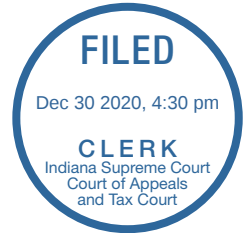


In the Indiana Supreme Court

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

Supreme Court Case No.
20S-MS-724



Order Approving Amended Local Rule

The Judges of the Boone Circuit and Superior Courts request the approval of amended local rules for criminal cases assignments in accordance with Indiana Administrative Rule 1(E), and Criminal Procedure Rules 2.2. 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 at LR06-CR00-BLR-3 complies with the requirements of Indiana Administrative Rules 1(E), and Criminal Procedure Rules 2.2, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule, LR06-CR00-BLR-3, for Boone Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective January 1, 2021.

Done at Indianapolis, Indiana, on 12/30/2020.

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

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, 2021, (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 level 6 felony cases not assigned pursuant to paragraphs H through K shall be assigned 50% to Circuit Court and 50% to Superior Court II by random draw. All level 5 and higher felony cases not assigned pursuant to paragraphs H through K shall be assigned 30% to Circuit Court, 50% to Superior Court I, and 20% to Superior Court II by random draw.

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 drawing numbered balls in proportion to the division of the cases. 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 L, 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 balls have been drawn. At that point, all 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 L, 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 than 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. Excepting driving offenses under I.C. 9-30-5, upon a motion from the State of Indiana or the Defendant a court shall transfer a felony case to another court where an earlier filed felony of the same level pends or where a higher level felony pends, regardless of the order of filing. The nonmoving party may file a written objection setting forth the basis of the same on or before the twentieth day from the initial hearing or other date as the court may allow, and the court shall consider the objection and sustain or overrule it as may be warranted. The court may set a hearing if necessary on any objection to a motion to transfer.

T. 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.

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.

2 The Administrator of Courts for Hamilton County shall maintain a list of the judges eligible for selection under T.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.

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.

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.

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 T.1 above.

U. 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).