

# **LOCAL COURT RULES**

## **HOWARD COUNTY, INDIANA**

*Updated June 2<sup>nd</sup>, 2023*

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**LR34-TR81-1**  
**SCOPE OF RULES**

Pursuant to Trial Rule 81 of the Indiana Rules of Court, and except as otherwise provided, these rules govern the procedure and practice of the Circuit Court and the Superior Courts of Howard County.

These local rules shall be read and applied in a manner not inconsistent with the Indiana Rules of Trial Procedure.

**LR34-AR1-2**  
**ASSIGNMENT OF CASE FILINGS**

**A. HOWARD CIRCUIT COURT:** All juvenile matters, paternity cases, adoptions, county tax sale matters, and other cases required by law to be filed in the Howard Circuit Court shall be filed in the Howard Circuit Court.

**B. HOWARD SUPERIOR COURTS II AND IV:** Mental health matters shall be filed in the Howard Superior Court II or the Howard Superior Court IV. The court of filing shall be determined by random selection made by the Clerk.

**C. HOWARD SUPERIOR COURT III:** Small Claims and Petitions for Specialized Driving Privileges pursuant to IC 9-30-16 shall be filed in the Howard Superior Court III. The Court shall also maintain a Plenary Docket for the purpose of accepting transfer cases. This shall include any civil case transferred from the other Howard County Courts or cases in which the Judge of Howard Superior Court III has been selected as a special judge pursuant to Sections (D)(H) or (K) of Trial Rule 79. All small claims which are transferred to the Plenary Docket as a result of a jury request or because a party seeks to pursue a claim that exceeds the jurisdictional amount allowed shall be transferred to the Plenary Docket of Howard Superior Court III.

**D. OTHER CIVIL FILINGS:** All other civil cases shall be filed in Howard Circuit Court, Howard Superior Court I, Howard Superior Court II, or Howard Superior Court IV. The court of filing shall be determined by random selection made by the Clerk, using a method which will result in nineteen percent (19%) being filed in Howard Circuit Court, twenty-seven percent (27%) being filed in Howard Superior Court I, twenty-seven percent (27%) being filed in Howard Superior Court II, and twenty-seven percent (27%) being filed in Howard Superior Court IV.

**E. CRIMINAL CASES:** All criminal cases shall be filed pursuant to LR34-CR2.2-29.

*(Amended effective April 21<sup>st</sup>, 2023)*

**LR34-TR76-3**  
**TRANSFER OF ACTION**

It may, from time to time, be expedient for the Judges of Howard Circuit Court and Superior Courts to transfer cases between those courts. This shall be done with the consent of the two judges involved in the transfers, pursuant to I.C. 35-5-20.1-21 and I.C. 35-5-20.1-22. If such transfer is consummated, the time for taking a change of venue from the Judge shall be extended for a period of ten (10) days from the service of notice of such transfer or until such period expires pursuant to T.R. 76 or other applicable law.

**LR34-AR00-4**  
**JUDGES SITTING IN EITHER COURT**

It may, from time to time, be expedient for the Judges of Howard Circuit and Superior Courts to hear cases pending in another court.

The Judge of the Howard Circuit Court authorizes the Judges of the Howard Superior Courts to sit as Judge of the Howard Circuit Court, at any time, in any case.

The Judges of the Howard Superior Courts authorize the Judge of the Howard Circuit Court to sit as Judge of the Howard Superior Courts, at any time, in any case.

The Magistrate of Howard County is authorized to sit as judicial officer of the Howard Circuit Court and Howard Superior Courts, at any time, in any case with the approval of the Judge of such Court.

**LR34-TR3.1-5**  
**APPEARANCE AND WITHDRAWAL**

**A. APPEARANCE:** An appearance by counsel, or by a party appearing without an attorney shall be made in writing and filed with either the Clerk or the Court. It shall be in compliance with the Indiana Supreme Court Rules. A copy must be served on other counsel or parties. The Clerk shall note the appearance on the Chronological Case Summary.

**WITHDRAWAL:** All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days written notice of his intention to withdraw and has filed a copy of the notice with the court, except in the following cases:

- (1) when another attorney has already filed an appearance for the same party; or
- (2) when the withdrawing attorney files a pleading indicating that he or she has been terminated from the case by the client; or
- (3) when the appearance of an attorney is deemed withdrawn upon conclusion of an action or matter.

