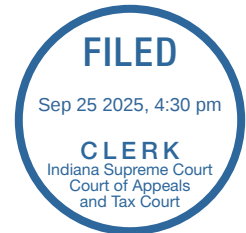


In the Indiana Supreme Court

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

Supreme Court Case No.
25S-MS-254



Order Approving Amended Local Rules

The Judges of the Elkhart Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Administrative Rule 1(E), for court reporter services in accordance with Administrative Rule 15, for special judge assignments in accordance with Trial Rule 79, and for criminal special judge assignments in accordance with Administrative Rule 21. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Elkhart Circuit and Superior Courts, this Court finds that the proposed amendments to LR20-AR1-106 comply with the requirements of Administrative Rule 1(E), the amendments to LR20-AR15-110 comply with Administrative Rule 15, the amendments to LR20-TR79-223 comply with Trial Rule 79, and the amendments to LR20-AR21-304 comply with Administrative Rule 21, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR20-AR1-106, LR20-AR15-110, LR20-TR79-223, and LR20-AR21-304, for the Elkhart Circuit and Superior Courts, set forth as attachments to this Order, are approved effective January 1, 2026.

Done at Indianapolis, Indiana, on 9/25/2025.

A handwritten signature in black ink, appearing to read "Loretta H. Rush".

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

- 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

- Rape cases, where the victim is 16 years of age or older.
- Sexual battery cases, where the victim is 16 years of age or older.
- Criminal recklessness cases.
- Felony Public Indecency, Nudity, and Voyeurism (if applicable).
- Level 3,5, and 6 battery cases where the victim is at least 15 years of age or older.
- Level 6 domestic battery cases.
- Felony Invasion of Privacy 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.

- Stalking cases.

C. Elkhart Superior Court 3. D03

- 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.
- Non-Support cases (all levels)
- Sixty percent (60%) of Level 6 felonies: not otherwise assigned to a court pursuant to this rule.
- 100% Red Flag (RF) (Criminal)

D. Elkhart Superior Court 4. D04

- 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.
- Level 5 and Level 6 Habitual Traffic Offender (HTV) cases.

E. Traffic and Misdemeanor Court

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.

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.

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 shall 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 the 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 re-charged as murder must be transferred to Circuit Court.

D. All cases in which juvenile court jurisdiction is waived to an 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 committed 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)
- 100% of Discretionary Expungements in which the criminal case originated in the Circuit Court. (XP-Discretionary)
- 25% of Discretionary Expungements in which the criminal case originated in a court that no longer hears criminal cases. (XP-Discretionary)

B Elkhart Superior Court 1 D01

- Protection Orders (PO) that are associated with a pending criminal case or a criminal case under supervision.
- 100% of Discretionary Expungements in which the criminal case originated in Superior Court 1. (XP-Discretionary) 25% of Discretionary Expungements in which the criminal case originated in a court that no longer hears criminal cases. (XP-Discretionary)
- No other Civil or Juvenile types of cases

C. Elkhart Superior Court 2 D02

- Commercial Court Eligible Cases (CE)
- 55% Plenary (PL)
- 55% Tort (CT)
- 50% Mental Health
- 100% Mortgage Foreclosure (MF)
- 100% Expungements (XP-Mandatory)
- 100% Estates (ES)
- 100% Estates Unsupervised (EU)
- 100% Estates Miscellaneous (EM)
- 100% Trusts (TR)
- 100% Judicial Review of Administrative Agency Decisions (RA)
- Non-Family-Related Protection Orders (PO), except those filed in Elkhart Superior Court 1 that are associated with a pending criminal case or a criminal case under supervision.

- Miscellaneous Civil 100% Except Grandparent Visitations, Name Changes, Specialized Driving Privileges, Lifetime Rescission Requests, BMV Fee Waiver
- No other Juvenile or Civil type cases
- 100% Red Flag (RF) (Civil)

D. Elkhart Superior Court 3 D03

- 50% Mental Health
- 100% of Discretionary Expungements in which the criminal case originated in Superior Court 3. (XP-Discretionary)
- 25% of Discretionary Expungements in which the criminal case originated in a court that no longer hears criminal cases. (XP-Discretionary)
- 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

E. Elkhart Superior Court 4 D04

- No Civil or Juvenile Cases Except as follows:
- 100% of Discretionary Expungements in which the criminal case originated in Superior Court 4. (XP-Discretionary)
- 25% of Discretionary Expungements in which the criminal case originated in a court that no longer hears criminal cases. (XP-Discretionary)
- Miscellaneous Civil (MI): as follows allowed: Specialized Driving Privileges, BMV Fee Waiver Requests, Lifetime Rescission Requests

F. Elkhart Superior Court 5 D05

- 15% Plenary (PL)
- 15% Tort (CT)
- 100% Collections (CC)
- 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

