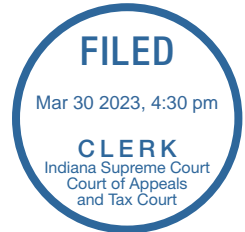


In the Indiana Supreme Court

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

Supreme Court Case No.
23S-MS-79



Order Approving Amended Local Rules

The Judges of the Marion 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 Marion Circuit and Superior Courts, this Court finds that the proposed rule amendment at LR49-TR3-200 complies with the requirements of Indiana Administrative Rule 1(E), and the proposed rule amendments at LR49-CR2.2-100 and LR49-CR2.3-101 comply with Criminal Procedure Rule 2.2, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR49-TR3-200, LR49-CR2.2-100, and LR49-CR2.3-101, for the Marion Circuit and Superior Courts, set forth as attachments to this Order, are approved effective March 30, 2023, unless otherwise specified in the attachment.

Done at Indianapolis, Indiana, on 3/30/2023.

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

Loretta H. Rush
Chief Justice of Indiana

LR49-CR2.2-100 RANDOM ASSIGNMENT OF CRIMINAL CASES

(1) **Random Assignment of Criminal Cases.** The Criminal Division of Marion County is divided into two sub-divisions: Major Felony and Misdemeanor/F6. All criminal cases filed in Marion Superior Court shall be assigned to a Court on a random and equal distribution, utilizing the following guide:

- (a) **Major Felony Sub-Division:** Courts D07, D20, D21, D27, D28, D29, D30, D31, and D32 will equally receive all random filings for level 5 felonies, level 4 felonies, level 3 felonies, level 2 felonies, level 1 felonies, murder, class C felonies, class B felonies, and class A felonies.
- (b) **Misdemeanor/Level 6 Sub-Division:** Courts D17, D18, D19, D23, D25, D26, D33, D34, D35, and D36 will equally receive all random filings for level 6 felonies, class D felonies, misdemeanors, including traffic infractions and ordinance violations.

(2) **Case Consolidation.** Cases subject to the policies of case consolidation are exempt from the rule of Random Assignment of Criminal Cases.

(3) **Problem-Solving Dockets.** If a case has been accepted into a problem-solving docket, that case will be transferred to the court overseeing the relevant problem-solving docket.

Effective dates for LR49-CR2.2-100:

Major Felony Sub-Division: Court D07, D20, D21, D27, D28, D29, D30, D31, and D32 will equally receive all random filings for level 5 felonies, level 4 felonies, level 3 felonies, level 2 felonies, level 1 felonies, murder, class C felonies, class B felonies, and class A felonies. Effective June 1, 2023.

Misdemeanor/Level 6 Sub-Division: Courts D17, D18, D19, D23, D24, D25, D26, D33, D34, D35, and D36 will equally receive all random filings for level 6 felonies, class D felonies, and misdemeanors, including traffic infractions and ordinance violations. Effective July 1, 2023.

LR49-CR2.3-101 CASE CONSOLIDATION

It shall be the policy of the Marion Superior Court, that wherever possible consistent with good case management principles, cases involving the same defendant shall be consolidated into one court for resolution of all of the pending cases.

“Pending” as defined herein means any existing Major Felony, Class D/Level 6 Felony, or Misdemeanor case which is in pre-disposition status.

(a) Murder, Class A, B and C Felony Cases, and Level 1, 2, 3, 4, and 5 Felony Cases (hereinafter “Major Felony case”)

Any subsequently filed Major Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

Any subsequently filed Class D/Level 6-Felony or Misdemeanor case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

In the event the defendant has an open Class D/Level 6 Felony or Misdemeanor case pending in any criminal court and is subsequently charged with a Major Felony case, the pending Class D/Level 6 Felony or Misdemeanor case shall be transferred to the Major Felony Court.

In the event the defendant has an open probation case and/or open community corrections violation pending in any criminal court and is subsequently charged with a Major Felony case, the probation case and/or open community corrections violation shall be transferred to the Major Felony Court, unless the probation case and/or open community corrections violation can be resolved without the resolution of the new Major Felony case.

