

**MIAMI COUNTY
LOCAL COURT RULES**
Updated March 1, 2017

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LR52-CR2.2-1
ASSIGNMENT OF CRIMINAL CASES

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit Court and Superior Courts hereby establish the following local rules for the assignment of criminal cases:

1. All traffic-related felony, misdemeanor, and infraction cases shall be filed in the Miami Superior Court I. In the event that non-traffic-related felony or misdemeanor charges are filed against a defendant who is also charged with a traffic-related felony or misdemeanor arising from the same set of facts, the non-traffic-related charges shall also be filed in the Miami Superior Court I.
2. All felony cases filed against a defendant as a result of one or more criminal acts allegedly committed by the defendant at the Miami Correctional Facility while he or she was a prisoner, employee, or visitor at the Miami Correctional Facility shall be filed in the Miami Superior Court I.
3. All non-traffic-related misdemeanor cases shall be filed in the Miami Superior Court II.
4. All Class C and D felony and Level 5 and Level 6 felony cases that are not traffic-related and that do not fall within the ambit of Paragraph 2, above, shall be filed in the Miami Superior Court II.
5. All Murder cases and all Class A and B felony and Level 1, Level 2, Level 3, and Level 4 felony cases that are not traffic-related and that do not fall within the ambit of Paragraph 2, above, shall be filed in the Miami Circuit Court.

(Amended effective January 1, 2017)

LR52-CR2.2-2
ASSIGNMENT OF SPECIAL JUDGES IN CRIMINAL CASES

If a change of judge is granted because of a conflict of interest or pursuant to Rule 12 of the Indiana Rules of Criminal Procedure, the case shall first be assigned to a judge of one of the other two Miami County Courts who does not have a conflict of interest. If none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Circuit Court, that case shall be first assigned to the sitting Judge of Howard Superior Court II. If that judge is unable to accept the case, the case shall be assigned to the sitting Judge of Cass Superior Court I. If none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Superior Court I or the Miami Superior Court II, that case shall be assigned to the sitting Judge of Cass Superior Court I. If that judge is unable to accept the case, the case shall be assigned to the sitting Judge of the Howard Superior Court II.

If the Clerk is unable to assign a special judge from the judges listed above, then the Clerk shall select a judge on a rotating basis from a list of the other Judges within the counties of Cass, Fulton, and Howard in District 8 or the contiguous counties of Wabash or Grant.

If no judicial officer within the above list is eligible to serve as special judge, or if the case's 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.

(Effective January 1, 2017)

**LR52-CR00-1
BOND SCHEDULE**

**NON-ALCOHOL-RELATED
TRAFFIC MISDEMEANORS:** \$100 cash bond

ALL OTHER MISDEMEANORS: \$300 cash bond

**FOR FELONY OFFENSES (OTHER THAN MURDER) ALLEGEDLY COMMITTED ON
OR BEFORE JUNE 30, 2014:**

CLASS D FELONIES: \$500 cash bond

CLASS C FELONIES: \$12,000 corporate security bond or 10% cash

CLASS B FELONIES: \$25,000 corporate security bond or 10% cash

CLASS A FELONIES: \$50,000 corporate security bond only

**FOR FELONY OFFENSES (OTHER THAN MURDER) ALLEGEDLY COMMITTED ON
OR AFTER JULY 1, 2014:**

LEVEL 6 FELONIES: \$500 cash bond

LEVEL 5 FELONIES: \$10,000 corporate security bond or 10% cash

LEVEL 4 FELONIES: \$20,000 corporate security bond or 10% cash

LEVEL 3 FELONIES: \$30,000 corporate security bond or 10% cash

LEVEL 2 FELONIES: \$40,000 corporate security bond only

LEVEL 1 FELONIES: \$50,000 corporate security bond only

MURDER: INITIALLY, NO BAIL WILL BE SET.

When deemed appropriate, the judge may set bond in amounts and under terms different than are stated on this bond schedule.