The court will not grant a request to withdraw an appearance unless the same has been filed with the court at least ten (10) days prior to trial date, except for good cause. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of this requirement. All withdrawals of appearance shall comply fully with the provisions of Rules of Professional Conduct.

**LR34-AR11-6**  
**PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS**

**A. PRODUCTION.** Pleading, motions, and other paper shall be on white paper. All pleadings, copies, motions, and documents filed with the court, with the exception of exhibits and existing wills, shall be prepared on 8.5" x 11" paper. The lines shall be double spaced except for quotations, which shall be indented and single spaced.

**B. TITLES.** Titles on all pleadings shall delineate each topic included in the pleading, e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request, each shall be set forth in the title.

**LR34-TR5-7  
FILINGS**

**A. PLEADINGS.** The entry of appearance and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Clerk. The Judge may, however, permit papers to be filed with the Court, in which event the filing date shall be noted thereon.

**B. CHRONOLOGICAL CASE SUMMARY ENTRIES.** Written pleadings presented for filing shall be accompanied by a proposed entry for the Chronological Case Summary. It shall contain the title and number of the case, the date, and exact entry to appear on the Chronological Case Summary. The proposed entry shall be signed by counsel.

**C. COPIES TO SPECIAL JUDGES.** When a Special Judge is selected, copies of all pleadings, motions, or briefs filed shall be mailed or delivered to the office of the Special Judge with certificate of forwarding same made a part of the original papers.

## **LR 34-TR79-8 CHANGE OF JUDGE**

### **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 Circuit Court.

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 Magistrate of Howard County
14. 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.

**LR34-AR00-9**  
**PROPOSED ORDERS**

Prior to entry by the court of Orders granting motions, applications or setting hearing dates, the moving party or applicant shall, unless the court directs otherwise, furnish the court with proposed Orders in the following matters:

1. Enlargement of Time
2. Continuance
3. Default Judgment
4. Compel Discovery
5. Dismissal
6. Appointment of Receiver
7. Appointment of Guardian
8. Restraining Order, Temporary or Permanent Injunction
9. Immediate Possession of Real Estate
10. Immediate Possession of Personal Property
11. Findings of Fact and Conclusions of Law
12. Foreclosure of a Mortgage or other Lien
13. Setting Hearing Dates
14. Such other Order, Judgments or Decrees as the Court may direct.

All proposed Orders left with the Clerk or Court shall be submitted in sufficient numbers so that distribution may be made to all affected parties.

## **LR34-TR73-10 MOTIONS**

**A. ORAL ARGUMENTS.** The Court shall not hear oral arguments on motions unless required by the Indiana Rules of Procedure, requested by a party and allowed by the Court in its discretion, or at the request of the Court.

**B. BRIEFS AND MEMORANDA REGARDING MOTIONS.** If a party desires to file a brief and memorandum in support of any motion, such brief or memorandum shall accompany or be filed simultaneously with the motion, and a copy served on the adverse party. If the adverse party desires to file a brief or memorandum, the adverse party shall file it as ordered by the Court.

**C. ENLARGEMENT OF TIME.** An initial written motion for enlargement of time pursuant to Trial Rule 6(B)(1) to respond to a claim shall be automatically allowed for an additional 30 days from the date of filing by a written order of the Court except in matters denominated in the pleadings as emergency in nature. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. The motion must be filed on or before the original due date, or this rule is inapplicable.

**LR34-TR53.5-11**  
**CONTINUANCES**

A motion for a continuance, unless made during the hearing of the cause, shall be for cause, in writing and verified. A motion for continuance shall be filed as soon after the cause for continuance is discovered by the moving party. The attorney's signature on a request for a continuance is considered a certification that the client has been notified of the request.

The motion shall contain a statement concerning notification to opposing counsel or to *pro se* party:

1. That other counsel/party has been contacted and has no objection.
2. That other counsel/party has been contacted and does object.
3. That other counsel/party has not been contacted after diligent effort.