Cases pending in major felony drug court and in Class D/level 6 felony drug court are exempt from consolidation under this sub-paragraph.

(b) Class D/Level 6 Felony Cases

Any subsequently filed Misdemeanor or Class D/Level 6 Felony case shall be assigned and/or transferred to the Court where the defendant's oldest existing Class D/Level 6 Felony case is pending.

In the event the defendant has an open Misdemeanor case in any criminal court and is subsequently charged with a Class D/Level 6 Felony case, the Misdemeanor case shall be transferred to the Class D/Level 6 Felony Court.

In the event the defendant has an open probation case and/or open community corrections violation pending in any Class D/Level 6 Felony or Misdemeanor Court and is subsequently charged with a Class D/Level 6 Felony case, the probation case and/or open community corrections violation shall be transferred to the Class D/Level 6 Felony Court where the new case has been filed, unless the probation case and/or open community corrections violation can be resolved without the resolution of the new Class D/Level 6 Felony case.

"Pending" as defined herein means any existing Class D/Level 6 Felony or Misdemeanor case which is in pre-disposition status.

This rule shall not apply to cases that are linked with a co-defendant. However, if one of the co-defendants is accepted into the PAIR program, the accepted defendant may be severed and transferred to the designated Mental Health Court without the non-accepted co-defendant(s) case(s).

(c) Misdemeanor Cases

Subject to the provisions of paragraphs (a) and (b) above, any subsequent Misdemeanor case filed against a defendant shall be assigned and/or transferred to the Court where the defendant's oldest existing Misdemeanor case is pending. In the event the defendant has an open probation case pending in any Misdemeanor Court and is subsequently charged with a new Misdemeanor case, the probation case shall be transferred to the new Misdemeanor Court unless the probation case can be resolved without the resolution of the new Misdemeanor case.

Pending as defined herein means any existing Misdemeanor case which is in pre-disposition status.

This rule shall not apply to cases that are linked with co-defendants. However, if one of the co-defendants is accepted into the PAIR program, the accepted defendant may be severed and transferred to the designated Mental Health Court without the non-accepted co-defendant(s) case(s).

(d) Mental Health Alternative Court Cases

A case in any misdemeanor or felony Court involving a defendant who may have mental illness or mental disabilities may be referred to the Mental Health Alternative Court (MHAC) to determine eligibility for admission into that Court. If eligible and provisionally accepted, the case may, at the discretion of the Judicial Officer, be transferred to the Mental Health Alternative Court.

(e) Change of Venue Cases

All cases received by the criminal division on change of venue from outside Marion County shall be assigned to a room within the division on a random basis by the same method used to assign cases of original jurisdiction in Marion County.

(f) Dismissed and Refiled Cases

When the State of Indiana dismisses a case, and chooses to refile that case, the case shall be refiled in the court where the case was originally docketed. The refiled case must be accompanied with a Notice of Refile including the following information about the previously filed case: 1) cause number; 2) date of arrest; 3) days of incarceration; 4) days on bond; 5) date of dismissal; and 6) whether a request has been made under Criminal Rule 4 for a fast and speedy trial, if so the date the request was made and the time accrual since that date.

(g) Other Considerations

It shall be the responsibility of the Prosecutor's Office to provide a listing of all pending cases with the case filing documents to ensure that all case transfers can be made consistent with this rule. It shall also be the responsibility of the Prosecutor's Office to direct file a subsequently filed case into the Court where there is an existing pending case for the same defendant consistent with subsections (a), (b), and (c) of this section. For purposes of this rule an existing pending case includes cases designated as an "MC" case.

Notwithstanding any other provision in these local criminal rules, the Judge of each room of the criminal division, by appropriate order entered of record may transfer and re-assign to any other room of the criminal division any cause pending in that room subject to acceptance by the receiving court. Further the Presiding Judge of the Criminal Division or the Executive Committee may order the transfer of cases from one Court to another if the Presiding Judge or the Executive Committee finds that a transfer and reassignment of cases is necessary to provide for the speedy and fair administration of justice.

LR49-TR3-200 RANDOM FILING OF CIVIL CASES

A. All civil cases filed with the Marion County Clerk's Office designated by statute or rule as being required to be filed in certain named Courts shall be so assigned.

