

In the Indiana Supreme Court

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

Supreme Court Case No.
19S-MS-357



ORDER APPROVING AMENDED LOCAL RULES

The judges of the Boone Circuit and Superior Courts request the approval of amended local rules: for filing of criminal cases in accordance with Indiana Criminal Rule 2.2, appointment of special judges in accordance with Indiana Trial Rule 79, and regulation of court reporter services in accordance with Indiana Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Boone Circuit and Superior Courts, this Court finds that the proposed rule amendments comply with the requirements of Indiana Criminal Rule 2.2, Indiana Trial Rule 79, and Indiana Administrative Rule 15, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Boone Circuit and Superior Court Local Rules, set forth as an attachment to this Order, are approved effective January 1, 2020.

Done at Indianapolis, Indiana, on ^{12/20/2019}_____.

Loretta H. Rush
Chief Justice of Indiana

LR06-CR00-BLR-3
NON-DISCRETIONARY FILING OF CRIMINAL CASES

NON-DISCRETIONARY FILING OF CRIMINAL CASES

Effective January 1, 2014, (or as soon thereafter as the Indiana Supreme Court may approve if later) all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit as follows:

Misdemeanors (cases in which only misdemeanors are charged)

A. Cases in which the only misdemeanor charged is Operator Never Licensed, I.C. 9-24-18-1 shall be assigned to Circuit Court.

B. Cases in which the only misdemeanor charged is Driving While Suspended, I.C. 9-24-19-2 or 9-24-19-3, shall be assigned to Circuit Court.

C. Cases in which the only misdemeanors charged are Driving While Suspended, I.C. 9-24-19-(2-3) and Operator Never Licensed, I.C. 9-24-18-1, shall be assigned to Circuit Court.

D. All other I.C. 9 *et. seq.* (Title IX traffic) misdemeanor cases (including any other Driving While Suspended charge besides I.C. 9-24-19-2 or 9-24-19-3 and any case where a Driving While Suspended charge is accompanied with other misdemeanor charges (except for Operating Never Licensed) shall be assigned to Superior Court II.

E. All cases charging misdemeanors under I.C. 35-48-4, 35-42-2-1, 35-43-5 and Title VII crimes, alone or in conjunction with other misdemeanor offenses, shall be assigned to Superior Court II.

F. All other misdemeanor cases, not covered by A-D, shall be assigned to Circuit Court.

G. All cases where a specialized driving permit is sought under I.C. 9-30-16-4 whether administrative suspension or otherwise shall be assigned to Superior Court II.

Felonies:

H. All cases in which one or more felony counts are charged under I.C. 35-36-1-3, 35-36-1-4 or 35-36-1-5 (incest, neglect of a dependent and criminal nonsupport of a child) shall be assigned to Circuit Court.

I. All cases in which the only felony count charged is Driving While Suspended under I.C. 9-24-2-4 shall be assigned to Superior Court I.

J. All felony cases, not covered by paragraph F or G, in which the only felony charged is a charge under I.C. 9 *et. seq.* (a Title IX Traffic offense) shall be assigned to Superior Court II.

K. All felony and misdemeanor operating while intoxicated cases shall be assigned to Superior Court II, no matter what other felony charges may be filed therewith.

L. All felony cases not assigned, pursuant to paragraphs H through K, shall be assigned 50% to Superior Court I, 30% to Circuit Court and 20% to Superior Court II by random draw as provided in paragraph L below.

M. If a case charges both a non-traffic code felony and a misdemeanor, other than an alcohol related misdemeanor, the case shall be considered a felony and assigned pursuant to paragraph J above.

