

**STATE OF INDIANA – COUNTY OF WASHINGTON
IN THE WASHINGTON CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed New Rule or Amendment(s) to Local Court Rule(s)
[January 13, 2023]**

In accordance with Trial Rule 81 of the Indiana Court Rules, the Washington Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rule(s) on Caseload Allocation for the courts of record of Washington County, effective March 1, 2023.

All new text is shown by underlining and deleted text is shown by ~~striketrough~~. [Supreme Court approval is required for Local Rules concerning Appointment of Special Judges and Caseload Allocation and will not take effect until approved by the Supreme Court.] (*if necessary*)

Notice has been given to the public by posting on the website of the Washington County Clerk and at the Indiana Judiciary webpage for Local Rules (<https://www.in.gov/courts/publications/local-rules/>), and by furnishing a copy to the officers of the Washington County Bar Association. A paper copy of the proposed amended local rule(s) will be made available for viewing in the office of the Clerk of Washington County, 801 S. Jackson Street, Ste 102, Salem, Indiana 47167 during normal business hours.

The time period for the bar and the public to comment shall begin on January 13, 2023, and shall close on February 14, 2023. The proposed amendments to the rule will be adopted, modified or rejected before March 1, 2023, and, if required, the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than March 1, 2023.

Comments by the bar and the public should be made in writing to:

Hon. Larry W. Medlock, Judge of the Washington Circuit Court, Attn: Public Comment on Local Rules, Washington County Courthouse, 801 S. Jackson Street, Ste 103, Salem, Indiana 47167, 812-896-0827 or rcooley@washingtoncounty.in.gov.

DATED this 10th day of January, 2023 on behalf of the Judges of Washington County.

/S/ Larry W. Medlock
Washington Circuit Court Judge

/S/ Dustin Houchin
Washington Superior Court Judge

LOCAL RULES OF THE WASHINGTON CIRCUIT AND SUPERIOR COURTS

Updated ~~January~~ March-1, 2023

LR88-CR2.2-1 – CRIMINAL CASE ASSIGNMENT

All criminal cases containing any of the following counts shall be assigned to the Washington Superior Court

- A. Alcohol Offense
- B. Burglary
- C. Check Deception
- D. Controlled Substance Offense
- E. Conversion
- F. Forgery
- G. Fraud
- H. Non-support of a Dependent
- I. Receiving Stolen Property
- J. Residential Entry
- K. Resisting Law Enforcement
- L. Robbery
- M. Theft
- N. Vehicular Offenses

All other criminal cases and all infractions shall be assigned to the Washington Circuit Court.

(Amended effective July 1, 2011)

LR88-CR2.2-2 – TRANSFER OF CRIMINAL CASES

The judge of the Washington Circuit or Superior Court may

- A. Direct in writing that a new case may be filed in the other Court, or
- B. By appropriate order entered in the Record of Judgment and Orders, transfer and reassign any pending case to the other Court.

Such transfer or filing is subject to acceptance by the receiving Court.

LR88-CR2.2-3 – REILING OF CRIMINAL CASES

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.

LR88-CR2.2-4 – REASSIGNMENT OF CRIMINAL CASES

Except as set out in LR88-CR2.2-5, when a motion for change of judge has been granted in a criminal case, and in instances where a judge recuses or is disqualified, a special judge shall be selected as set out in LR88-TR79-6 from the following:

- (1) Crawford Circuit
- (2) Harrison Circuit
- (3) Harrison Superior
- (4) Orange Circuit
- (5) Orange Superior
- (6) Washington Circuit
- (7) Washington Superior
- (8) Senior Judges approved for the requesting Court

LR88-CR2.2-5 APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES BY INDIANA SUPREME COURT

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceedings require appointment by the Indiana Supreme Court of a special judge, the presiding judge may ask the Indiana Supreme Court to make that appointment.