ADDITIONAL BONDING TERMS:

1. A defendant charged with a “violent crime” (as described in I.C. 5-2-6.1-8) shall have no contact, directly or indirectly, with the alleged victim(s).
2. A defendant charged with a “crime of domestic violence” (as described in I.C. 35-31.5-2-78), which includes domestic battery, regardless of the class, shall remain in jail for eight (8) hours following arrest before being eligible for release on bail.
3. A defendant who is charged with child molesting (I.C. 35-42-4-3) or child solicitation (I.C. 35-42-4-6) or who is a sexually violent predator under I.C. 35-38-1-7.5 and is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in I.C. 11-8-8-5) may not be admitted to bail until the Court has conducted a bail hearing in open court. That hearing shall be held within forty-eight (48) hours of the defendant being arrested, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours. It shall be the responsibility of the Miami County Sheriff to promptly notify the Court of the arrest of such a defendant in order that such a hearing may be held in a timely fashion.
4. \$10,000 shall be added to a defendant’s bond if charged with using a deadly weapon.
5. \$10,000 shall be added to a defendant’s bond if charged with manufacturing any controlled substance.
6. For a defendant charged as a habitual violator (excluding a habitual traffic violator), there shall be an additional bond equal to the bond for the highest class felony charged against the defendant.
7. For a defendant charged as a habitual substance offender, there shall be a \$5,000 corporate security bond required in addition to any bond set under this schedule.
8. Upon arrest, any defendant already on terms of probation or parole is subject, pursuant to statute, to a detention hold for fifteen days before being released on bail. In order to provide the county prosecutor with sufficient opportunity to request a probation hold, the Miami County Sheriff shall hold the defendant in custody until the defendant’s first court appearance.
9. Except as augmented under these additional bonding terms, a defendant’s bail shall be determined by adding the bonds for each criminal charge then pending against the defendant.
10. With regard to a defendant who is a foreign national and who is unlawfully present in the United States under federal immigration law, such a defendant may be released from custody only by posting a bond in accordance with the provisions of I.C. 35-33-8-4.5.

(Effective July 1, 2016)

LR52-CR00-2
MIAMI COUNTY CRIMINAL DISCOVERY RULES

The Courts now order that the parties engage in mutual discovery without the necessity of further motion or directive as follows:

1. The State shall disclose to the defense the following material and information within its possession or control on or before 14 days following the entry of a plea of not guilty.
 - a) The names and last known addresses of persons whom the State may call as witnesses, together with (1) their relevant written or recorded statements, (2) memoranda containing substantially verbatim reports of their oral statements (if any memoranda exist), (3) memoranda reporting or summarizing oral statements (if such memoranda exist), (4) a brief statement, normally not to exceed ten words, indicating the nature of each witness' involvement in the case; such statement may be no more than a reference to statements described in paragraphs 1(a)(1), (2), or (3) above.
 - b) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements.
 - c) A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.
 - d) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.
 - e) Any books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused, together with the location of such items and an indication of appropriate means for defense counsel's examination of same. Under circumstances where chain of custody issues are readily apparent, such as drug cases, such chain shall be provided to the extent available on the disclosure date provided above and shall be supplemented (1) upon defendant's written request, (2) by pre-trial conference, and (3) thereafter as ordered to complete such chain.
 - f) Any record or prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
 - g) A copy of any written agreement and the complete substance of any oral agreement made by the State with (1) any witnesses to secure their testimony or (2) any co-defendant or other person charged arising out of the same incident.
 - h) Any evidence that tends to negate the guilt of the accused as to the crime charged or tends to reduce the class of the act alleged or which would tend to mitigate his punishment.