N. The rotation of cases under Paragraph L shall be accomplished by using a set of one hundred balls. The set of balls shall contain 50 balls marked Superior Court I, 30 balls marked Circuit Court, and 20 balls marked Superior Court II. The balls (those selected and those yet to be selected) shall be securely maintained by the Clerk of the Court. Each time a felony case is assigned, pursuant to paragraph J, the Clerk shall draw a ball and assign the case the Court designated on that ball. The ball drawn shall be held by the Clerk with the other balls that have been drawn until all one hundred balls have been drawn. At that point, all one hundred balls shall be returned to the receptacle from which they are drawn and the process shall begin anew. The Clerk shall maintain a log of the balls drawn and the case assignments made. A "selection sheet" shall be placed in each file assigned, pursuant to paragraph J, noting the person who made the draw and the Court to which the case was assigned.

O. If, after assignment, a case is dismissed and later re-filed, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with Indiana Criminal Rule 2.2., so as to provide a procedure for non-discretionary assignment of criminal cases.

P. In cases assigned, pursuant to paragraph L above, where a charge or charges are filed against one or more that one defendant and such charge or charges arise out of the same factual allegations or same criminal episode, such cases shall be assigned, upon the request of the prosecutor, to the same Court in which the first such case was assigned, pursuant to paragraph J. In such event, the subsequent case or cases shall be assigned to the same court as the first one and another ball shall be removed from the draw for the court to which the subsequent case was assigned.

R. Notwithstanding any of the foregoing, the Judges of Boone County may agree to transfer any criminal case between or among themselves upon good cause shown by the prosecutor or counsel for the Defendant, or upon their own motion, when in the interests of judicial economy or the interests of justice so require.

S. Pursuant to Criminal Rule 2.2(D) and 13(C) of the Indiana Rules of Criminal Procedure, the Circuit and Superior Courts of Boone County, in conjunction with the other Judges of Administrative District 12, i.e., Hamilton County, Clinton County, and Tipton County, have adopted the following rule to establish procedures for the selection of special judges in criminal cases.

S.1 Upon the granting of a change of judge or the disqualification or recusal of a judge, a successor judge shall be assigned in the same manner as the initial judge. Where this process does not result in the selection of a successor judge, selection shall be made from an alternative assignment list of full-time judicial officers from counties within the administrative district of the court as set forth above. Except for those serving pursuant to Criminal Rule 12(G)(4), judges previously assigned to the case are ineligible for reassignment. A person appointed to serve as special judge under this subsection must accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under this Rule, or excused from service by the Indiana Supreme Court.

S.2 The Administrator of Courts for Hamilton County shall maintain a list of the judges eligible for selection under S.1 and shall be contacted by the selecting court each time a judge must be selected from the list. The Administrator of Courts shall provide the name of the next judge on the list upon a request from the selecting court and then strike the name of the judge selected from that list. The judge selected in this manner shall not be eligible to be selected again from the same list until all the other judges have been selected from that list except as required to avoid certification to the Indiana Supreme Court.

S.3 A trial court may request the Indiana Supreme Court to appoint a special judge in the following circumstances:

(a) No judge under the local rule is available for appointment: or

(b) The particular circumstance warrants selection of a special judge by the Indiana Supreme Court.

S.4 A judge assigned under the provision of this rule shall accept jurisdiction unless disqualified under the Code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of a case or assignment of a special judge shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction is not required.

S.5 In the event the case has been reassigned or a special judge assumes jurisdiction and thereafter ceases to act for any reason, further reassignment or the selection of a successor special judge shall be in the same manner as set forth in subsection S.1 above.

T. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).

LR06-TR79-BLR-10
COORDINATED LOCAL RULE ON
SELECTION OF SPECIAL JUDGE IN CIVIL CASES

209.10 Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Boone County, in conjunction with the other Courts of Administrative District 12 (Clinton County, Hamilton County, and Tipton County), have adopted the following rule to establish procedures for the selection of special judges in civil cases:

209.20 Within seven (7) days of the notation in the Chronological Case Summary of an order granting a change of judge or an order of disqualification, the parties pursuant to Trial Rule 79(D) may agree to any judge eligible under Trial Rule 79 (J).

