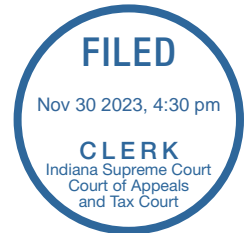


In the Indiana Supreme Court

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

Supreme Court Case No.
23S-MS-331



Order Approving Amended Local Rule

The Judges of the Elkhart Circuit and Superior Courts request the approval of an amended local rule for caseload allocation in accordance with Indiana Administrative Rule 1(E) and for criminal case assignments in accordance with Criminal Procedure Rule 2.2. Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendments requested by the Elkhart Circuit and Superior Courts, this Court finds that the proposed rule amendments to LR20-AR1-106 comply with the requirements of Indiana Administrative Rule 1(E) and Criminal Procedure Rule 2.2, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended local rule, LR20-AR1-106, for the Elkhart Circuit and Superior Courts, set forth as an attachment to this Order, is approved effective January 1, 2024.

Done at Indianapolis, Indiana, on 11/30/2023.

A handwritten signature in black ink, appearing to read "Loretta H. Rush", written over a horizontal line.

Loretta H. Rush

Chief Justice of Indiana

Rule LR20-AR1-106. Caseload Allocation Plan for Elkhart County.

106.1 CRIMINAL: ASSIGNMENT OF CRIMINAL CASES

A. Elkhart Circuit Court. C01.

Effective Jan. 1, 2023 – December 31, 2023

- Grand Jury cases
- Murder charges
- Attempted murder cases, except child victim cases
- Manslaughter cases, except those in which a child is the victim
- Vehicular homicide cases
- Robbery cases
- Reckless homicide cases
- Fifty percent (50%) of all Level 1, 2, 3, 4, and 5 controlled substance sale and possession cases
- Burglary cases
- Welfare fraud cases
- Forgery cases
- Level 5 felony theft cases
- Arson cases
- Level 5 felony cases not otherwise specifically assigned to a court pursuant to this rule.

Effective January 1, 2024

- Grand Jury cases
- Murder charges
- Attempted murder cases, except child victim cases
- Manslaughter cases, except those in which a child is the victim
- Vehicular homicide cases
- Robbery cases
- Reckless homicide cases
- Fifty percent (50%) of all Level 1, 2, 3, 4, and 5 controlled substance sale cases

- Fifty percent (50%) of all Level 1, 2, and 3 possession cases
- Burglary cases
- Welfare fraud cases
- Forgery cases
- Level 5 felony theft cases
- Arson cases
- Level 5 felony cases not otherwise specifically assigned to a court pursuant to this rule.
- Level 6 felonies: Forty percent (40%) not otherwise specifically assigned to a court pursuant to this rule.

B. Elkhart Superior Court 1. D01.

Effective January 1, 2023 – December 31, 2023

- Rape cases, except child victim cases
- Sexual battery cases, except child victim cases
- Criminal recklessness cases, except when a child is the victim
- Level 5 battery and Level 6 domestic battery cases, except child victim cases
- Domestic Battery misdemeanor cases except those filed in the three (3) city courts sitting in Elkhart County, Indiana.
- Level 3 and 4 felony cases which are not otherwise specifically assigned to a court pursuant to this rule.
- Twenty-five percent (25%) Level 6 felonies not otherwise specifically assigned to a court pursuant to this rule.

Effective January 1, 2024

- Rape cases, except child victim cases
- Sexual battery cases, except child victim cases
- Criminal recklessness cases, except when a child is the victim
- Level 5 battery and Level 6 domestic battery cases, except child victim cases
- Domestic Battery misdemeanor cases including those previously filed in the three city courts.
- Level 3 and 4 felony cases which are not specifically assigned to a court pursuant to this rule.

- Strangulation cases

C. Elkhart Superior Court 3. D03.

Effective January 1, 2023 – December 31, 2023

- Child victim cases except murder
- Fifty percent (50) of all Level 1, 2, 3, 4, and 5 controlled substance sale and possession cases
- Kidnapping and Confinement cases
- Level 1 and 2 felony cases which are not specifically assigned to a court pursuant to this rule.
- Failure to Register as a Sex or Violent Offender, all levels.
- Thirty-five percent (35%) of Level 6 felonies not otherwise specifically assigned to a court pursuant to this rule.