**LR34-TR47-12**  
**VOIR DIRE**

**A. EXAMINATION OF PANEL AS A WHOLE BY COURT:** Unless otherwise directed, the entire panel of prospective jurors shall be sworn by the court. The court may conduct its own voir dire examination of the entire panel with a view primarily of establishing a basis for challenge for cause.

**B. JURY QUESTIONNAIRES:** Jury questionnaires shall be on file with the Bailiff or Security Officer and copies shall be made available to counsel, but it shall be the responsibility of counsel to obtain such copies from the Bailiff or Security Officer, and to review the same before the voir dire begins.

**C. SUPPLEMENTAL EXAMINATION BY COUNSEL:** Following examination by the court, counsel shall be permitted to supplement the court's examination on subjects not expressly covered by the court or the jury questionnaires. Questions shall be, so far as possible, directed to the entire panel seated in the jury box. The side with the burden of proof shall proceed first with such examination and the opposing side will then proceed.

**D. PEREMPTORY CHALLENGES:** After each side has completed its supplementary examination, peremptory challenges must then be made. Such challenges will be made in writing and submitted to the court. After submission to the court, the court will then advise the prospective jurors so challenged.

**E. PEREMPTORY CHALLENGES OF SAME JUROR:** A peremptory challenge of the same juror by both sides shall count against the number of challenges for each side.

**LR34-TR51-13**  
**JURY INSTRUCTIONS**

All requests for instructions tendered in accordance with Trial Rule 51 shall be in writing with citations on the Court's copy, to applicable authority. Reasonably anticipated final instructions shall be exchanged and filed with the Court as directed. Proposed preliminary instructions shall be exchanged and filed. The plaintiff in a civil matter shall prepare and exchange with opposing counsel a proposed preliminary instruction on the issues, which shall be included in the Pre-Trial Order. The Court shall, in the interest of justice, permit the tender of additional instructions during the trial on matters which could not have been reasonably anticipated in advance of trial. Such proposed instructions shall be no more than ten (10) in number from each party or in the case of multiple parties no more than fifteen (15) total.

**LR34-TR16-14**  
**PRE-TRIAL CONFERENCE**

**A. WHEN.** There shall be a pre-trial conference in every civil case scheduled for jury trial. In other cases, upon motions of any party or upon motion of the Court, a pre-trial conference may be held.

**B. CERTIFICATE OF READINESS.** Any party may request that a pre-trial conference be held or that the cause be set for trial if no pre-trial conference is required by filing a Certificate of Readiness, certifying to the Court that the cause is at issue; that discovery is completed or that discovery will be completed by the time of the pre-trial conference; that the cause is ready to be assigned for pre-trial conference or that a pretrial conference should be waived and the matter assigned for trial. If any party should oppose any matter contained in the Certificate of Readiness, he shall, within 10 days following receipt of a copy of the Certificate of Readiness, file with the Court, with service to all counsel of record, his verified objections citing in particular why the cause is not ready for pre-trial conference and trial. The Court may summarily rule on any verified objections or, upon written request, set the matter for hearing. If no objections are filed within the time prescribed or allowed, the Court will set the cause for pre-trial conference. Following a pre-trial conference and entry of a pre-trial order in a cause, if required, the cause shall be placed on the Court's calendar for trial.

**C. PRE-PRETRIAL CONFERENCE.** At least 10 days prior to the date set for pre-trial conference, the attorneys for all parties shall meet and/or confer for the purposes set forth in Trial Rule 16(C).

**D. PRE-TRIAL ORDER.** Following the pre-trial conference, a pre-trial order shall be prepared, signed, and filed as directed by the Court at the pre-trial conference. When signed by the Court and entered of record, the pre-trial order shall control the course of trial, and the pleadings will be deemed merged therein.

**LR34-TR40-15**  
**TRIAL SETTINGS**

Unless otherwise ordered by the court at the pre-trial conference, when more than one case is set for trial on a given date, the case set second shall be required to stand for trial if counsel is given five (5) days' notice, excluding Saturday and Sunday, that the case first set will not be heard. Counsel for all other subsequent settings is required to communicate with each other and counsel for the first and second settings to determine priorities.

Counsel shall inform the court at least fourteen (14) days before the trial is scheduled to commence, excluding Saturday and Sunday, of the need to call a jury.

