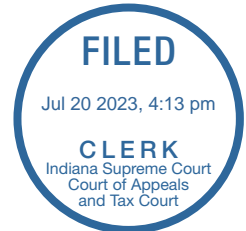


In the Indiana Supreme Court

In the Matter of the Approval of Local
Rules for Floyd County

Supreme Court Case No.
23S-MS-199



Order Approving Amended Local Rules

The Judges of the Floyd County Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E), for criminal case assignments in accordance with Indiana Criminal Procedure Rule 2.2, for special judge assignments in accordance with Trial Procedure Rule 79, and for special judge assignments in accordance with Criminal Procedure Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Floyd County Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR22-TR00-Rule 117 comply with the requirements of Administrative Rule 1(E) and Criminal Procedure Rule 2.2, the amendments at LR22-TR79-Rule 116 comply with Trial Procedure Rule 79, and the amendments at LR22-CR2.2-Rule 210 comply with Criminal Procedure Rule 13, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR22-TR00-Rule 117, LR22-TR79-Rule 116, and LR22-CR2.2-Rule 210, for the Floyd County Circuit and Superior Courts, set forth as attachments to this Order, are approved effective July 31, 2023.

Done at Indianapolis, Indiana, on 7/20/2023.

Loretta H. Rush
Chief Justice of Indiana

LR22-TR79-RULE 116
APPOINTMENT OF SPECIAL JUDGES

A. SELECTION OF ASSIGNMENT JUDGE. On or before October 1st of each year, the Judges of the Circuit and Superior Courts of Floyd County shall meet with the presiding judges of Administrative District 23 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.

B. SECTION H APPOINTMENTS. In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.

C. METHOD OF ASSIGNMENT. The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be in a sequential order beginning with the name of the judge following the last judge so assigned. If, however, a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.

D. ROSTER OF AVAILABLE JUDGES. The roster of available judges in Administrative District 23 shall be maintained by Court designation in the following sequential order and shall include senior judges as available:

- (1) Clark Circuit #1
- (2) Clark Circuit #2
- (3) Clark Circuit #3
- (4) Clark Circuit #4
- (5) Clark Superior #5
- (6) Clark Superior #6
- (7) Clark Magistrate A
- (8) Clark Magistrate B
- (9) Clark Magistrate C
- (10) Clark Magistrate D
- (11) Floyd Circuit
- (12) Floyd Superior #1
- (13) Floyd Superior #2
- (14) Floyd Superior #3
- (15) Floyd Magistrate
- (16) Scott Circuit
- (17) Scott Superior
- (18) Scott Magistrate
- (19) Senior Judges who agree to serve as Special Judge

E. APPOINTMENT ORDER. Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is

pending and enter an Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

F. ACCEPTANCE OF JURISDICTION. The Order of Appointment, when entered on the CCS by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

G. IMPLEMENTATION OF RULE. In the event a selected judge does not accept an appointment to serve as a special judge under the provisions of Section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

H. CERTIFICATION TO SUPREME COURT. If, under the provisions of this Rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.

If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special judge. Under such circumstance this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special judge.

I. FORM OF ORDER. The Order of Appointment shall be in the following form:

IN THE _____ COURT FOR _____ COUNTY
STATE OF INDIANA

(CAPTION)

ORDER OF APPOINTMENT

Under the provisions of Trial Rule 79(H) of the Indiana Rules of Trial Procedures, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as Special Judge in the above-captioned case.

SO ORDERED AND ASSIGNED THIS _____ DAY OF _____, 20____, BY THE
ASSIGNMENT JUDGE FOR THE 23RD JUDICIAL DISTRICT.

Assignment Judge

LR22-TR00 RULE 117
ASSIGNMENT OF CASES TO EQUALIZE
WORKLOAD BETWEEN COURTS

A. Assignment. The judges of the Circuit and Superior Courts shall meet on or before October 15 of each year to assign cases to review the Caseload Allocation Plan. Different numbers of cases may be assigned to each court based on the caseload statistics received each year from the Office of Court Services.

B. Transfer. Transfer between the Floyd Circuit Court and the Floyd Superior Courts shall be accomplished pursuant to IC 33-29-1-9 & 10, which allows the judges to transfer cases between courts with mutual consent and to sit on any case in any court with mutual consent.

C. Criminal Cases. Except as otherwise specifically provided for, all cases which include Murder, Class A, Class B, Class C, Class D, Level 1, Level 2, Level 3, Level 4, Level 5 or Level 6 Felony offenses, as the most serious charged offense, or misdemeanor domestic violence cases shall be assigned as follows:

25% in Circuit Court, 75% in Superior Court #1, unless the defendant has military history or is participating in an adult problem-solving court, then the case shall be filed in Superior Court #3.