2.
 - a) The State shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. The State shall provide legible copies of statements described in paragraphs 1(a), (b), (c), and (g) as well as transcripts of any audio or videotape recorded statement or a copy of the audio or videotape. Other items shall be provided for examination, testing, copying, photographing, or other proper use either by agreement or at specified reasonable times and places. Defense counsel shall provide reasonable notice of such examination and shall schedule these examinations in cooperation with the State.
 - b) The State shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 1 above by filing with the Court: (1) its witness list together with the statement described in 1(a)(4); (2) a suitable description of memoranda and items provided, but not necessarily by providing copies of all such items to the Court; and (3) an indication of arrangements made for inspection.
3. The defense shall disclose to the State the following material and information within its possession or control on or before fourteen (14) days following the date that the State has provided to the defense the information required under this order.
 - a) The names and address of persons whom the defendant may call as witnesses along with (1) a summary of their testimony similar to that described in 1(a)(4), (2) record of prior criminal convictions, and (3) the relationship, if any, of the witness to defendant or any co-defendant.
 - b) Any books, papers, documents, photographs, or tangible objects that are intended to be used at a hearing or trial.
 - c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons insofar as permitted by law.
 - d) A statement of defenses, procedural or substantive, the defendant intends to make at a hearing or trial. Such a statement shall not limit defendant's right to file any defense defined by statute, such as alibi, insanity, etc., where a specific timetable for notice to the State is statutorily described.
4.
 - a) The defendant shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. Defense shall provide opportunities for examination in a fashion similar to the State's obligations described in 2(a).
 - b) The defense shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph 3 above by filing with the Court: (1) its witness list together with the statement described in 3(a)(1); (b) a suitable description of items provided for examination, etc.; and (c) the statement of defense described in 3(d).

5. The Court anticipates that compliance will be deemed satisfactory unless failure to comply is brought to the Court's attention by Motion to Compel. Sanctions for failure of compliance or violations of orders on Motion to Compel shall be pursuant to Trial Rule 37.
6. Nothing herein shall limit any party's right to seek protective orders to avoid destruction or other loss of evidence, or to seek deposition at such times as they may desire.
7. The Court may deny disclosure upon showing of:
 - a) A substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure that outweighs any usefulness of the disclosure to counsel.
 - b) Where there is a paramount interest in non-disclosure of an informant's identity and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure of the identity of witnesses to be produced at a hearing or trial will be required.
 - c) Such determination of non-disclosure shall be by the Court and shall not be within the discretion of the State or defense. Such non-disclosure shall be sought by motion for protective order.
8. Disclosure shall not be required of:

Any matter otherwise protected by law (however, disclosing the identity of juvenile co-defendants or witnesses shall not be barred because of delinquency non-disclosure statutes).

Work product of counsel including memoranda of opinions, theories, or research for themselves or from their legal or in-house investigative staff.
9. This discovery order is a continuing order through the trial of this cause and no written motion shall normally be required except to compel discovery, for a protective order, or for an extension of time.
10. Failure of either party to engage in and comply with discovery shall not be excused by the parties' unsuccessful or incomplete efforts to enter into a plea agreement or other resolution of the case unless both parties waive in writing (a) compliance with this order for a specified period of time and (b) any speedy trial requirements.
11. Any cost for reproduction or transcripts under this order shall be borne by the party to whom the information is provided except that as to pauper counsel defendants the costs shall be borne by the State or county.
12. Nothing in this Order is to be in contravention of case law or statute.

(Effective January 1, 2006)

LR 52-CR00-3
LATE FEES

- A. Pursuant to I.C. 33-37-5-22 this Rule applies in each case in which a Defendant is found to have:
1. Committed a crime, violated a statute defining an infraction; violated an ordinance of municipal corporation; or committed a delinquent act;
 2. Is required to pay court costs, including fees; a fine; or a civil penalty;
 3. Is not determined by the Court imposing the court costs, fine, or civil penalty to be indigent; and
 4. Fails to pay the Clerk the costs, fine, or civil penalty in full before the later of the following:
 - a. The end of the business day on which the Court enters the conviction or judgment; or
 - b. The end of the business day on which the Court has ordered as the deadline for the payment of costs, fines and civil penalties.
- B. The Court may extend the deadline for payment under this Rule for good cause shown.
- C. The Court may suspend a late fee payment if the Court finds that the Defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine or civil penalty.
- D. The Clerk shall collect a late payment fee of twenty-five dollars (\$25.00) from a Defendant described in subsection A of this Rule.