B. Cases involving a petition for specialized driving privileges pursuant to I.C. § 9-30-16 in which the suspension of the driving privileges was not imposed by or recommended by a court imposing a sentence in a criminal case, and was not based upon delinquent child support or the person's status as a student under I.C. § 9-24-2, shall be filed in the Marion Circuit Court; all other petitions or requests for specialized driving privileges shall be filed in the court in which the charges are pending or in which the sentence was imposed, in the court in which the issue of child support is docketed, or in Marion Superior Court, Family Division if the suspension was based upon the person's status as a student under I.C. § 9-24-2.

C. Civil Plenary (PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Torts (CT), Protective Order (PO) and Eviction (EV) cases shall be allocated at follows:

1. Civil Plenary (CP/PL) cases

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

2. Mortgage Foreclosure (MF) cases

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

3. Civil Collections (CC) cases

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

4. Civil Torts (CT)

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

5. Protective Order (PO) cases that do not involve a relationship as defined by IC 35- 31.5-2-128

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

6. Eviction Cases (EV)

- a. 7% shall be randomly filed in Circuit Court, and
- b. 93% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D11, D12, and D13.

D. Family Cases

- a. DC and DN cases shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, D16, D22 and D24.
- b. JP cases shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, D16, D22 and D24.
- c. Juvenile case types, with the exception of those detailed in paragraph (e) of this rule shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, D16, D22 and D24.
- d. Protective order cases that are domestic in nature (those that involve a relationship as defined by IC 35-31.5-2-128) shall be divided and randomly assigned to Courts D09, D10, D14, D15 D16, D22 and D24.
 1. When there is an existing DN, DR, DC, or JP case, any related PO filing shall be assigned to the same court as the existing family case.
- e. All Title IV-D cases shall be assigned to the Marion Circuit Court.

E. Marion Superior Court, Civil Division D13 shall be assigned the following case filings:

1. Any civil case where the environment is involved as the lead issue or where a decision of an environmental administrative agency is being appealed;
2. Any civil action that includes a count based upon or involving Indiana Code Title 13/ Environment or Title 14/ Natural and Cultural Resources;
3. Any civil action requiring judicial review from final agency action involving an environmental matter;
4. Department of Revenue UST and solid waste fee tax warrants;
5. Common law theories of recovery such as toxic torts, property contamination cases alleging nuisance, trespass, negligence and environmental cleanup and contribution actions;
6. Open Door and Public Record suits or appeals related to IDEM, DNR, ISHD, State Fire Marshall or the Fire Prevention and Building Safety Commission; and
7. Contract or other disputes involving a substantive environmental issue.

F. Civil cases involving judicial review of a zoning decision pursuant to IC 36-7-4-1601 et seq. shall be randomly assigned.

G. Civil cases requiring judicial review of a final State Agency decision under Article 21.5 of the Indiana Administrative Orders and Procedures Act (I.C. 4-21.5 et seq.) shall be randomly assigned.

H. Civil cases requiring judicial review of an administrative decision of the Bureau of Motor Vehicles pursuant to I.C. § 9-30-10 shall be filed in the Marion Circuit Court.

I. Civil cases requiring judicial review of an administrative decision of the Bureau of Motor Vehicles pursuant to I.C. § 9-24-2 shall be filed in Marion Superior Court, Family Division Courts D09, D10, D14, D15, D16, D22 and D24.

J. Cases involving a petition for change of name filed under I.C. § 34-28-2 shall be filed in the Marion Circuit Court.

All civil cases other than those listed above filed with the Marion County Clerk's Office for the Marion Superior Court shall be assigned to an individual courtroom on a random basis. The process for the random assignment shall be done through the Court and Clerk's automated case management system.

Effective dates for LR49-TR3-200:

Civil Plenary (PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Torts (CT), Protective Order (PO) and Eviction (EV) and Domestic Relations (DR) cases, effective April 17, 2023.

Family Cases, effective July 1, 2023.

All Title IV-D cases shall be assigned to the Marion Circuit Court, effective April 17, 2023.