

The Clerk of the Elkhart 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, on August 11, 2014.



Brent E. Dickson
Chief Justice of Indiana

LR20-AR00-NAFC-2 FILING OF CASES

(A) GENERAL

All new causes of action shall be docketed with the Clerk of the Court and shall comply with Trial Rule 77 and Administrative Rule 9.

(B) COURT COSTS

No cause shall be docketed or transferred without payment of the costs of the action, unless otherwise ordered.

1) COLLECTION OF FEE FOR LATE PAYMENT

A) A late fee is assessed to the defendant if the defendant has:

- committed a crime;
- violated a statute defining an infraction;
- violated an ordinance of a municipal corporation; or
- committed a delinquent act, and the defendant is required to pay:
 - court costs, including fees;
 - a fine; or
 - a civil penalty, and the defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.

B) If the defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

- The end of the business day on which the court enters the conviction or judgment.
- The end of the period specified by the Court.

C) The fee assessed is \$25.00 or, if amended, that sum allowed by I.C. 33-37-7-22.

D) The court may, if the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty may suspend the payment of the late fee.

(C) ASSIGNMENT OF CRIMINAL CASES

1) Criminal cases shall be filed in specific courts as follows:

a. Elkhart Circuit Court

- All murder charges;
- All attempted murder cases, except child victim cases
- All manslaughter cases, except those in which a child is the victim
- All vehicular homicide cases
- All robbery cases
- All reckless homicide cases
- One-half (1/2) of all Level 1, 2, 3, 4, and 5 controlled substance sale and possession cases
- Juvenile cases (Magistrate)
- Grand Jury cases

b. Elkhart Superior Court 1

- All rape cases, except child victim cases
- all criminal deviate conduct cases, except child victim cases
- All sexual battery cases, except child victim cases
- All criminal recklessness cases, except when a child is the victim
- All Level 5 battery and Level 6 domestic battery cases, except child victim cases, and except those filed in the three (3) city courts sitting in Elkhart County, Indiana
- All Level 3 and 4 felony cases which are not specifically assigned to a court pursuant to this rule

c. Elkhart Superior Court 2

- All burglary cases
- All welfare fraud cases
- All forgery cases
- All Level 5 felony theft cases
- All arson cases
- All Level 5 felony cases which are not specifically assigned to a court pursuant to this rule

d. Elkhart Superior Court 3

- All child victim cases except murder
- One-half (1/2) of all Level 1, 2, 3, 4, and 5 controlled substance sale and possession cases
- All kidnapping and confinement cases
- All Level 1 and 2 felony cases which are not specifically assigned to a court pursuant to this rule

e. Elkhart Superior Court 4

- One-half (1/2) of all habitual traffic offender cases and one-third (1/3) of all other Level 6 felony and misdemeanor cases, except non-support cases and those filed in the three (3) city courts sitting in Elkhart County, Indiana.
- All infraction and county ordinance cases other than those filed in the aforementioned city courts

f. Elkhart Superior Court 5

- One-half (1/2) of all habitual traffic offender cases and one-third (1/3) of all other Level 6 felony and misdemeanor cases, except non-support cases and those cases filed in the aforementioned city courts

g. Elkhart Superior Court 6

- All non-support cases and one-third (1/3) of all Level 6 felony and misdemeanor cases, except habitual traffic offender cases and those cases filed in the aforementioned city courts

2) Assigning new, subsequent, and recharged cases:

- a. **New cases** – New cases that may be filed in more than one court (e.g., Level 1, 2, 3, 4, and 5 felony and controlled substances cases) must be filed on a rotating basis.
 - b. **Subsequent cases** –
 - 1. If the defendant in a pending criminal case is charged with new offenses that carry no greater penalty than the pending charges, the subsequent charges must be filed in the same court hearing the original case.
 - 2. If a new case carrying greater penalties is filed against the defendant in a pending case, the original case must be transferred to the court hearing the subsequent case.
 - c. **Recharged cases** – Any pending case that is later recharged as murder must be transferred to Circuit Court.
 - d. **Exception-** Rule 2(B) 2 does not apply to domestic battery cases.
- 3) All cases in which juvenile court jurisdiction is waived to adult court shall be filed in the appropriate court as dictated by this rule.
- 4) All charges of escape shall be filed in the court which committed the defendant to the facility from which he or she allegedly escaped. All charges of failure to appear shall be filed in the court in which the subject order to appear was entered.

- 5) All requests for a jury trial in the Elkhart City Court shall be transferred to Elkhart Superior Court 5.
- 6) All other city courts receiving requests for jury trial shall be transferred to Elkhart Circuit Court for assignment to an appropriate court or magistrate.
- 7) All requests for trial de novo shall be referred to Elkhart Circuit Court for assignment to an appropriate court or magistrate.