(Effective July 1, 2008)

LR52-TR79 (H)-1
ASSIGNMENT OF SPECIAL JUDGES IN CIVIL CASES

Purpose of Rule

This rule is adopted to comply with the requirements of Trial Rule 79(H) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges ensuring the effective use of all judicial resources within Administrative District 8 (which is comprised of Cass County, Fulton County, Howard County, and Miami County) and includes each person eligible for appointment under Section (J) of Trial Rule 79.

Central Office Established

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Howard Superior Court 4.

The Courts of this County shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. Each of the Courts of this County shall accept from the Central Administrator the name of the individual to then be appointed as special judge for a given case.

The person serving as the Central Administrator shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (J) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of a special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring court of the individual to be appointed under this rule.

Current Rotation Schedule

The following shall be the rotation schedule used by the Central Administrator:

1. The Judge of the Cass Superior Court I
2. The Judge of the Howard Superior Court III
3. The Judge of the Fulton Superior Court
4. The Judge of the Howard Superior Court II
5. The Judge of the Fulton Circuit Court
6. The Judge of the Howard Circuit Court
7. The Judge of the Miami Superior Court I
8. The Judge of the Howard Superior Court I
9. The Judge of the Cass Circuit Court
10. The Judge of the Miami Circuit Court

11. The Judge of the Cass Superior Court II
12. The Judge of the Howard Superior Court IV
13. The Judge of the Miami Superior Court II

Administrative Fee

Each of the Courts participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th day of September of each year.

Certification to the Supreme Court

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the Court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

Credit for Voluntary Acceptance of Certain Special Judge Cases

If, outside the normal rotation schedule, a judge voluntarily accepts a Cass County, Fulton County, Howard County, or Miami County civil case at the request of the parties to the case or at the request of the Court in which the case is pending, that judge may then receive credit for taking that case, with the Central Administrator skipping over that judge the next time that judge's name comes up for appointment for a case under the above-described rotation schedule. In order to receive such credit, the judge shall notify the Central Administrator of his or her voluntary acceptance of such a civil case no later than seven (7) days after his or her formal qualification and assumption of jurisdiction in that case. At the time that such notification is provided to the Central Administrator, the notifying judge shall also provide the Central Administrator the cause number of the civil case that he or she has voluntarily accepted.

(Effective January 1, 2017)

LR52-AR00-1
CASELOAD ALLOCATION PLAN

The Miami Circuit Court, Miami Superior Court I, and Miami Superior Court II have previously adopted various rules and orders concerning the filing of certain types of matters in the County Courts. Based upon the 2013 weighted caseload numbers, the judges of all three Courts have agreed upon the following caseload allocations:

(A) Criminal Cases

- (1) All Murder, Class A and Class B felony, and Level 1, Level 2, Level 3, and Level 4 felony cases (except as noted in subparagraph (A)(3), below) shall be filed in the Miami Circuit Court.
- (2) All Class C and Class D felony, all Level 5 and Level 6 felony, and all misdemeanor cases (except as noted in subparagraph (A)(3), below) shall be filed in the Miami Superior Court II.
- (3) All traffic-related cases, both felony and misdemeanor, and all felony cases filed against a defendant as a result of one or more criminal acts allegedly committed by the defendant at the Miami Correctional Facility while he or she was a prisoner, employee, or visitor at the Miami Correctional Facility shall be filed in the Miami Superior Court I.
- (4) All non-traffic-related misdemeanor cases shall be filed in the Miami Superior Court II.

(B) Infractions and Ordinance Violations

All Infraction and Ordinance Violation cases shall be filed in the Miami Superior Court I.

(C) Juvenile Matters

- (1) All Juvenile Delinquency, Juvenile Status, and Termination of Parental Rights cases shall be filed in the Miami Superior Court II.
- (2) All Juvenile CHINS cases shall be filed in the Miami Circuit Court.

(D) Small Claims Cases

All Small Claims shall be filed in the Miami Superior Court I.

(E) Civil Prison Litigation

All civil cases filed by prisoners at the Miami Correctional Facility or the Miami County Jail other than Small Claims cases and Post-Conviction Relief proceedings shall be filed in the Miami Circuit Court. Post-Conviction Relief proceedings filed by a prisoner at the Miami Correctional Facility or the Miami County Jail shall be filed pursuant to the provisions of Rule PC 1, Section 2, of the Indiana Rules of Procedure for Post-Conviction Remedies.