LR88-TR79-6 APPOINTMENT OF SPECIAL JUDGES

- A. **Selection of Administrative Judge.** On or before November 1st of each year (or as soon thereafter as possible) the Judges of the Circuit and Superior Courts of Washington County shall meet in person or electronically with the presiding judges of Administrative District 24 for the purpose of selecting a judge who is designated as the Administrative Judge. The Administrative Judge shall serve for a period of twenty-four (24) months, ending December 31, or until a replacement is selected after December 31.
- 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 or Indiana Rules of Criminal Procedure, the judge before whom the case is pending shall send notice of the need of the appointment of a special judge to the District's administrative judge who shall then make such assignment within five (5) days of receiving said notice.
- C. **Method of Assignment.** The District's administrative judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall take into account the number of appointments required for each Court and the fact that current rules require that Special Judges in Criminal Cases serve in a contiguous county. The administrative judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.
- D. **Special Considerations.** If the Administrative Judge determines that newly selected Judges would benefit from a policy of "exchanging" cases to avoid excessive travel to multiple courts, assignments may be based upon these special temporary circumstances.
- E. **Roster of Available Judges.** The roster of available judges in Administrative District 24 shall include senior judges as set out below:
- (1) Crawford Circuit
 - (2) Harrison Circuit
 - (3) Harrison Superior
 - (4) Orange Circuit
 - (5) Orange Superior
 - (6) Washington Circuit
 - (7) Washington Superior
 - (8) Senior Judges approved for the requesting Court

Appointment Order. Upon selecting a special judge, the administrative judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the 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 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. When one of the sitting Judges of District 24 accepts appointment as Special Judge through a different selection method, such as Supreme Court Appointment, stipulation by parties, or by striking, that Judge may ask the Appointing Judge to add these appointments to the record of assignments and consider such service in making additional appointments.

G. **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 Procedure or 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 THIS _____ DAY OF _____, _____.

Judge, _____ Court

Assigned this _____ day of _____, _____.

Administrative District # 24
Administrative Judge

- H. **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.
- I. **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.

(Amended effective January 1, 2023)

LR88-AR15-7 – COURT REPORTER SERVICES/IMPLEMENTATION OF A.R. 15

The Courts of Washington County, Indiana adopt the following rules for Court Reporters services pursuant to Administrative Rule 15.

1. Each Court Reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the Court during any regular work hours, gap hours, or overtime hours.
2. Regular working hours shall be 35 hours per week. Gap hours shall be worked in excess of 35 hours per week. Overtime hours shall be hours worked in excess of 40 hours.
3. That for any gap or overtime hours worked, the Court and Court Reporter shall enter into a written agreement whereby compensation for such work shall be as follows:
 - a. Compensatory time off from regular work hours shall be given in an amount equal to the number of gap hours worked.
 - b. Compensatory time off from regular work hours shall be given in the amount of one and one-half (1½) times the number of overtime hours worked.

4. The Court Reporter shall be compensated at the rate \$5.50 per page for any county indigent, state indigent or private transcripts prepared. The Court Reporter shall submit directly to the County a claim for the preparation of the county indigent transcript as other county claims are submitted. If the Court Reporter is required to prepare an expedited transcript, the maximum per page fee shall be \$9.00 where the transcript must be prepared within 24 hours or less and \$7.00 where the transcript must be prepared within 3 working days. Index and Table of Contents will be charged at the same rate as the other pages.
5. A minimum fee of FIFTY-FIVE Dollars (\$55) will be charged for transcripts less than ten (10) pages in length.
6. Additional fees shall be added to the cost of the transcript for the following:
 - a. Reasonable cost of office supplies necessary for preparation and binding of the transcript, which shall be determined by the judges and published annually as the "Schedule of Transcript Supplies."
 - b. Labor charge in the sum of the approximate hourly rate of the Court Reporter's annual court compensation for time spent binding the transcript and the exhibit binders.
7. If a transcript is prepared for purposes of appeal, it shall be prepared and submitted pursuant to the Rules of Appellate Procedure.
8. Any transcript prepared for reasons other than appeal shall be delivered to the requesting party.
9. Each Court Reporter who received income from the preparation of transcripts shall report such amounts, at least annually, to the Indiana Supreme Court Division of State Court Administration, on forms prescribed by such Division.
10. Should any Court Reporter elect to engage in the private business of recording and/or transcribing depositions, they shall do so outside of regular working hours and the Court's supplies shall not be used for such purposes.
11. This local rule shall be applicable in all proceedings effective immediately upon approval of the Indiana Supreme Court.

(Amended effective February 15, 2018)

LR88-JR04-8 – JUROR SUMMONING

Pursuant to Indiana Jury Rule 4, the courts adopt the Single Tier Notice and Summons Procedure for summoning jurors. Accordingly, the jury administrators shall send a summons at the same time the Jury Qualification form and notice is mailed, which shall be at least six weeks before jury service.