Effective January 1, 2024

- Child victim cases except murder
- Fifty percent (50%) of all Level 1, 2, 3, 4, and 5 controlled substance sale cases.
- Fifty percent (50%) of all Level 1, 2 and 3 possession cases.
- Kidnapping and Confinement cases
- Level 1 and 2 felony cases which are not specifically assigned to a court pursuant to this rule
- Failure to Register as a Sex or Violent Offender all levels
- Public Indecency; Nudity; Voyeurism and other offenses with sexual implications not otherwise assigned to a court by this rule.
- Non-support cases all levels
- Sixty percent (60%) of Level 6 felonies: not otherwise assigned to a court pursuant to this rule.

D. Elkhart Superior Court 4. D04.

Effective January 1, 2023 – December 31, 2023

- Fifty percent (50%) of all habitual traffic offender cases
- All cases assigned to the Elkhart County Problem Solving Drug Court.
- Thirty-Three percent (33%) of all misdemeanor cases except those filed in the

three (3) city courts.

- All infractions and county ordinance cases other than those filed in the aforementioned city courts
- All requests for Trial De Novo arising out of a conviction in the Nappanee and Goshen City Courts.
- Level 6 felony substance abuse and substance abuse related cases other than controlled substance sale cases.

Effective January 1, 2024

- All cases assigned to the Elkhart County Problem Solving Drug Court
- Level 6 felony substance abuse and substance abuse-related cases including Level 4, 5, and 6 possession cases and Level 6 controlled substance sales cases; not including Level 1, 2, and 3 possession cases and not including Level 1, 2, 3, 4, and 5 controlled substance sales cases.
- Habitual Traffic Offender (HTV) (assigned magistrate)

E. Traffic and Misdemeanor Court.

Effective January 1, 2024

Traffic and Misdemeanor Division. The Judges of the Circuit and Superior Court shall determine the judicial officers to assign to the Traffic & Misdemeanor Division. This Division shall be responsible for the trial and disposition of traffic violations, criminal misdemeanors, infractions, Trials De Novo from the three City Courts in the County, and County ordinance violations. This Division is further responsible for such classes of violations as may be designated for disposition upon a plea of guilty in a violations bureau. Cases pending in the Traffic & Misdemeanor Division shall not be deemed assigned to the judge sitting therein, nor any other Judge, except upon proper motion for change of venue.

F. Elkhart Superior Court 5. D05.

Effective January 1, 2023 – December 31, 2023

- Fifty percent (50%) of all habitual traffic offender cases
- Twenty percent (20%) of Level 6 felonies not specifically assigned to a court pursuant to this rule.
- Thirty-three percent (33%) of misdemeanor cases except those filed in the three (3) city courts.
- All requests for Trial De Novo arising out of a conviction in Elkhart City

Court.

G. Elkhart Superior Court 6. D06.

Effective January 1, 2023 – January 31, 2023

- All non-support cases
- Twenty percent (20%) of Level 6 felonies not specifically assigned to a court pursuant to this rule.
- Thirty-three percent (33%) misdemeanor cases except those filed in the three (3) city courts.

106.1.1 Assigning new, subsequent, and recharged cases:

A. Subsequent cases:

1. Except for cases assigned to the Elkhart County Drug Court, 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, except domestic battery cases.

3. A pending case is a case that has not yet had a final disposition. In cases that have a final disposition and defendant is under a withheld sentence and a new case is filed in a different court pursuant to the filing order, the court that has the withheld case may transfer the case to the court that has the new case, and that court must accept the transfer.

B. Sealing and Expunging Conviction Records- all sealing of records and expunging of convictions filed under Indiana Code 35-38-9-4 and 35-38- 9-5 shall be filed in the same court as the underlying case. If more than two underlying cases are being expunged, the petitioner shall pick between the court where one of the underlying cases originated. If not practicable, then petitioner shall pick between any Circuit or Superior court. The sitting judge of a court that no longer hears criminal cases pursuant to this Rule may transfer the Sealing or Expungement case to a Criminal Division Court. The sitting judge of any court may assign the case to an appointed judicial officer.