(F) **All Other Cases**

All other cases not otherwise mentioned above may be filed in any of the three (3) above-named Courts. All litigants and their attorneys are encouraged to equalize their filing of all other cases between the three Courts.

(Effective July 1, 2014)

**LR52-AR00-2
REVIEW OF CASELOAD DISTRIBUTION**

The judges of the courts of record of Miami County shall meet *en banc* in the second half of April of each even-numbered year for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required to comply with new orders of the Indiana Supreme Court and to comply with the District Plan or any amendments to the District Plan.

(Effective July 1, 2014)

**LOCAL RULE 52-AR01-1
MIAMI COUNTY COURT ADMINISTERED ALCOHOL AND DRUG SERVICES
PROGRAM SCHEDULE OF FEES**

1. Program Fee: \$350

Includes substance abuse assessment, client intake and orientation, referral to treatment if required, client monitoring, case management and compliance monitoring until discharge from program

2. Substance abuse Education Fee: \$50

Substance Abuse Education Fee includes placement in the Prime for Life Level 2 (10) hour education component, workbook, case management and compliance monitoring until course completion and/or discharge

3. Drug Screen Fees: \$ 30 per screen per random urine and/or saliva testing, including all lab fees and GCMS confirmation

4. Combined fees for Program services will not exceed the statutory cap.

(Effective March 15, 2010.)

LR52-AR 15-1
COURT REPORTER SERVICES

Section One. Definitions. The following definitions shall apply under this local rule:

- *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court, including preparing a transcript of the record.
- *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. *Equipment* shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
- *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- *Recording* means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- *Court* means the particular court for which the court reporter performs services. *Court* may also mean all of the courts in Miami County.
- *County indigent transcript* means a transcript that is paid for from county funds and is for the benefit of a litigant who has been declared indigent by a court.
- *State indigent transcript* means a transcript that is paid for from state funds and is for the benefit of a litigant who has been declared indigent by a court.

- *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Compensation, Equipment and Transcript Fees.

1. 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 fixed work hours, gap hours, or overtime hours.
2. Each court reporter shall report to the Indiana Supreme Court Office of Judicial Administration, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent, or private transcripts. The reporting shall be made on forms prescribed by the Office of Judicial Administration.
3. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript; 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:
 - a. The reasonable market rate of the use of equipment, work space, and supplies.
 - b. The method by which records are to be kept of the use of equipment, work space, and supplies; and
 - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space, and supplies.
4. 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.
5. The maximum per page fee a court reporter may charge for private practice work shall be Five Dollars (\$5.00).
6. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Five Dollars (\$5.00).
7. The maximum per page fee a court reporter may charge for the preparation of a transcript for a county or state indigent transcript shall be Four Dollars (\$4.00).
8. Any transcript that is required to be expedited (due within 14 days of written request) will result in an additional fee of One Dollar and Fifty Cents (\$1.50) per page.

9. A court reporter may charge a minimum fee of Thirty-Five Dollars (\$35.00) per transcript.
10. The court reporter shall submit directly to the county a claim for the preparation of the county indigent transcript.
11. 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 the exhibit binders.
12. A reasonable charge for the office supplies required and utilities for the binding and electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible; the costs for these supplies should be determined pursuant to a Schedule of Transcript Supplies which should be established and published annually by the judge or judges of the county.
13. The courts will enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. either monetary compensation or compensatory time off.

(Effective March 1, 2017)

LR52-FL00-1 WORKSHEET - CHILD SUPPORT OBLIGATION

[No text – This Local Rule was abrogated, effective July 1, 2016.]

LR52-FL00-2 SCHEDULE OF ASSETS AND LIABILITIES

[No text – This Local Rule was abrogated, effective July 1, 2016.]

LR52-FL00-3 INCOME AND PROPERTY DISCLOSURE

[No text – This Local Rule was abrogated, effective July 1, 2016.]