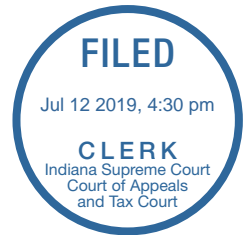


In the Indiana Supreme Court

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

Supreme Court Case No.
19S-MS-407



Order Approving Amended Local Rule

The Judges of the Hamilton Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendments requested by the Hamilton Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR29-AR00-104, LR29-AR00-105, LR29-AR00-110, LR29-CR00-301, LR29-CR00-302, LR29-CR00-303, and LR29-CR00-304 comply with the requirements of Indiana Administrative Rule 1(E), and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR29-AR00-104, LR29-AR00-105, LR29-AR00-110, LR29-CR00-301, LR29-CR00-302, LR29-CR00-303, and LR29-CR00-304 for Hamilton Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective January 1, 2020.

Done at Indianapolis, Indiana, on ^{7/12/2019}_____.

Loretta H. Rush

Chief Justice of Indiana

LR29-AR00-104. PLAN FOR ALLOCATION OF JUDICIAL RESOURCES

104.10 The Circuit and Superior Courts of Hamilton County have previously adopted various rules concerning the filing of certain types of matters in the Hamilton County Circuit and Superior Courts. Unless changed by addition, amendment and/or deletion, those rules remain in effect. In conjunction with the adoption of this Local Rule and plan, the following Hamilton County Local Rules also affect the allocation of judicial resources: LR29-AR00-105. Protective Orders; LR29-AR00-110. Assignment of Infraction and Ordinance Violation Cases; LR29-TR76-210. Transfer of Small Claims, Infraction and Ordinance Violations Cases and Protective Orders in the Event of Disqualification; LR29-CR00-301. Criminal Random Filing; LR29-CR00-302. Clerk Procedures to Accomplish Criminal Random Filing; LR29-CR00-303. Filing Co-Defendants Under the Hamilton County Criminal Random Filing Rule; LR29-CR00-304. Filing Felony Cases Arising From Juvenile Waiver Hearings; LR29-CR13-311. Coordinated Local Rule of the Courts of Hamilton County, Enacted in Compliance with C.R. 2.2(D) and 13(C); LR29-DN01-602. Rules for Trial De Novo Following Civil Judgments; LR29-DN02-603. Rules for Trial De Novo Following Judgments for Infractions or Ordinance Violations; LR29-DN02-604. Rules for Trial De Novo Following Misdemeanor Trial in City or Town Court; LR29-PR00-702. Filing of Pleadings; and, LR29-JV00-801. Assignment of Juvenile Case Numbers.

104.20 All requests for a prosecutor subpoena shall be filed in Superior Court No. 6.

104.30 Superior Courts No. 4, 5, and 6 are each specifically designated as having a standard small claims and misdemeanor division.

104.40 The judges of the Courts of record of Hamilton County shall meet at least once annually for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required either by the Courts themselves or to comply with new orders of the Indiana Supreme Court or to comply with the District Plan.

104.50 The judge of the Circuit Court may with the consent of the judge of a receiving Superior Court, transfer any action either filed and/or docketed in the Circuit Court to the Superior Court to be re-docketed and disposed of as if originally filed with the receiving Superior Court. The judge of a Superior Court may, with the consent of the judge of the receiving Circuit Court or other receiving Superior Court, transfer any action either filed and/or docketed in the Superior Court to the Circuit Court or the other Superior Court to be re-docketed and disposed of as if originally filed with the receiving Court.

LR29-AR00-105. PROTECTIVE ORDERS UNDER IC 5-2-9-2.1**105.10 PROTECTIVE ORDER FILING:**

- a. All protective orders (PO) shall be filed in Superior Court No. 2 (even months) and 3 (odd months).
- b. Once the PO has been acted upon, if there is a related dissolution action pending in any other Hamilton County Court, the PO will be transferred to said court and consolidated with said action for hearing purposes.
- c. For a change of judge pursuant to Trial Rule 76(B) or 79(C), see LR29-TR76-209.
- d. From time to time, the Courts may provide orders to assist the Clerk in implementing the Protective Orders Filing procedures.

LR29-AR00-110. ASSIGNMENT OF INFRACTION (IF) AND ORDINANCE VIOLATION (OV) CASE NUMBERS

110.10 The Clerk shall as near equally as possible assign cause numbers for new filings of all IF and OV case types to Hamilton Superior Courts No. 4, 5, and 6 (i.e., 1/3 in each court).

