

**STATE OF INDIANA – COUNTY OF MARSHALL
IN THE MARSHALL CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed Amendments to Local Rules for
Selection of Special Judges in Marshall County
October 1, 2015**

In accordance with Trial Rule 81 of the Indiana Court Rules, the Marshall Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rules regarding the selection of special judges in civil and criminal cases for the courts of record of Marshall County, effective **January 1, 2016**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Amendments to these Local Rules require Supreme Court approval and may not take effect until approved by the Supreme Court.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on **October 1, 2015** and close on **October 31, 2015**.

Comments by the bar and the public should be made in writing and mailed to:

Curtis Palmer
Judge of the Marshall Circuit Court
211 West Madison Street
Suite 301
Plymouth, Indiana

E-Mail: curt@co.marshall.in.us

A paper copy of the proposed amended local rules for selection of special judges will be made available for viewing in the office of the Clerk of Marshall County, Marshall County Courthouse, Plymouth, Indiana during normal business hours. Persons with Internet access may view the proposed amended local rules special judge selection at the following websites:

<http://www.co.marshall.in.us> or <http://www.in.gov/judiciary/2921.htm>

Curtis D. Palmer, Judge
Marshall Circuit Court

Robert O. Bowen
Marshall Superior Court No.1

Dean A. Colvin
Marshall Superior Court No.2

LR50-TR79-MLR-009 Selection of a Special Judge Pursuant to Trial Rule 79(H)

~~Section 1~~—Cases involving a change of judge

~~In the absence of an agreement as to a particular~~ an eligible special judge under TR 79 (D), [~~TR 79(D)~~], or an agreement to have the regular sitting judge appoint a special judge [~~TR 79(E)~~], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of other Marshall County judges or full-time judicial officers, or senior judges assigned to the court. If a sufficient number of Marshall County judges or full-time judicial officers, or senior judges assigned to the court do not exist, then a panel shall be named including:

- ~~1. the available Marshall County judges or full-time judicial officers, or senior judges assigned to the court, and~~
- ~~2. judges or full-time judicial officers from courts within the administrative district as set forth in Administrative Rule 3, and~~
- ~~3. judges or full-time judicial officers from contiguous counties outside of the administrative district who have agreed to serve as a special judge in the court where the case is pending.~~

~~If none of the above methods produce a special judge,~~ the clerk of the court shall select a special judge first from the other judges of Marshall County and then (on a rotating basis) from an alphabetical list of judges or full-time judicial officers eligible under Trial Rule 79(J) serving in the administrative district.

In cases in which no judge or full-time judicial officer is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

~~Section 2~~—Cases involving recusal or disqualification of a judge

~~—In the absence of an agreement as to a particular~~ an eligible special judge [~~TR 79(D)~~], or an agreement to have the regular sitting judge appoint a special judge [~~TR 79(E)~~], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or full-time judicial officers from within the administrative district eligible under Trial Rule 79(J), or judges or full-time judicial officers from contiguous counties outside the administrative district who have agreed to serve as a special judge in the court where the case is pending in the administrative district.

~~—In cases in which no judge or full-time judicial officer is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.~~

LR50-CR2.2-MLR-014 Criminal Case Assignment

(A) TRANSFER

A judge of the Marshall Circuit Court, Marshall Superior Court No. 1 or Marshall Superior Court No. 2 may, by appropriate order entered in its record of judgments and orders, transfer and reassign a case or cases to either of the other courts of record in Marshall County with jurisdiction to hear the charged offense, subject to acceptance by the judge of the receiving court.

(B) REFILEING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to refile the case, the case shall be assigned to the court from which the dismissal was taken.

In the event charges have been filed against a criminal defendant and subsequent charges of a Class C or Level 5 Felony or greater are filed in the Marshall Superior Court No. 1, those charges pending in Marshall Superior Court No. 2 or the Marshall Circuit Court of a lesser degree ~~shall~~ may be reassigned to the Marshall Superior Court No. 1.

(C) REASSIGNMENT

In the event a change of judge is granted, or it becomes necessary to assign another judge in any felony or misdemeanor proceeding, the case shall be returned to the Clerk of the Court for assignment to one of the other courts in Marshall County on an alternating basis contingent upon approval by the judge of the court next in line for assignment. In the event the judge next in line for assignment of a case declines assignment due to a conflict of interest the remaining court shall be subject to assignment of the case unless the presiding judge also declines assignment due to a conflict of interest.

In the event a change of judge is granted or it becomes necessary to assign the case to another judge and the other judges in Marshall County decline assignment of that case due to a conflict of interest, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list that includes: the case shall then be assigned on an alternating basis: to one of the senior judges certified to the courts of Marshall County

- (1) eligible judicial officers from within the administrative district; and,
- (2) eligible judicial officers from a contiguous county.

(D) APPOINTMENT OF SPECIAL JUDGE

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in the felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.