(1)As it has been the existing practice of the Floyd County Courts and except as otherwise provided in Sections (32), (53) and (64) of this Rule if a Defendant is charged with a new offense of any Level and has a pending case, or is presently on probation or has a case under advisement or a case which has been diverted in the Circuit Court, Superior Court #1 or Superior Court #3 then such new case shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.

(2)All Traffic Infractions and Ordinance Violations shall be filed in the Superior Court #2.

(3)All Motor Vehicle Code violations shall be filed in Superior Court #2, unless the defendant has military history, then the case shall be filed in Superior Court #3.

(4)All Traffic Misdemeanor and Level 6 Felony Traffic cases shall be filed in Superior Court #2 unless the Defendant has military history, is participating in an adult problem-solving court, or has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted , or in Superior Court #3, if the Defendant has military history or is participating in an adult problem-solving court.

(5)If a Defendant has a pending case or is on probation or has a case under advisement or a case which has been diverted in Superior #2 and is charged with a new Level 6 non-traffic Felony, such cases shall be assigned as follows: 75% the case shall be filed 75% in Superior Court #1 and 25% in Circuit, unless the defendant has military history or participating in an adult problem-solving court, then the case shall be filed in Superior Court #3.

(6) All other Misdemeanor offenses cases shall be filed in the Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted, unless the defendant has military history or is participating in a Floyd County Adult Problem-Solving Court, then the case shall be filed in Superior Court #3.

(7) In the event a criminal case is dismissed, and thereafter, the same or similar case is filed against the same defendant(s) based upon the same transaction, the case shall be assigned to the judge who entered the Order of Dismissal on the earlier case.

D. Civil Cases

- (1) Except as provided by statute, Civil Tort, Civil Plenary, Mortgage Foreclosure, Eviction (commercial) and Miscellaneous cases shall be filed 25% in the Circuit Court, and 75% in Superior Court #3.
- (2) Civil Collection cases \$2,500 and over shall be filed in Superior Court #3.
- (3) Civil Collections cases under \$2,500 shall be filed in Superior Court #2.
- (4) TP and TS cases (Application for Judgment and Petitions for Issuance of Tax Deed) shall be filed in Circuit Court.
- (5) RF cases may be filed in any of the Floyd County Courts.

E. Protection Order. All Protection Orders shall be filed in Superior Court #3 (See Local Rule LR22-FR00-314 regarding transfer of Protection Order cases).

F. Domestic Relations Cases. All Pro Se DN and DC cases shall be filed in the Superior Court #3. All non-pro se DN and DC cases shall be filed in the 25% in Circuit Court, 25% in Superior Court #1, and 50% in Superior Court #3.

G. Reciprocal Support and IV-D Child Support Cases. All Reciprocal Support and IV-D child support cases shall be assigned to the Superior #1.

H. Small Claims. All Small Claims and Eviction (residential) cases shall be filed in Superior Court #2.

I. Mental Health. Mental Health cases may be filed in any of the Floyd County Courts.

J. Juvenile. All JP, JC, JT and JM (CHINS) cases shall be filed in Circuit Court subject to LR22-TR-00-117B. All JD, JS and JM (Delinquent) cases shall be filed in Circuit Court subject to LR22-TR-00-117B. All JP, JD, JS and JM (Delinquent) shall be heard by the Magistrate unless the Magistrate has a conflict or is unavailable. In such event the elected Circuit Court Judge or a Senior Judge shall hear the case. If the State of Indiana files a Motion to Waive Juvenile Jurisdiction in a JD case, the waiver hearing shall be conducted by the elected Circuit Court Judge.

K. Adoptions, Guardianships and Estates. All Adoptions, Guardianships, Trust matters and Estates (supervised, unsupervised and miscellaneous) shall be filed in the Circuit Court.