110.20 The Clerk shall accomplish the above by assigning cause numbers to the courts based upon the first letter of the defendant's or respondent's last name or other method as the judges of said courts shall agree.

LR29-CR00-301. CRIMINAL RANDOM FILING

301.10 This Random Filing Rule does not apply to either civil cases or juvenile cases.

301.20 All CM case types (except those assigned to Superior Court No. 3 and 6 pursuant to Section 301.30 below) shall be randomly filed with 1/3 in Superior Court No. 4, 1/3 in Superior Court No. 5, and 1/3 in Superior Court No. 6 using the Clerk's random assignment procedure. All F6 case types (except those assigned to Superior Court No. 3 pursuant to Section 301.30 below) shall be randomly filed with 1/3 in Superior Court No. 4, 1/3 in Superior Court No. 5, and 1/3 in Superior Court No. 6 using the Clerk's random assignment procedure. Reassignment of these cases shall be achieved by transferring cases originating in Superior Court No. 4 to either Superior Court No. 5 or Superior Court No. 6; transferring cases originating in Superior Court No. 5 to either Superior Court No. 4 or Superior Court No. 6; and, transferring cases originating in Superior Court No. 6 to either Superior Court No. 4 or Superior Court No. 5. In the event a subsequent reassignment is required (and neither Superior Court No. 4, nor Superior Court No. 5, nor Superior Court No. 6 is available) said case assignment shall be achieved by obtaining a new court assignment from all Hamilton County Courts using the Clerk's random assignment procedure.

301.30 F6 case types with domestic battery offenses, strangulation offenses, and invasion of privacy offenses shall be filed in Superior Court No. 3; and, CM case types with invasion of privacy offenses shall be filed in Superior Court No. 3. All other CM case types with domestic battery offenses shall be filed in Superior Court No. 6.

301.40 MR, F1, F2, F3, F4, and F5 case types shall be randomly filed per case type with 25% of each case type filed in Circuit Court, Superior Court No. 1, Superior Court No. 2 and Superior

Court No. 3. Reassignment of these cases shall be achieved by obtaining a new court assignment using the Clerk's random assignment procedure of the Courts designated to accept this type of case.

301.50 The Clerk shall use a court-approved procedure which provides a tamper proof method for random assignment consistent with the foregoing paragraphs of this Criminal Rule.

301.60 From time to time, the Courts may provide orders to assist the Clerk in implementing the Criminal Random Filing procedures.

301.70 Pursuant to Indiana Criminal Rule 2.2(C), if a case is dismissed after filing, upon refiling it shall be assigned to the same court where it was originally assigned.

301.80 The Clerk shall file subsequent cases against a defendant with a pending case (where a "pending case" is defined under this rule as a criminal case in which there is either no disposition of the charge(s) via a determination of guilt or dismissal or the defendant has not yet been discharged from the sentence imposed, including probation) as follows:

- a. When a defendant has a pending case in Circuit Court, Superior Court No. 1, Superior

Court No. 2, or Superior Court No. 3, the Clerk shall file any subsequent criminal case types (MR, F1, F2, F3, F4, F5, F6, or CM) in the same court as that of the pending case. However, this subparagraph does not apply to F6 or CM case types with one (1) or more OWI offenses (IC 9-30-5) charged.

b. When a defendant has a pending case in Superior Court No. 4, or Superior Court No. 5, or Superior Court No. 6, the Clerk shall file any subsequent F6 or CM case types (except those assigned to Superior Court No. 3 or 6 pursuant to Section 301.30) in the same court as that of the pending case.

c. When a defendant's only pending cases are in Superior Court No. 4, or Superior Court No. 5, or Superior Court No. 6, the Clerk shall file any subsequent case types listed under Sections 301.30 or 301.40 as set forth in Sections 301.30 and 301.40.

d. When the State elects to name two or more individuals or entities as defendants pursuant to LR 29-CR00-303, Section 303.10, and more than one (1) such co-defendant has a pending case, then the Clerk shall file the causes under the procedure set forth in Section 303.10 [but notwithstanding Section 303.10(b)(1)] into the Court with the oldest pending case for which the defendant has personally appeared. The "oldest" case shall be determined by the earliest filing date.

e. It shall be the duty of the Prosecuting Attorney or Deputy Prosecuting Attorney to file written notice with the Clerk that a defendant has a pending case that requires the Clerk to follow the filing requirements of this rule.

f. If a conflict arises between Sections 301.30 and 301.80, Sections 301.30 controls.

g. A Court, at the request of both parties, may transfer a case to another Court where the defendant has a pending case, as defined by this rule, provided that the receiving Court agrees to accept the transfer.