(D) ASSIGNMENT OF CIVIL CASES

1) Civil cases shall be filed in specific courts as follows:

a. Elkhart Circuit Court

All civil filings with the exception of mental health cases and small claims.

Juvenile paternity except those filed in Superior Court 6.

Juvenile CHINS and termination cases (Elkhart Circuit Court, Juvenile Division).

b. Elkhart Superior Court 1

All civil filings with the exception of mental health cases and small claims.

Juvenile paternity except those filed in Superior Court 6.

c. Elkhart Superior Court 2

All civil filings with the exception of guardianships and small claims.

Juvenile paternity except those filed in Superior Court 6.

d. Elkhart Superior Court 3

All civil filings except guardianships and small claims.

e. Elkhart Superior Court 4

All civil filings except guardianship, estates, mental health paternity and dissolution cases.

f. Elkhart Superior Court 5

All civil filings except guardianships, estates, mental health paternity and dissolution cases.

g. Elkhart Superior Court 6

All civil filings except guardianships, estates and mental health.

(E) DELINQUENT LISTS

- 1) Any civil case pending for more than six months may be placed upon a Delinquent List pursuant to Trial Rule 41(E). Any case so listed shall, after 45 days, be dismissed at the cost of the filing party, except for good cause shown. Any case so dismissed shall be deemed to have been dismissed with prejudice as to all parties, unless otherwise ordered.
- 2) Any probate matter in which no filing has been made for more than one year may be placed upon a Delinquent List. If no action is taken within 45 days thereafter, the Court may require the personal representative to show cause why the Court should not impose an appropriate sanction against the personal representative.
- 3) Guardianships shall not be placed upon a delinquent list within two years after the issuance of letters of guardianship, the filing of an inventory, or the filing of a current account.

**SELECTION OF SPECIAL JUDGES IN
CRIMINAL CASES**

When the appointment of a special judge is required under Criminal Rule 12 of the Indiana Rules of Criminal Procedure or an order of disqualification or recusal is entered in a case, or where a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), the provisions of this Rule constitute the exclusive manner for the selection of special judges in circuit and superior courts in all criminal proceedings in Elkhart County.

- a. If the case is in the **Elkhart Circuit Court**, it must be transferred to **Elkhart Superior Court 3**.
- b. If the case is in **Elkhart Superior Court 3**, it must be transferred to **Elkhart Circuit Court**.
- c. If the case is in **Elkhart Superior Court 1**, it must be transferred to **Elkhart Superior Court 2**.
- d. If the case is in **Elkhart Superior Court 2**, it must be transferred to **Elkhart Superior Court 1**.
- e. If the case is in **Elkhart Superior Court 4**, it must be transferred to **Elkhart Superior Court 5**.
- f. If the case is in **Elkhart Superior Court 5**, it must be transferred to **Elkhart Superior Court 4**.
- g. If the case is in **Elkhart Superior Court 6**, it must be transferred to **Elkhart Superior Court 4**.

If, after the above transfer, the judge of the transferee court is unable to hear the case, the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other judges within Elkhart County and then from the judges within the judicial district. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.

The appointed judge under this local rule must accept the case unless:

- a. Disqualified under the Code of Judicial Conduct;
- b. Ineligible under the Trial Rules; or
- c. Excused by the Indiana Supreme Court.

**SELECTION OF SPECIAL JUDGES IN
CIVIL CASES**

If a judge in Elkhart County grants a motion for change of judge under TR 76, or recuses or is disqualified under TR 79(C), and the parties are unable to agree to a judge, or the judge agreed upon does not accept the appointment within the time required by TR 79(D), the following local rule applies:

- a. If the case is in the **Elkhart Circuit Court**, it must be transferred to **Elkhart Superior Court 3**.
- b. If the case is in **Elkhart Superior Court 3**, it must be transferred to **Elkhart Circuit Court**.
- c. If the case is in **Elkhart Superior Court 1**, it must be transferred to **Elkhart Superior Court 2**.
- d. If the case is in **Elkhart Superior Court 2**, it must be transferred to **Elkhart Superior Court 1**.
- e. If the case is in **Elkhart Superior Court 4**, it must be transferred to **Elkhart Superior Court 5**.
- f. If the case is in **Elkhart Superior Court 5**, it must be transferred to **Elkhart Superior Court 4**.
- g. If the case is in **Elkhart Superior Court 6**, it must be transferred to **Elkhart Superior Court 4**.

If, after the above transfer, the judge of the transferee court is unable to hear the case, the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other judges within Elkhart County and then from the judges within the judicial district. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.

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