencing proceeding, such as when any probation or Community Corrections revocation, appeal or motion to correct error has been filed but not been concluded.

6. CASE TRANSFERS. The Prosecuting Attorney or the defendant may move to transfer a case to another court handling a companion case, provided the judge of the receiving court will accept the transfer. Granting of the motion is discretionary, not mandatory.

7. The judges of the Warrick Circuit and Superior Courts, pursuant to statute by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to another court in the county a pending felony or misdemeanor case, provided the receiving court has jurisdiction to hear such case and will accept transfer of such matter.

8. CHANGES OF JUDGE. In the event a motion for change of judge is filed and granted pursuant to Criminal Rule 12, the Clerk shall randomly select one of the other courts with jurisdiction, based upon the procedure set forth in paragraph 3 above, and the case shall be reassigned to that Court.

9. MISCELLANEOUS CRIMINAL MATTERS (MC). All Miscellaneous Criminal matters (MC), including without limitation, applications for search and arrest warrants, probable cause findings, and extraditions, shall be assigned to and filed in a court based upon the date on which the matter is presented to the court and the monthly rotation set forth in paragraph 1.0 above.

10. UNAVAILABILITY OF JUDGE. If the judge of a court to which a matter is to be presented is unavailable, then the matter may be heard by any other available judge of the Warrick Circuit or Superior Courts. However, that matter shall remain in the court to which the matter is to be presented, pursuant to the filing calendar.

11. REASSIGNMENT. In the event of the disqualification, recusal, or other change of judge, a pending felony or misdemeanor case shall be reassigned and transferred randomly to another court in the county by the method set forth in paragraph three (3) above. If the case cannot be reassigned and transferred to another court in the county, the case shall be reassigned to one of the judges from courts from contiguous counties: the Pike Circuit Court, the Spencer Circuit Court, the Gibson Circuit Court, the Gibson Superior Court, the Dubois Circuit Court, or the Dubois Superior Court. Cases shall be reassigned to judges from contiguous counties in seriatim order. Judges previously assigned to the case are ineligible for reassignment under this rule.

12. APPOINTMENT OF SPECIAL JUDGE. In the event these rules fail to assign a case, or unique circumstances presented in a particular proceeding preclude local assignment, the judge before whom the case is pending may request the Indiana Supreme Court to appoint a special judge for the case.

**COUNTY PLAN FOR ALLOCATION OF JUDICIAL RESOURCES
JOINT LOCAL RULE**

Pursuant to the Indiana Supreme Court's order for development of local caseload plans, the judges of the Warrick County Courts hereby adopt, subject to the approval of the Indiana Supreme Court, this joint local rule entitled Warrick County Plan for Allocation of Judicial Resources.

This joint rule has been adopted by the Warrick County Courts after reviewing and considering the weighted caseload results as determined by the Indiana Division of State Court Administration, local custom and practice in Warrick County, the preference of the local bar to maintain the current discretionary filing system, and other relevant factors.

1. The disparity between caseloads in the three courts of general jurisdiction in Warrick County does not indicate to the three local judges that substantial changes need to be made in the current civil filing system that permits discretionary filing of civil proceedings in any of the three courts having general jurisdiction in Warrick County.
2. The local judges believe that either a mandatory filing system for certain cases in one of the three courts, or a random filing system, such as a random draw or assignment system to be maintained by the clerk of the courts, would result in significant increases in motions requesting the appointment of a special judge, with resulting administrative burdens, delays and expenses should out of county special judges be selected to serve in these cases.
3. Because no substantial disparity in caseload exists between the three courts at this time, the present discretionary filing system should be maintained in Warrick County, subject to further review upon the request of any of the three presiding judges, or upon direction by the Indiana Supreme Court upon request of one or more of the presiding judges, or upon the Supreme Court's request for such further review and consideration by the local courts.
4. On or before April 1 of each year, the judges in Warrick County shall review the weighted caseload statistics from the prior year as calculated by the Indiana Division of State Court Administration. Should, upon this review, the presiding judges of the Warrick County Courts determine that a disparity in caseloads between the courts then exists that requires a change in the current discretionary filing system for civil cases, the local judges shall agree upon a reasonable plan to address the disparity in caseload and, if no such agreement between the judges is possible, each of the judges may propose and submit a plan to the Indiana Supreme Court to reduce the caseload disparity at that time. Any such plan submitted by any presiding judge in Warrick County shall be served upon all other judges in Warrick County at the time it is sent to the Indiana Supreme Court, so the remaining judges will know the proposal made by the submitting judge.

5. Should the Indiana Supreme Court direct the Warrick County judges to address a disparity in caseloads between the Warrick County Courts, the local judges shall meet with one another to formulate a plan to reduce this disparity and, once again, if the judges are unable to agree to such a plan, each of the judges may submit his plan or proposal to the Indiana Supreme Court, and once again serve upon the other presiding judges a copy of the plan or proposal when the same is mailed to the Supreme Court for its review.

6. As part of the Warrick County Plan for Allocation of Judicial Resources, the judges and senior judges in the Warrick County Courts shall be reasonably available for the assignment of cases in District 13 consistent with the comparative utilization levels for the courts within the district as provided in the Administrative District 13 Plan for Allocation of Judicial Resources.

7. This Plan for Allocation of Judicial Resources in Warrick County, Indiana, and this joint local rule shall become effective upon approval of the same by the Indiana Supreme Court.