LR88-AR01-9 - CASELOAD ALLOCATION

Pursuant to Administrative Rule 1E, the Clerk of the Washington County Circuit and Superior Courts shall assign cases as follows beginning January 1, 2023:

Superior Court

Unless filed in Circuit Court at the request of the Plaintiff/Petitioner

1. All Pro Se Civil matters
2. Approximately one-half of the Pro Se Dissolutions cases, assigned month to month with Superior starting with the month of January.
3. Criminal Actions INVOLVING:
 - Alcohol, Drugs, Non-Support of Dependents,
 - Fraud, Forgery, Check Deception, Robbery,
 - Burglary, Residential Entry, Conversion, Theft,
 - Receiving Stolen Property, Resisting Law Enforcement,
 - Vehicular Offences
4. Approximately one-half of the Protective Orders cases, assigned month to month with Superior starting in January. Protective Order cases involving parties in any Dissolution or separation case shall go to that Court.
5. Approximately one half of *pro se* Small Claims and Eviction cases, assigned month to month with Superior starting in February
6. Attorneys may designate Court in:
 - a. Civil Matters, including Small Claims
 - b. Dissolutions and Separation Actions
7. All Juvenile Delinquency Matters
8. All Guardianships

Circuit Court

1. All Adoptions
2. All Mental Health Matters
3. All Child in Need of Services Matters
4. All Paternity Actions
5. All Infractions, including vehicular
6. All Petitions for Hardship Driver's License
7. All Estates
8. All Mortgage Foreclosure Matters
9. Criminal Actions NOT designated for filing in Superior Court under this Rule
10. Approximately one-half of the Protective Orders cases, assigned month to month with Circuit starting in February. Protective Order cases involving parties in Dissolution or separation case shall go to that Court
11. Approximately one half of *pro se* Small Claims and Eviction cases, assigned month to month with Circuit starting in January
12. Attorneys may designate Court in:

- a. Civil Matters, including Small Claims
- b. Dissolutions and Separation Actions

| (Amended effective ~~January~~ March 1, 2023)

LR88-CR01-10 - CONCERNING PRETRIAL RELEASE

WHEREAS, the Judge of Washington Circuit Court and the Judge of the Washington Superior Court having determined that it would be beneficial to provide a uniform bond schedule for criminal cases filed in each Court, and to further fix by local rule the minimum periods of time of incarceration for persons arrested for drug and alcohol related offenses:

The following uniform bond schedule is hereby adopted by each Court effective on JULY 1, 2014 for arrests **WITHOUT** Warrants:

1. NO STANDARD BOND

Although bond may be set at any time by Court Order, there shall be NO standard bond for persons:

A. Accused of committing, attempting, aiding, inducing, conspiring to commit or assisting:

- | | |
|------------------------|--|
| 1. Resisting Arrest | 7. Rape |
| 2. Fleeing | 8. Any offense involving use of a deadly weapon |
| 3. Escape | 9. Any offense alleging serious bodily injury or death |
| 4. Battery | 10. Leaving the scene of an accident |
| 5. Invasion of privacy | 11. Intimidation. |
| 6. Murder | |

B. On PROBATION, DAY REPORTING PROGRAM, HOME DETENTION or COMMUNITY TRANSITION PROGRAM at time of arrest, or listed as active in the most current reports available to the jail.

C. Free ON ANOTHER BOND at time of arrest.

D. Living OUTSIDE OF INDIANA, or having identification such as a driver's license listing a residence outside of Indiana.

E. On PRETRIAL DIVERSION at the time of arrest.

F. Who REFUSE a Chemical Test under Indiana's Implied Consent Law, currently I.C. 9-30-6.

2. DRUG OFFENSES

A PERSON ARRESTED FOR AN OFFENSE INVOLVING THE USE, POSSESSION, OR SALE OF DRUGS SHALL BE DETAINED FOR AT LEAST 24 HOURS BEFORE BOND MAY BE POSTED FOR THE SAFETY OF THE PUBLIC AND THE PERSON ARRESTED.

3. PUBLIC INTOXICATION WITHOUT BREATH TEST

A person arrested for Public Intoxication shall be detained a minimum of FIVE (5) hours if no portable breath test is offered by an officer for the safety of the public and the person arrested.