**LR34-FL-16**  
**DOMESTIC RELATIONS**

**A. WORKSHEET - CHILD SUPPORT OBLIGATION.** A copy of the worksheet provided in the Indiana Child Support Guidelines shall be submitted to the Court in each case in which the Court is asked to determine support, including cases in which agreed orders are submitted. A worksheet shall be signed by a party under penalties of perjury.

**B. SCHEDULE OF ASSETS AND LIABILITIES.** A schedule of assets and liabilities, together with copies of any and all inventories and appraisals, may be submitted to the Court prior to the beginning of a contested trial and copies served upon opposing counsel.

**LR34-FL-17**  
**PARENTING TIME**

**1. PARENTING TIME.** It is the express preference of the Howard Circuit and Superior Courts that parenting time be defined simply as occurring “at all reasonable times and places”. Such parenting time means that parties take into consideration the schedules and economic and geographic circumstances of each other as well as the schedules and activities of the children.

**2. PARENTING TIME GUIDELINES.** The Indiana Supreme Court has adopted Parenting Time Guidelines. These guidelines are designed for those situations when the parties are unable to resolve “parenting time” without having specific guidelines. Consequently, if the parties cannot agree on parenting time, the Parenting Time Guidelines will be adopted unless the Court orders otherwise.

**EXHIBITS**

Exhibits shall be presented to the reporter for marking prior to the beginning of the trial or during recess, to ensure that the trial is not delayed for the marking of exhibits.

The exhibits of plaintiffs, petitioners, or any other party who initiates an action shall be marked numerically as 1, 2, 3 etc. The exhibits of defendants, respondents, or any other party who responds to an action initiated by another shall be marked alphabetically as A, B, C etc. Where alphabetically marked exhibits exceed the letters in the alphabet, exhibits shall then be marked as AA, BB, CC, etc.

After being marked for identification and offered in evidence, all exhibits and proposed exhibits shall be placed in the custody of the reporter, who is responsible for their safekeeping unless otherwise ordered by the trial judge.

After a case has been decided and no appeal has been taken, or after all appeals are completed, if there has been no request for the return of such items within 90 days of final judgment, they may be disposed of by the reporter as the Court may direct.

Copies of all documentary exhibits shall be provided as follows: one for the Court: one for each party and one for each Juror.

**LR34-AR00-19**  
**DOCUMENTS, FILES AND DEPOSITIONS**

**A. REMOVAL OF ORIGINAL PLEADINGS, PAPERS AND RECORDS.** No person shall withdraw any original pleading, paper, or record from the custody of the clerk or other officer of the Court except after giving proper receipt.

**LR34-AR00-20  
LIBRARY**

The books and electronic devices in the law library shall be in the custody of the Judges of the Courts of Howard County. No person shall remove any book or electronic device from the law library until he signs out the same. Any item removed from the law library shall not be retained more than ten consecutive days.

**LR34-AP9-21**  
**APPELLATE RECORD**

When an appeal is initiated by the filing of a Notice of Appeal pursuant to Appellate Rule 9, and a transcript of all or any part of the evidence is sought for the record on appeal, counsel filing the Notice of Appeal shall deliver, contemporaneously and personally, a copy of the Notice of Appeal to the Court Reporter, advise the Court Reporter of the deadline for preparation of the records, and then make arrangements to pay the Court Reporter for preparation of the records.

**LR34-AR00-22  
TRANSCRIPTS**

Persons requesting transcripts shall make a deposit with the Court Reporter sufficient to cover the cost of the transcript at the time of the request unless other arrangements are made with the Court Reporter who is preparing the transcript.

**LR34-AR00-23**  
**COURTROOM SECURITY**

No person shall enter the courtroom or the court's chambers or environs in possession of a firearm or any type of knife, club, bomb, or explosive device or any other offensive weapon. This order does not apply to law enforcement officers in uniform or law enforcement officers in plain clothes, who publicly display identification.

Violators will be found in contempt of court and punished according to applicable law.

**LR34-AR15-25  
COURT REPORTER**

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

(1) A *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.

(2) *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 and storing, and transcribing electronic data.

(3) *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.

(4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 28.

(5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) *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.