301.90 Notwithstanding the above, the Prosecutor of Hamilton County has the discretion to file the following CM cases in a city court:

- a. IC 7.1-5-1;
- b. IC 7.1-5-7 (except for 7.1-5-7-8);
- c. IC 9-21-8;
- d. IC 9-24-18;
- e. IC 9-24-19;
- f. IC 9-26-1;
- g. IC 9-30-16;
- h. IC 35-48-4-8.3; and
- i. IC 35-48-4-11,

only if the misdemeanor allegedly occurred within the limits of the city and the case is not considered a subsequent case under Section 301.80.

301.91 Notwithstanding the above, the Prosecutor of Hamilton County has the discretion to file the following CM cases in a city court: IC 14 *et seq.*;

if the misdemeanor allegedly occurred the limits of the county and the case is not considered a subsequent case under Section 301.80.

301.92 A defendant in a city court criminal case may, not later than ten (10) days before the first scheduled trial date, move to transfer the case to a court of record or demand a jury trial. The judge of the city court shall then transfer the case to the Clerk of Hamilton County Courts who shall assign the case pursuant to the Criminal Random Filing Rule. If the judge of a city court recuses or grants a motion for change of judge, the judge shall transfer the case to the Clerk of

Hamilton County Courts who shall assign the case pursuant to the Criminal Random Filing Rule.

LR29-CR00-302. CLERK PROCEDURES TO ACCOMPLISH CRIMINAL RANDOM FILING

302.10 The Judges of the Hamilton Circuit Court and Hamilton Superior Courts approve the following procedures to be used in the Hamilton County Clerk's office to accomplish the Hamilton County Criminal Random Filing Order.

- a. Begin with a set number of cases which is evenly divisible by the applicable number of Hamilton County Courts.
- b. Divide the set number of cases by the percentages for each type of case per Court resulting in the number of each type case for each Court which shall equal the percentages.
- c. These cases are then pulled and/or selected for individual case number assignment one by one on an impartial random selection basis.

LR29-CR00-303. FILING CO-DEFENDANTS UNDER HAMILTON COUNTY CRIMINAL RANDOM FILING RULE.

303.10 It is hereby resolved that the following rule applicable to the filing of misdemeanor and felony cases shall be employed in the implementation of the Hamilton County Criminal Random Filing Rule.

- a. When the Prosecutor of Hamilton County, individually or through deputy prosecutors, elects to file a felony or misdemeanor case in which two or more individuals or entities are named as Defendants, at the time of the filing of said charges, said Prosecutor or Deputy Prosecutor shall file notice with the Clerk of Hamilton County that said case is to be treated under this rule.
- b. Upon receiving notice for treatment of a case under this rule, the Clerk shall take the following action:
 - (1) First, the Clerk shall randomly select a Court designated to receive the type case being filed under the Random filing rule approved by the Judges of the Hamilton Circuit and Superior Courts,
 - (2) Second, the first named defendant in the multiple defendant information shall be assigned the next available cause number in the randomly selected Circuit or Superior Court.
 - (3) Third, the remaining Defendants shall each be assigned the next available cause number in the randomly selected Circuit or Superior Court in the order of their appearance on the charging information.
 - (4) Fourth, the Clerk shall treat each cause number assigned under this rule as a separate and distinct case, and shall remove from his/her random selection pool the number of cases assigned hereunder in order to maintain the percentage allocations set forth in the Random Filing Rule.
- c. Each Defendant's case filed under this rule shall be treated as a separate and distinct case, and Co-defendant's cases will not be consolidated for trial unless said consolidation is approved by separate order of the assigned Judge.
- d. The Clerk shall follow this rule only when the State files the co-defendant cases simultaneously.
- e. This rule shall remain in full force and effect unless otherwise modified, amended, or repealed by separate written instructions adopted by the Judges of the Hamilton Circuit

and Superior Courts.

**LR29-CR00-304. FILING FELONY CASES ARISING FROM JUVENILE WAIVER HEARINGS
UNDER HAMILTON COUNTY RANDOM FILING RULE**

304.10 The Clerk is ordered to treat new criminal filings which arise from the waiver of a juvenile matter to criminal court as a new criminal matter under the random filing rule and to assign said cause to the Court identified under said rule regardless of which court may have previously exercised juvenile jurisdiction prior to waiver, unless otherwise directed by the waiving court.