

STATE OF INDIANA)
)
COUNTIES OF HENDRICKS)
)
AND MORGAN)

FILED

APR 13 2016

Debbie Hoskins
CLERK HENDRICKS CIRCUIT COURT
SUPERIOR COURT

Notice of Proposed Administrative District Rule

Pursuant to Indiana Rule of Trial Procedure 81(B), the Circuit and Superior Courts of Administrative District 16 (Hendricks and Morgan Counties) give notice to the bar and the public of the content of their proposed administrative district rule, stating as follows:

1. The text of the proposed administrative district rule is attached hereto as:

Special Judge Selection in All Civil and Juvenile Proceedings for Administrative District 16

2. Comments should be sent to:

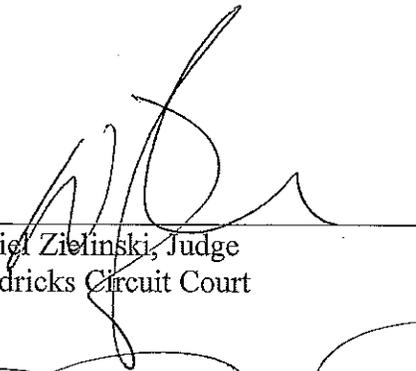
Catherine Haines
Court Administrator
Circuit and Superior Courts of Hendricks County
51 W. Main St. # 101
Danville, IN 46122
chaines@co.hendricks.in.us

3. Comments by the bar and public will be received until May 13, 2016;
4. Proposals will be adopted, modified, or rejected by the Circuit and Superior Courts of Administrative District 16 by May 31, 2016;
5. The effective date of the proposed administrative district rule shall be June 1, 2016;
6. The text of the proposed administrative district rule has been provided to the county clerks of Hendricks and Morgan Counties and to the Division of State Court Administration in digital format; and

7. The Circuit and Superior Courts of Administrative District 16 shall also give notice to the presidents and secretaries of the Hendricks and Morgan County Bar Associations.

WHEREFORE, the Circuit and Superior Courts of Administrative District 16 respectfully request that the county clerks of Administrative District 16 post this notice and attached, proposed administrative district rule in their offices and on their websites, if any. The Circuit and Superior Courts of Administrative District 16 further request that the Division of State Court Administration post the proposal on the Indiana Judicial Center website for public inspection and comment.

Respectfully submitted,



Daniel Zielinski, Judge
Hendricks Circuit Court



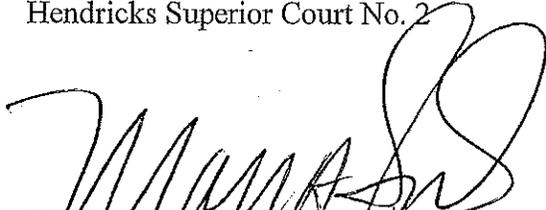
Robert Freese, Judge
Hendricks Superior Court No. 1



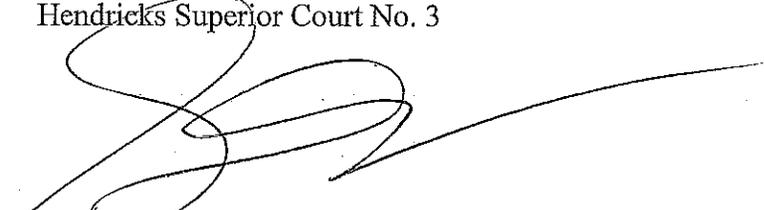
Rhett Stuard, Judge
Hendricks Superior Court No. 2



Karen Love, Judge
Hendricks Superior Court No. 3



Mark Smith, Judge
Hendricks Superior Court No. 4



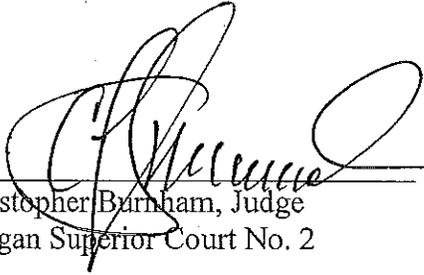
Stephenie LeMay-Luken, Judge
Hendricks Superior Court No. 5



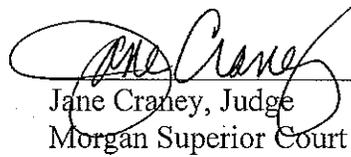
Matthew Hanson, Judge
Morgan Circuit Court