4. GENERAL SCHEDULE OF OTHER CASES

For bailable offenses (not excluded by paragraph #1), the following bond schedule shall apply:

FELONIES

CLASS A FELONY

\$40,000 FULL CASH
\$1,000 CASH plus \$180,000 SURETY
\$1,000 CASH plus \$360,000 PROPERTY

CLASS B FELONY

\$20,000 FULL CASH
\$1,000 CASH plus \$90,000 SURETY
\$1,000 CASH plus \$180,000 PROPERTY

CLASS C FELONY

\$5,000 FULL CASH
\$1,000 CASH plus \$20,000 SURETY
\$1,000 CASH plus \$40,000 PROPERTY

CLASS D FELONY

\$1,500 FULL CASH
\$1,000 CASH plus \$1,000 SURETY
\$1,000 CASH plus \$5,000 PROPERTY

LEVEL 1 FELONY

\$40,000 FULL CASH or
\$6,000 CASH plus \$140,000 SURETY or
\$6,000 CASH plus \$280,000 PROPERTY

LEVEL 2 FELONY

\$30,000 FULL CASH or
\$5,000 CASH plus \$100,000 SURETY or
\$5,000 CASH plus \$200,000 PROPERTY

LEVEL 3 FELONY

\$20,000 FULL CASH or
\$4,000 CASH plus \$60,000 SURETY or

\$4,000 CASH plus \$120,000 PROPERTY

LEVEL 4 FELONY

\$10,000 FULL CASH or
\$3,000 CASH plus \$20,000 SURETY or
\$3,000 CASH plus \$40,000 PROPERTY

LEVEL 5 FELONY

\$5,000 FULL CASH or
\$2,000 CASH plus \$5,000 SURETY or
\$2,000 CASH plus \$10,000 PROPERTY

LEVEL 6 FELONY

\$2,000 FULL CASH or
\$1,000 CASH plus \$1,000 SURETY or
\$1,000 CASH plus \$5,000 PROPERTY

MISDEMEANORS

CLASS A	500 CASH ONLY
CLASS B	400 CASH ONLY
CLASS C	300 CASH ONLY

NO TEN PERCENT (10%) CASH DEPOSIT IS AUTHORIZED ON ANY BOND unless approved by further order of either Court.

5. FORFEITURE OF BOND

When permitted by law, bonds may be forfeited for failure of the Defendant to appear.

6. CASH BONDS KEPT FOR COSTS

When permitted by law, all or part of a full cash bond may be retained to cover:

- | | |
|---------------------------------------|--|
| 1. Court appointed attorney fees | 9. Weed Eradication fee |
| 2. Restitution | 10. D.A.P.I.C. fee |
| 3. Court costs | 11. Prosecutor's Drug Investigation fee |
| 4. Fines | 12. Any other cost or fee ordered by the Court |
| 5. Community service work fees | 13. Destruction of public property. |
| 6. Alcohol & Drug Users Program fee | |
| 7. Alcohol & Drug Countermeasures fee | |
| 8. Probation Users fee | |

7. CONDITIONS OF RELEASE

A. Defendant shall

1. Appear for all hearings as Ordered,
2. Complete and sign a Terms and Conditions for Release on Bond form.

B. Defendant shall NOT

1. Commit any crime,
2. Attempt to commit any crime.
3. Violate any order of the Washington Circuit or Superior Court.
4. Violate any term or condition listed in the Terms and Conditions for Release on Bond form.

8. REVOCATION OF BOND

Bond may be revoked and the Defendant rearrested upon a showing of probable cause to believe that any condition of release has been violated.

9. DISTRIBUTION OF THIS RULE

The sheriff shall make one copy of this rule available to any Defendant or citizen upon request, and without charge.

10. ALCOHOL RELATED OFFENSES

	PERCENTAGE BLOOD ALCOHOL LEVEL	HOURS AFTER INITIAL READING IS TAKEN
	.08 or less.....	5
	.09.....	5
	.10.....	5
	.11.....	6
	.12.....	7
	.13.....	8
A person arrested for an alcohol related offense (including P.I., if a portable breath test is offered) shall be detained before bond is posted in accordance with this schedule.	.14.....	9
	.15.....	10
	.16.....	11
	.17.....	12
	.18.....	13
	.19.....	14
	.20.....	15
	.21.....	16
	.22.....	17
	.23.....	18
	.24.....	19
	.25.....	20
	.26.....	21
	.27.....	22
	.28.....	23
	.29.....	24
	.30 and above.....	24
	REFUSAL TO SUBMIT.....	NO BOND UNTIL SET BY COURT

11. DISCRETION OF JUDGES

This rule shall NOT limit the discretion of either Court Judge to deny bond or to set different amounts and/or conditions for release on a case by case basis.