C. Recharged cases – Any pending case that is later recharged as murder must be transferred to Circuit Court.

D. All cases in which juvenile court jurisdiction is waived to adult court shall be filed in a Criminal Division Court based upon this Rule with the most serious level criminal act alleged to be determinative.

E. All charges of escape, including Level 5 and Level 6 felonies, shall be filed in the

court that committed the defendant to the facility or community correction program from which the defendant allegedly escaped except if that court no longer hears criminal cases pursuant to this Rule. Such cases shall be filed in a Criminal Division Court wherein the committing offense has been transferred. If the committing offense has not been transferred, then the charge shall be filed in a court that currently hears that same type of underlying charge.

All charges of failure to appear shall be filed in the court in which the defendant failed to appear except if that court no longer hears criminal cases pursuant to this Rule, then the charge shall be filed in the court wherein the underlying case has been transferred. If the underlying case has not been transferred, then the charge shall be filed in a court that currently hears that same type of underlying charge.

106.2. Civil And Juvenile: Assignment Of Civil And Juvenile Cases

A. Elkhart Circuit Court

- 30% Plenary (PL)
- 30% Tort (CT)
- 100% Tax Sales (TS)
- 100% Tax Petitions (TP)

B Elkhart Superior Court 1 D01

- Protective Orders (PO) related to criminal law cases In Superior Court 1 that are pending or under supervision
- No other Civil or Juvenile types of cases

C. Elkhart Superior Court 2 D02

- Commercial Court Cases
- 35% Plenary (PL)
- 35% Tort (CT)
- 50% Mental Health
- 50% Mortgage Foreclosure (MF)
- All Estates (ES)
- All Estates Unsupervised (EU)
- All Estates Miscellaneous (EM)
- All Trusts (TR)
- Miscellaneous Civil 50% Except Grandparent Visitations, Name Changes, Specialized Driving Privileges, Lifetime Rescission requests, BMV Fee Waiver

- No other Juvenile or Civil type cases
- Red Flag (RF) (Civil)

D. Elkhart Superior Court 3 D03

- 50% Mental Health
- No other Civil or Juvenile case types except Miscellaneous Civil (MI) involving the Forfeiture or Seizure of Property and Plenary (PL) cases involving Forfeiture or Seizure of Property
- Red Flag (RF) (Criminal)

E. Elkhart Superior Court 4 D04

- No Civil or Juvenile Cases Except as follows:
- Expungements (XP)
- Miscellaneous Civil (MI): as follows allowed: Specialized Driving Privileges, BMV Fee Waiver Requests, Lifetime Rescission Requests

F. Elkhart Superior Court 5 D05

- 50% Mortgage Foreclosure (MF)
- 35% Plenary (PL)
- 35% Tort (CT)
- 100% Collections (CC)
- 50% Miscellaneous Civil (MI) Except Grandparent Visitations, Name Changes, Specialized Driving Privileges, Lifetime Rescission requests, BMV Fee Waiver
- 100% Small Claims SC See Section 110.3 below
- 100% Evictions EV
- No other Juvenile or Civil type cases

G. Elkhart Superior Court 6 D06

- All Juvenile Paternity (JP)
- All Domestic Relations with children (DC)
- All Domestic Relations without children (DN)
- All Reciprocal Support (RS)
- All Adoptions (AD)
- All Guardianships (GU)
- All Protection Orders (PO) except those filed in Elkhart

Superior Court related to a pending criminal case or a criminal case under supervision.

- Juvenile Chins (JC)
- Juvenile Delinquency (JD)
- Juvenile Status (JS)
- Juvenile Miscellaneous (JM)
- Juvenile Termination (JT)
- Juvenile Protection (JQ)
- Miscellaneous Civil (MI) limited to Grandparent Visitation and Name Change
- No other civil type cases