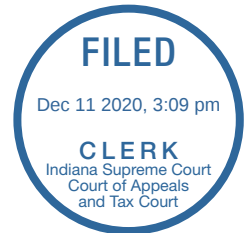


In the Indiana Supreme Court

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

Supreme Court Case No.
20S-MS-305



Order Approving Amended Local Rule

The Judges of the Delaware Circuit Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E) and for special judge assignments in accordance with Indiana Rules of Trial Procedure 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Delaware Circuit Courts, this Court finds that the proposed rule amendments at LR18-AR00-DLR-0012 complies with the requirements of Indiana Administrative Rules 1(E) and LR18-TR79-DLR-0011 complies with Indiana Rules of Trial Procedure 79, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR18-AR00-DLR-0012, and LR18-TR79-DLR-0011, for Delaware Circuit Courts, set forth as an attachment to this Order, are approved effective December 14, 2020.

Done at Indianapolis, Indiana, on 12/11/2020.

Loretta H. Rush
Chief Justice of Indiana

LR18-TR79-DLR-0011
Civil Practice and Procedure

The following local rule regarding selection of special judges where a special judge does not accept a civil case under TR 79(D), is now adopted by the undersigned judges of the Delaware Circuit Court, in conjunction with the other Courts of Administrative District 15.

A. Conflicts by Circuit Court No. 2 Judge in DR (Domestic Relations) and JP (Juvenile Paternity) cases from Title IV-D Court.

In DR (Domestic Relations) and JP (Juvenile Paternity) cases from Title IV-D Court where the Circuit Court No. 2 Judge has a conflict and enters an order of disqualification or recusal, and parties do not agree to a particular special judge pursuant to TR 79(D), the Clerk of Delaware County shall assign the case to the regular sitting Judge in Circuit Court No. 3. If that Judge is unable to serve as set forth in Trial Rule 79 (H), then the Clerk shall select a special judge pursuant to paragraph B or C of this local rule.

B. Assignment - Civil.

In civil cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the judges from the following available panel of judges (omitting the judge from whom the change of venue is being taken):

- a. Presiding Judge, Delaware Circuit Court No. 1;
- b. Presiding Judge, Delaware Circuit Court No. 2;
- c. Presiding Judge, Delaware Circuit Court No. 3;
- d. Presiding Judge, Delaware Circuit Court No. 4;
- e. Presiding Judge, Delaware Circuit Court No. 5;
- f. Presiding Judge, Blackford Circuit Court;
- g. Presiding Judge, Blackford Superior Court;
- h. Presiding Judge, Henry Circuit Court No. 1
- i. Presiding Judge, Henry Circuit Court No. 2;
- j. Presiding Judge, Henry Circuit Court No. 3;
- k. Presiding Judge, Jay Circuit Court;
- l. Presiding Judge, Jay Superior Court;
- m. Presiding Judge, Randolph Circuit Court; and
- n. Presiding Judge, Randolph Superior Court.

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

If all judges in Delaware County are ineligible to serve, the sitting judge shall direct the Clerk of Delaware County to select (on a rotation basis) one of the judges from the Administrative District (omitting all Delaware County judges).

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant 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 to appoint a special judge.

C. Assignment – Juvenile.

In juvenile cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the following available judges:

- a. Presiding Judge, Blackford Circuit Court;
- b. Presiding Judge, Henry Circuit Court No. 1
- c. Presiding Judge, Jay Circuit Court; and
- d. Presiding Judge, Randolph Circuit Court;

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant 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 to appoint a special judge.

D. Maintaining Separate Lists.

The Delaware County Clerk shall maintain separate civil and juvenile lists, in the rotation order as set forth in this Rule, from which the clerk may determine the appropriate appointment in civil and juvenile cases.

E. Consent to Authority to Sit as Acting Judge

The Judges in the Delaware County Courts consent to the judge of the Jay County Circuit Court and the judge of the Blackford County Superior Court, upon request, to sit as acting judge in these courts in any matter as if the judicial officer were the elected or appointed judge of the court, as provided in Administrative Rule 1. The authority to sit as acting judge in a Delaware County Court is granted even when the sitting judge is present and available.