L. Adult Problem Solving Court Program(s).

- (1) Floyd County Problem Solving Court Program(s) shall be established pursuant to IC 33-23-16-11 and in accordance with Floyd County Local Rules to provide specialized services, including: clinical assessment, education, referral for treatment, and service coordination and case management for eligible defendants and probationers, as determined by its written policy and procedures.
- (2) Those persons directed to participate in any Floyd County Problem Solving Court Program shall pay the following fees in accordance with IC 33-23-16-23
 - (a) The program fee, not to exceed one hundred (\$100.00) dollars, per admission for initial problem solving court services regardless of the length of participation;
 - (b) The court service fee, not to exceed fifty (\$50.00) dollars per month beginning in the second month of participation and for each month of participation thereafter for the duration of individual's participation; and
 - (c) The transfer fee, not to exceed twenty-five (\$25.00) dollars, transfer to the problem solving court.
 - (d) Any additional costs associated with recommended treatment, fees, other costs and restitution.
 - (e) Any fee may be waived by Order of the Court to avoid a financial hardship, upon termination, subsequent disqualification from the program or for any other reasonable circumstances determined by the court.
- (3) The clerk of the court shall collect and transmit the program fee within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.
- (4) The day-to-day operation and management Floyd County Problem-Solving Courts shall be assigned to Floyd Superior Court 3.
- (5) All criminal charges shall be filed as provided for in this rule. However, after a charge has been filed, a judge may refer the defendant to a Problem Solving Court, and if accepted by the Problem Solving Court the Judge may transfer the defendant's case to the Problem Solving Court for admission and disposition in accordance with IC 33-23-16-13, 14 or 15 and the Problem Solving Court policies and procedures.
- (6) A Floyd County Problem Solving Court may initiate and/or accept transfers of individuals from another court.

M. Allocation of use of the Magistrate for Purposes of Weighted Caseload Utilization.

Circuit Court shall be allocated two and three-quarter ($2\frac{3}{4}$) days per week for use of the Magistrate. Superior Court #2 shall be allocated one and a quarter ($1\frac{1}{4}$) days per week for use of the Magistrate. Superior Court #1 shall be allocated three-quarters ($\frac{3}{4}$) of a day per week for use of the Magistrate. Superior Court #3 shall be allocated one-quarter ($\frac{1}{4}$) day per week for use of the Magistrate. When reporting quarterly and annual statistics to Indiana Office of Court Services, it shall be the duty of the Court Reporter of each Court to include the Magistrate's allocated time in such quarterly and annual reports.

LR22-CR2.2 RULE 210
CRIMINAL CASE ASSIGNMENT AND
APPOINTMENT OF SPECIAL JUDGES
IN CRIMINAL CASES

A. When a change of judge becomes necessary in a criminal case pending in the Floyd Circuit or Superior Courts such case may be transferred between the Courts as provided for in LR22-TR00 Rule 17 B.

B. Pursuant to Ind. Crim. Rule 2.2 and Ind. Crim. Rule 13(C), this rule shall apply to the reassignment of the case and the selection of special judges in felony and misdemeanor cases where a change of judge is granted pursuant to Ind. Crim. Rule 12(B) or an order of disqualification or recusal is entered in the case.

The reassignment procedure set forth in this rule shall also apply where a change of judge is granted pursuant to Ind. Post-Conviction Remedy Rule 1(4)(b) and in proceedings to enforce a statute defining an infraction and ordinance violation case where a change of judge is granted for cause pursuant to Crim. Rule 12(C).

C. A special judge shall be selected, by the Assignment Judge, from the list of judges below on a rotating basis, which includes all judges from administrative district 23, other contiguous counties and senior judges:

- (1) Clark Circuit #1
- (2) Clark Circuit #2
- (3) Clark Circuit #3
- (4) Clark Circuit #4
- (5) Clark Superior #5
- (6) Clark Superior #6
- (7) Clark Magistrate A
- (8) Clark Magistrate B
- (9) Clark Magistrate C
- (10) Clark Magistrate D
- (11) Floyd Circuit
- (12) Floyd Superior #1
- (13) Floyd Superior #2
- (14) Floyd Superior #3
- (15) Floyd Magistrate
- (16) Scott Circuit
- (17) Scott Superior
- (18) Harrison Circuit
- (19) Harrison Superior
- (20) Washington Circuit
- (21) Washington Superior
- (22) Senior Judges who agree to serve as a Special Judge

D. APPOINTMENT ORDER. Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending and enter an Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

E. ACCEPTANCE OF JURISDICTION. The Order of Appointment, when entered on the CCS by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by

the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

F. FORM OF ORDER. The Order of Appointment shall be in the following form:

IN THE COURT FOR COUNTY
STATE OF INDIANA

(CAPTION)

ORDER OF APPOINTMENT

Under the provisions of Criminal Rule 13 of the Indiana Rules of Criminal Procedure, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as Special Judge in the above-captioned case.

SO ORDERED AND ASSIGNED THIS _____ DAY OF _____, 20____, BY THE
ASSIGNMENT JUDGE FOR THE 23RD JUDICIAL DISTRICT.

Assignment Judge

G. IMPLEMENTATION OF RULE. In the event a selected Judge does not accept an appointment to serve as a special judge, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

H. CERTIFICATION TO SUPREME COURT. If, under the provisions of this rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge. If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special Judge. Under such circumstances this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special judge.