12. MEDICAL EMERGENCY

When the Sheriff or his designated Jail Commander determines that

- a. a medical emergency exists which requires a prisoner to be treated outside the jail; and
- b. the prisoner does not present an immediate risk to public safety; and
- c. the Sheriff lacks staffing manpower to provide a full time guard during medical treatment,

then the Sheriff or designated Jail Commander may authorize the release of the prisoner on a medical furlough or upon the prisoner's own recognizance, and notify the Court promptly thereafter of the action. The prisoner must agree in writing (if able) to return on the date and time assigned by the Sheriff and to such conditions (including alcohol and drug testing) as the Sheriff chooses to impose.

13. PROOF OF IDENTITY

No prisoner shall be released until fingerprinted, photographed and has provided proof of identity.

LR88-AR19-11 -- COURT BUILDING SECURITY

Pursuant to Ind. Code 35-47-11.1-4(5) and/or the inherent power of the Judges of Washington Circuit and Superior Court (“the Courts”); in order to provide for the orderly operating of the Courts, the safety of the public, the litigants, the witnesses, and the Court staff; the Judges of the Courts have promulgated this local Court Rule.

1. Anyone entering the locations listed below (collectively “the courtroom buildings”) must consent to a search of their person, including any package, briefcase or purse:
 - a. The Washington County Justice Center (Superior Court and Circuit Court);
 - b. Any building which may serve as the temporary location of the Washington Circuit or Superior Court;
2. If a courtroom building has more than one entrance/exit, the Courts may designate one or more of the entrances/exits to be used only for restricted purposes. Only the southeast doors of the Justice Center are for public use, unless another entry is designated by the Sheriff or either judge.
3. Unless exempt under Paragraph 6 below, anyone entering the courtroom building is prohibited from having any of the following in his or her possession while in the courtroom building:
 - a. A loaded or unloaded firearm; or

- b. A weapon, device, club, taser (as defined in Ind. Code 35-47-8-3) or electronic stun weapon (as defined by Ind. Code 35-47-8-1), equipment, chemical substance or other material, including a knife, razor, box-cutter and switchblade that in the manner it is used, or could ordinarily be used, is readily capable of causing serious bodily injury.
 - c. Handcuff key.
 4. Anyone refusing to comply with this Order is to be denied entrance to the courtroom buildings.
 5. Anyone violating this Order:
 - a. May be in direct contempt of court under IC 34-47-2, if the violation occurs in the presence of a judicial officer;
 - b. May be in direct contempt of court under IC 34-47-3, if the violation is willful and occurs out of the presence of a judicial officer.
 - c. May be arrested and prosecuted for criminal trespass if they enter without permission after having been denied entry for any reason under this order.
 6. The following individuals are exempt from this order:
 - a. A law enforcement officer, as defined in IC 35-31-5.2-185;
 - b. A judicial officer, as defined in IC 35-31.5-2-177.7;
 - c. A probation officer appointed pursuant to IC 11-13-1-1;
 - d. An employee of a locally or regionally operated Community Corrections Program, who is authorized to carry a firearm by his or her supervisory judge(s);
 - e. An employee, who works in a courtroom building, who carries a chemical spray device for personal protection; and
 - f. Any other person authorized by the Washington Circuit or Superior Court Judge or the Washington County Sheriff shall be exempt until either Judge or the Sheriff withdraws the exemption. The Judges are to promptly provide the Washington County Sheriff with a copy of their authorization or the withdrawal of their authorization.
 7. Any person listed in Paragraph 6 SHALL NOT BE EXEMPT whenever they or any member of their family is a party to any proceeding taking place. This does not include appearing in the individual's official capacity.
 8. The statutes cited above may change from time to time. This local rule shall automatically refer to the relevant statutes in effect at any given time.

(Adopted effective on January 1, 2016; amended effective January 1, 2020)

LR 88-AR00-12**Alcohol and Drug Program Fees**

1. The Judges of the Washington County Courts set the following schedule of fees pursuant to the authority granted by IC 12-23-14-16.
2. The alcohol and drug program fee in misdemeanor and felony cases will be \$400.00.
3. All Court Alcohol and Drug Program Fees are payable to Clerk of the Court.
- 4.

(Added effective February 15, 2018)

LR88-AR00-13**Veterans Court**

1. The Judges of the Washington County Courts set the following schedule of fees pursuant to the authority granted by IC 33-23-16
2. The Veterans Court Intake Fee will be \$50.00.
3. The Veterans Court Monthly Fee will be \$25.00 per month
4. All Veterans Court Fees are payable to Clerk of the Court.

(Added effective February 15, 2018)