209.30 If a special judge is required to be selected under Trial Rule 79(H) then the special judge shall be selected as follows:

209.30.10 If the case was originally filed in a court of record in Hamilton County, then the judge will be selected randomly from among the regular judges and full time judicial officers of Hamilton County subject to all existing local rules regarding case allocation and transfer.

209.30.20 If the case was originally filed in a court of record in Boone, Clinton or Tipton County, then the judge will be selected on a rotating basis from among the regular judges of those counties subject to all local rules in each individual county regarding case allocation and transfer.

209.30.30 If for any reason a judge cannot be selected by the above methods then the special judge shall be selected on a rotating basis from among all the regular judges of the District not already disqualified.

209.40 A special judge selected under **209.30** must accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court. The Administrator of Courts for Hamilton County shall maintain a list of the judges eligible for selection under 209.30.20 and a list of the judges eligible for selection under 209.30.30 and shall be contacted by the selecting court each time a judge must be selected from one of those lists. The Administrator of Courts shall provide the name of the next judge on the appropriate list upon a request from the selecting court and then strike the name of the judge selected from that list. The judge selected in this manner shall not be eligible to be selected again from the same list until all other judges have been selected from that list except as required to avoid certification to the Supreme Court.

209.50 In the event that no judicial officer within Administrative District 12 is eligible to serve as special judge or the particular circumstance of the case warrants selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

LR06-AR15-BLR-8 COURT REPORTERS

The Local Rule for Court Reporters in the Circuit and Superior Courts of Boone County, is patterned after Model Option 2 of Administrative Rule #15.

A. Court Reporters shall be paid an annual salary applied for by the Court and approved by the County Council, which salary shall be payment for regular work hours, gap hours, or overtime hours as the case may be, and which salary shall not include payment for the preparation of any transcripts.

B. The salary shall be based upon a 35-hour work week. Should Court Reporters work gap hours from 35 to 40 hours per week on regular court business, they shall be entitled to overtime at the hourly rate or comp time on an hour-for-hour basis. Should Court Reporters work more than 40 hours in one week on regular court business, the Court Reporters should be paid time-and-a-half or receive comp time at the rate of one-and-a-half times the overtime hours worked.

C. All transcripts, including indigent transcripts, transcripts done for private attorneys, deposition transcripts or any and all other such transcripts shall be prepared by the Court Reporters on their own time, off the court premises and pursuant to their own private business arrangements. Such transcripts shall be prepared on equipment purchased and owned by the Reporters, on paper obtained and paid for by the Court Reporters, and no materials or machinery belonging to the court shall be used in the preparation of such transcripts.

D. Occasionally, it will be necessary for a Court Reporter to use the court's recording equipment for the purpose of taking a private deposition.

E. On a request for a non-appellate transcript, including depositions, to be produced in an ordinary time frame, Court Reporters may collect a per page rate not to exceed \$4.25 and a minimum fee of up to ten times the maximum per page rate;

F. On a request for an appellate transcript to be produced in an ordinary time frame, Court Reporters may collect a per page rate not to exceed \$6.00 and a minimum fee of up to ten times the maximum page rate. Appellate transcripts shall be in the format required by the Indiana Court of Appeals and filed in an electronic format.

G. When parties request an expedited transcript, Court Reporters may collect a per page rate not to exceed \$8.50, said rate being subject to negotiation between Court Reporter and requester, depending on circumstances.

H. When parties request certified copies of transcripts, including depositions, Court Reporters may collect a per page rate of \$1.00 per page for a copy of any previously prepared page of transcription.

I. Index and Table of Contents pages shall be charged at the same per page rate as is charged for the balance of the transcript.

J. An additional hourly labor charge based upon the Court Reporter's annual court compensation may be collected for time spent binding the transcript and exhibit binders.

K. A reasonable charge for office supplies required and utilized for binding and electronic transmission of the Transcript may be collected pursuant to Indiana Rules of Appellate Procedure 28 and 29; the costs of which shall be determined pursuant to a Schedule of Transcript Supplies established and published annually by the Judges.