Peter Foley, Judge
Morgan Superior Court No. 1



Christopher Burnham, Judge
Morgan Superior Court No. 2



Jane Craney, Judge
Morgan Superior Court No. 3

Hendricks County

LR32-TR79 Rule 1—Special Judge Selection in Civil Cases

- A. Pursuant to TR 79(C), a judge shall disqualify and recuse him or herself whenever the judge, the judge's spouse, a person within the third degree of relationship to either of them, the spouse of such a person, or a person residing in the judge's household:
1. is a party to the proceeding, or an officer, director, or trustee of a party;
 2. is acting as a lawyer in the proceeding;
 3. is known by the judge to have an interest that could be substantially affected by the proceeding; or
 4. is associated with the pending litigation in such a fashion as to require disqualification under the Indiana Code of Judicial Conduct or otherwise.
- Upon disqualification or recusal under this section, a special judge shall be selected from a list of the current Circuit Court Judge, Superior Court Judges and Magistrates of the other county.
- B. Pursuant to TR 79(D), within seven (7) days of the notation in the Chronological Case Summary of the order granting a change of judge or an order of disqualification, the parties may agree to an eligible special judge. The agreement of the parties shall be in writing and shall be filed in the court where the case is pending. Upon the filing of the agreement, the court shall enter an order appointing such individual as the special judge in the case and provide notice pursuant to TR 72(D) to the special judge and all parties or appoint a special judge under TR 72(H). A judge appointed under this section shall have fifteen (15) days to decide whether to accept the case and enter his or her decision. The filing of the acceptance vests jurisdiction in the special judge. An oath or additional evidence of acceptance of jurisdiction is not required.
- C. The Morgan County and Hendricks County Clerks shall maintain separate lists of all Circuit Court Judges, Superior Court Judges, and Magistrates of Morgan County and Hendricks County respectively to be used to randomly select a special judge in all cases in which the parties do not agree to a special judge as set forth in this rule.
- D. If the parties fail to agree to the selection of a special judge, the clerk of the county in which the case is filed shall randomly select a special judge from the judges of that county and notify the Court, the selected special judge, and the parties of the random selection.
- E. If either Morgan or Hendricks County does not have a sufficient number of regular sitting judges from which to select a judge from the county in which the case is filed, the clerk of that county shall randomly select from a list of the current Circuit Court Judge, Superior Court Judges, and Magistrates of the other county.
- F. The sitting judge may forego the requirements set forth in this rule and certify immediately to the Indiana Supreme Court for the appointment of a special judge if the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court.

(Effective May 1, 2013)

Morgan County

~~LR55-AR79: Local Rule For Selection Of Special Judges In The Morgan County Circuit And Superior Courts~~

~~The procedure for selection of a Special Judge in cases before the Morgan Circuit and Superior Courts is promulgated pursuant to the authority of the Indiana Rules of Trial Procedure, Rule 79, and Indiana Administrative Rule 3.~~

~~(A) Within seven (7) days of the issuance of an order granting a change of judge or an order of disqualification or recusal, the parties may agree, in writing, to the selection of an eligible special judge.~~

~~(B) In the event that a special judge is not timely selected by the parties under paragraph (A), then:~~

~~(1) in cases wherein a change of judge has been granted under Trial Rule 76, the Clerk of Court shall randomly select a special judge from the remaining judges and magistrates of Morgan County. In the event that none of the remaining judges and magistrates of the Morgan Circuit and Superior Courts are eligible to serve or are disqualified from serving as a special judge in the case, then the Clerk of Court shall randomly select and appoint a special judge from a list of the current judges and magistrates of the Circuit and Superior Courts in Hendricks County. The Clerk of Court shall maintain a current list of all judges and magistrates of Morgan and Hendricks County to be used to randomly select a special judge when the parties do not agree to a special judge under this paragraph.~~

~~(2) in cases wherein a regular judge has disqualified or recused under Trial Rule 79(C), the Clerk of the Court shall select a special judge, on a random basis, from the current list of the judges and magistrates in the Circuit and Superior Courts of Hendricks County, as prescribed by Trial Rule 79(H) and Indiana Administrative Rule 3.~~

~~—(C) In the event the procedures set forth above do not result in a judge assuming jurisdiction, or if, regardless of the procedures above, the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the regular judge of the court where the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.~~

(Amended effective March 4, 2013)

Special Judge Selection in All Civil and Juvenile Proceedings for Administrative District 16

Disqualification or Recusal of Judge

Upon disqualification or recusal of a judge under Trial Rule 79(C)(1) or (C)(3), an eligible special judge shall be appointed in all civil and juvenile proceedings on a rotating basis from the full-time judicial officers (elected judge or magistrate) of the other county within Administrative District 16 (Hendricks and Morgan Counties).

Procedure for Appointment

Upon disqualification or recusal of a judge under Trial Rule 79(C)(2) or (C)(4) or in the event the parties do not agree to an eligible special judge or the agreed upon judge does not accept the case under Trial Rule 79(D), an eligible special judge shall be appointed in all civil and juvenile proceedings for Administrative District 16 as follows:

- A. **Priority Given to Local Appointments.** Special judge appointments shall be made within the local county on a rotating basis, so long as a full-time judicial officer (elected judge or magistrate) within that county remains eligible to serve as special judge. Upon issuance of the order of appointment, the special judge may request that the case be transferred to his or her court.
- B. **Secondary to Outside County Appointments.** In the event that no full-time judicial officer within the local county is eligible to serve as special judge, a special judge shall be appointed on a rotating basis from the full-time judicial officers (elected judge or magistrate) of the other county within Administrative District 16 who are eligible to serve as special judge.
- C. **No Eligible Special Judge.** In the event that no full-time judicial officer within Administrative District 16 is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the judicial officer of the court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

Acceptance Mandatory

- A. A judicial officer appointed to serve as special judge under this rule 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.
- B. The order of appointment under this rule shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.