

In the Indiana Supreme Court

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

Supreme Court Case No.
23S-MS-363



Order Approving Amended Local Rules

The Judges of the Wayne Circuit and Superior Courts request the approval of amended local rules 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 are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Wayne Circuit and Superior Courts, this Court finds that the proposed rule amendments to LR89-AR1-014 comply with the requirements of Indiana Administrative Rule 1(E), and the amendments to LR89-CR00-013 comply with the requirements of Criminal Procedure Rule 2.2, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that the amended local rules, LR89-AR1-014 and LR89-CR00-013, for the Wayne Circuit and Superior Courts, set forth as attachments to this Order, are approved effective January 1, 2024.

Done at Indianapolis, Indiana, on 12/8/2023.

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

Loretta H. Rush
Chief Justice of Indiana

LR89-AR1-014 RANDOM FILING OF CIVIL CASES

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior Court No. 3 hereby adopt the following filing procedure for civil cases filed in Wayne County as follows:

1. All small claims (SC) and eviction (EV) cases shall be filed in Wayne Superior Court No. 3.
2. All Child in Need of Services (JC) cases, Juvenile Delinquent (JD) cases, Termination of Parental Rights (JT) cases, Juvenile Status (JS) cases, and all Protective Order (PO) cases in which the Respondent is a juvenile, shall be filed in Wayne Superior Court No. 3.
3. Agreed upon adoption (AD) cases arising out of a JC or JT case shall be filed in Wayne Superior Court No. 3.
4. All mental health (MH) cases shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
5. All Petitions seeking expungement or related relief under I.C.35-38-5-1 et seq., IC 31-39-8-1 et seq. (juvenile expungement), or I.C. 35-38-9-1 et seq., and assigned an Expungement (XP) case number, shall be filed as follows:
 - a. Relief sought from conviction/disposition/adjudication in only one (1) prior case shall be filed in the court that originally entered judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case; and,
 - b. Relief sought from conviction/disposition/adjudication in more than one (1) prior case shall be filed in the court that entered the most recent judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case.
6. All other civil cases including, but not limited to, Civil Plenary (CP before 1/1/2002, now PL) Mortgage Foreclosure (MF), Civil Collections (CC), Civil Tort (CT), Domestic Relations (DC, DN), Reciprocal Support (RS), Seizure of Firearms (RF), Adoptions (AD), not otherwise filed in Wayne Superior Court No. 3 pursuant to Paragraph 3 above, Probate Supervised (ES), Probate Unsupervised (EU), Guardianships (GU), Trusts (TR), Protective Orders (PO) except those in which the Respondent is a juvenile (which shall be filed in Wayne Superior Court No. 3), and Civil Miscellaneous (MI), shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2. All tax sale cases shall be filed in the Wayne Superior Court No. 2.
7. The judges of the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2, shall periodically review the filing patterns of civil cases, and the Judges of

such courts reserve the right to transfer cases in the event of a disproportionate distribution of cases in order to balance the caseload and expedite dispositions of all pending civil cases.

8. In the event that a cause is filed in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2, and the Court in which said cause is filed discovers that there is a related cause(s) (related party/parties and/or subject matter) in one of the other two (2) such Courts and said Court determines that the cause should be transferred to the Court with the pre-existing cause(s) for judicial efficiency or that the same would be prudent based on subject matter, said Court may transfer the cause to the Court with the pre-existing cause(s) subject to written consent of the judge of the receiving Court.

LR89-CR00-013 FILING PROCEDURE FOR CRIMINAL CASES

This rule shall govern the filing of criminal cases in Wayne County:

A. Misdemeanors are filed in Wayne Superior Court 3 unless the misdemeanor accompanies a felony charge filed in Wayne Circuit Court, Wayne Superior Court 1, or Wayne Superior Court 2.

B. The following felonies shall be filed in Wayne Superior Court 3, unless at least one Level 6, 5, 4, 3, 2 or 1 Felony (other than those filed under I.C.9-30-5 or 9-30-6 and Resisting Law Enforcement, a Level 6 Felony pursuant to I.C. 35-44.1-3-1(c)(1)) or murder, is also filed against the same defendant in the same Information or Indictment:

1. Battery, a Level 6 Felony, filed under I.C.35-42-2.1.
2. Domestic Battery, a Level 6 Felony, filed under I.C.35-42-2-1.3.
3. Strangulation, a Level 6 Felony, filed under I.C.35-42-2-9.
4. Possession of marijuana, hash oil, hashish, salvia, a synthetic cannabinoid or other substance listed at I.C.35-48-4-11, a Level 6 Felony.
5. All offenses filed under I.C.9-30-5.
6. All offenses involving the operation of a motor vehicle while driving privileges are suspended, restricted or forfeited.
7. Resisting Law Enforcement, a Level 6 Felony pursuant to I.C.35-44.1-3-1(c)(1)).

C. If the defendant:

1. has at least one pending criminal case, or
2. is on probation

in Circuit Court, Superior Court 1 or Superior Court 2, then any felony charges brought against the same defendant, other than those felony charges listed in (B)(1-7), are to be filed in the Court having jurisdiction over the matter referred to at (C)(1) or (C)(2).\

D. Except as otherwise dictated by paragraph (A), (B), or (C), criminal cases shall be filed in a random and equal manner in Circuit Court, Superior Court 1, and Superior Court 2, which shall include RF causes.

E. If the Judge or personnel of a Court are required as witnesses in any case, the case shall not be filed in that Court, and the Clerk shall cause that case to be randomly filed in a different Court, unless otherwise excepted by this rule.

F. In order to provide for an appropriately balanced caseload and appropriate use of court resources, the judges of the Wayne County Courts may, from time to time, transfer cases to other Courts within Wayne County. Transfer of cases shall be by written order of the forwarding Court, and shall be subject to written consent by the judge of the receiving Court.

Deviation from the provisions of this rule may be obtained for a particular case with the approval of the Courts.

G. The filing of any case in a manner contrary to the rules set out above shall not be considered as grounds to support a motion for transfer or for a change of venue from the Court or judge. The presiding judge may transfer such a case at his or her discretion.

H. In the event that a criminal offense is added or significantly modified by statute, including any alternation in the level of misdemeanor or felony, the judges of the Wayne Circuit and Superior Courts will issue a temporary local rule to address the proper filing of such offense. The temporary local rule will have effect until the local rule can be formally amended.