- 100% Juvenile Paternity (JP)
- 100% Domestic Relations with children (DC)
- 100% Domestic Relations without children (DN)
- 100% Reciprocal Support (RS)
- 100% Adoptions (AD)
- 100% Guardianships (GU)
- Family-Related Protection Orders (PO) except those filed in Elkhart Superior Court 1 that are associated with a pending criminal case or a criminal case under supervision
- 100% Juvenile CHINS (JC)
- 100% Juvenile Delinquency (JD)
- 100% Juvenile Status (JS)
- 100% Juvenile Miscellaneous (JM)
- 100% Juvenile Termination (JT)
- 100% Juvenile Protection (JQ)
- 100% Grandparent Visitation (GV)
- Miscellaneous Civil (MI) to include Name Change, Name and Gender Change, Birth Certificate Correction, and Third-Party Custody.
- No other civil type cases

Rule LR20-AR15-110. Court Reporter

Court reporter services in the Elkhart County Courts shall be governed by the following local rule.

110.1. Definitions: See AR 15

110.2. Salaries And Per Page Fees

A. Court reporters shall be paid an annual salary for the time spent working under the control, direction, and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the way the court reporter is to be compensated for gap and overtime hours, that is, monetary compensation or compensatory time off regular work hours.

B. The maximum per-page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be four dollars (\$4.00) and an expedited rate of six dollars (\$6.00) per page; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

C. The maximum per-page fee a court reporter may charge for copies is two dollars (\$2.00) per page.

D. An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and exhibits.

E. Each court reporter shall report, at least on an annual basis, all transcript fees for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Office of Judicial Administration. The reporting shall be made on forms prescribed by the Office of Judicial Administration.

F. Once an original or a copy of a transcript or other recording has been purchased by an individual or party, that person has the right to reproduce the transcript as needed to comply with the Indiana Rules of Trial Procedure, Indiana Rules of Evidence or Elkhart County Local Rules without further financial obligation to the court reporter

110.3. Private Practice

A. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

1) The reasonable market rate for the use of equipment, workspace, and supplies.

2) The method by which records are to be kept for the use of equipment, workspace, and supplies; and

3) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace, and supplies

B. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

Rule LR20-TR79-223. Special Judge Selection

223.1. Selection of Agreed Special Judge

Within seven (7) days of the notation in the Chronological Case Summary of a judge granting a motion for change of judge or recusing or disqualifying from a case pursuant to Trial Rule 79(C) or otherwise, the parties shall attempt to select a special judge by

agreement. As required by Trial Rule 79(D), the parties shall have seven (7) days within which to file a written agreement:

223.2. When No Agreed Special Judge

When a change of judge has been granted and the parties are unable to agree upon a special judge or have agreed to proceed directly under this subsection: a. If the case is in Elkhart Superior Court 2, it must be transferred to Elkhart Superior Court 5. b. If the case is in Elkhart Superior Court 5, it must be transferred to Elkhart Superior Court 2.

223.3. Failure of Special Judge to Accept or to Qualify; Failure to Meet Selection Deadlines

If, after the above transfer, the judge of the transferee court is unable to hear the case, the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other full-time judicial officers within Elkhart County regardless of divisional assignment and then from the full-time judicial officers within the judicial district. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.

Rule LR20-AR21-304. Selection of Special Judges in Criminal Cases

304.1. Appointment of Judges

When the appointment of a special judge is required under Administrative Rule 21 of the Indiana Court Rules or an order of disqualification or recusal is entered in a case, or where a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), the provisions of this Rule constitute the exclusive manner for the selection of special judges in circuit and superior courts in all criminal proceedings in Elkhart County.

- A. If the case is in the Elkhart Circuit Court, then it must be transferred to Elkhart Superior Court 3.
- B. If the case is in Elkhart Superior Court 3, it must be transferred to Elkhart Circuit Court.
- C. If the case is in Elkhart Superior Court 1, it must be transferred to Elkhart Superior Court 4.
- D. If the case is in Elkhart Superior Court 4, it must be transferred to Elkhart Superior Court 1.
- E. If the case is in Elkhart Superior Court 2, it must be transferred to Elkhart Circuit Court.
- F. If the case is in Elkhart Superior Court 5, it must be transferred to Elkhart Superior Court 4.
- G. If the case is in Elkhart Superior Court 6, it must be transferred to Elkhart Superior Court 4.
- H. All Petitions for Post-Conviction Relief filed in Elkhart Superior Court 5 will be transferred to Elkhart Superior Court 1.
- I. All Petitions for Post-Conviction Relief filed in Elkhart Superior Court 6 will be transferred to Elkhart Superior Court 3.

If, after the above transfer, the judge of the transferee court is unable to hear the case, then the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other full-time judicial officers within Elkhart County regardless of divisional assignment, then from the full-time judicial officers within the judicial district and then from the full-time judicial officers of contiguous counties. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.