F. Forfeiture Proceedings

If the respondent has filed an answer, the court shall schedule a hearing, upon the conclusion of any related criminal matter, to determine the legitimacy of the forfeiture by a preponderance of the evidence pursuant to I.C. 34-24-1-4.

G. Protective Orders

If a Protective Order is filed in a court and the judicial officer cannot rule on the ex parte request due to a conflict, the judicial officer shall instruct the Clerk to reassign the protective order pursuant to LR18-CR00-DLR-0006.5(A).

LR18-AR00-DLR-0012
Allocation and Assignment of Cases

Circuit Court No. 1

Criminal: The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (Class A felony), FB (Class B felony), FC (Class C felony), FD (Class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C Felonies or D Felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MI (Miscellaneous - excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), ES, EM, EU, GU, TR (Probate), PO (Protective Orders) .

Circuit Court No. 2

Criminal: The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (Class A felony), FB (Class B felony), FC (Class C felony), FD (Class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C Felonies or D Felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

Juvenile: JP (Juvenile Paternity), JD (Juvenile Delinquency), JS (Juvenile Status), JM (Juvenile Miscellaneous), JC (Juvenile CHINS), JT (Juvenile Termination), JQ (Juvenile Protective Order)

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), AD (Adoption), MI (Miscellaneous - excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), GU-with related juvenile cases ONLY, RS (Reciprocal Support), PO (Protective Orders).

Circuit Court No. 3

Criminal: The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (Class A felony), FB (Class B felony), FC (Class C felony), FD (Class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C Felonies or D Felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1

(Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal, Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MI (Miscellaneous, Specialized Driving Privilege Cases, Judicial Review of Habitual Violator Suspension Cases), MH (Mental Health), PO (Protective Orders), XP (Expungement).

Circuit Court No. 4

Criminal: The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (Class A felony), FB (Class B felony), FC (Class C felony), FD (Class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C Felonies or D Felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

City Court: Any criminal cases transferred from Muncie City Court may be filed in the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.

If no felony cases are pending against the Defendant the misdemeanor will be filed in the Delaware Circuit Court No. 4 or No. 5 under the following rotation schedule:

- Circuit Court No. 4: January, March, May, July, September and November;
- Circuit Court No. 5: February, April, June, August, October, and December.

A “pending” case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), AD (Adoption), MI (Miscellaneous - excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases) PO (Protective Order), SC (Small Claims)

Circuit Court No. 5

Criminal: The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (Class A felony), FB (Class B felony), FC (Class C felony), FD (Class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C Felonies or D Felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1

(Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

City Court: Any criminal cases transferred from Muncie City Court may be filed in the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.

If no felony cases are pending against the Defendant the misdemeanor will be filed in the Delaware Circuit Court No. 4 or No. 5 under the following rotation schedule:

- Circuit Court No. 4: January, March, May, July, September and November;
- Circuit Court No. 5: February, April, June, August, October, and December.

A “pending” case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

Juvenile: NONE

PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MF (Mortgage Foreclosure), MI (Miscellaneous – excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), PO (Protective Order), SC (Small Claims), ES, EU, EM, GU, TR (Probate), TS (Tax Sale), TP (Tax Deed Petition).

1. Assignment of cases as heretofore set out will continue to be subject to all Local Rules regarding non-discretionary assignment of felony and misdemeanor cases.
2. Forfeiture Proceedings – The State of Indiana shall file the forfeiture action as a miscellaneous civil (MI) action in the Circuit Court Division where the State either has filed or is required to file the related criminal action pursuant to Local Rule. If the State does not intend to file a criminal action, or the criminal action has been filed with Muncie City Court, the State shall then file the forfeiture as a miscellaneous (MI) action in the Circuit Court where the criminal case would have been filed had it been filed in Circuit Court.