(7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked not in excess of forty (40) hours per work week.

(8) *Overtime hours worked* means those hours worked that are in excess of the regular hours worked and are in excess of forty (40) hours per work week.

(9) *Work Week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, e.g. Sunday through Saturday, Wednesday through Tuesday, or Friday through Thursday.

(10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Howard County.

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

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

## **Section Two. Salaries and Per Page Fees.**

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours, or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. Monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$5.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcript.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$5.00.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$5.00.

(5) That preparation of all transcripts shall be done outside of the work space and after regular work hours.

(6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Office of Judicial Administration. The reporting shall be made on forms prescribed by the division of State Court Administration.

(7) A minimum fee up to \$35.00 may be charged by the court reporter per transcript.

(8) Index and Table of Contents pages should be charged by the court reporter at the per page rate being charged for the balance of the transcript.

(9) An additional labor charge of \$20.00 may be charged for the time spent on preparation of each volume and its electronic submission.

(10) A reasonable charge for the office supplies required and utilized 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.

### **Section Three. Private Practice.**

(1) If a court reporter elects to engage in private practice through the recording of a deposition transcript, and 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 court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies;
- (b) The method by which records are to be kept for 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.

(2) 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.

**LR34-CR00-26  
INITIAL HEARING**

Any defendant held in custody by reason of warrant or civil attachment shall be brought before the court for initial hearing upon order of the court following the arrest. This rule shall not prohibit the release of any defendant on bond as per order of the court.

**LR34-CR00-27**  
**WITHDRAWAL OF APPEARANCE**

In criminal cases, withdrawal of representation of a defendant will be in compliance with I.C. 35-36-8-2. It will be considered after a hearing is conducted in open court, on record, in the presence of the defendant, unless another attorney has entered an appearance for the defendant. Withdrawal of appearance may be allowed without compliance with the requirements of this rule, if the reason for withdrawal is the inability to locate and communicate with the defendant. In such event a warrant may be issued for the arrest of the defendant. Notice of withdrawal is required pursuant to LR34-TR3.1-5.

**LR34-CR00-28**  
**WARRANTLESS ARRESTS**

Any defendant held in custody by reason of a warrantless arrest, shall be brought before a judge for probable cause determination within forty-eight (48) hours following arrest. The probable cause determination may be made either by hearing or by affidavit(s).

When the judge has authorized release on bond before probable cause determination, the Sheriff shall give notice to the defendant of a court appearance date on the Report of Bonding form with a copy delivered to the court and prosecutor.

After determination of probable cause, the prosecutor shall file appropriate charges with the court within forty-eight (48) hours.

**LR34-CR2.2-29**  
**FILING CRIMINAL CASES**

**A. WEEKLY ROTATION:** Beginning April 1, 2018, weekly rotation will be as follows:

1. Week#1 - Howard Circuit Court
2. Week#2 - Howard Superior Court I
3. Week#3 - Howard Superior Court II
4. Week#4 - Howard Superior Court IV

Weekly rotation thereafter will be from 12:01 a.m. Monday until twelve o'clock midnight Sunday each week.

The Clerk shall maintain a projected calendar for one year in advance showing the weekly rotation and shall in retrospect project a calendar for the previous one year and beyond if necessary for weekly rotation.

The weekly rotation calendar shall be public and posted in the Clerk's office and in each court participating in the weekly rotation.

**B. FELONIES:** The court in which all felony criminal charges shall be filed will be the court on a weekly rotation on the day on which the offense alleged in the charging document occurred with the following guidelines:

1. Where multiple offenses are filed, the date of the earliest offense alleged in the charging document shall control the rotation date.

2. In other cases where the date of the case is ambiguous, or covers a period of time, or is not otherwise specifically alleged, the controlling date will be the date that the Prosecutor's Office logged in the original complaint, case, report, or other notification of the alleged offense. The Prosecutor shall maintain a system of logging in cases which shall be open for reasonable inspection by the courts and members of the Bar.

3. In case where the accused has a previously filed and pending felony charge(s), and is charged with one or more subsequent felony charge(s), the subsequent case shall be filed in the court in which the previously filed case is pending. If the previous charge(s) is no longer pending at the time the subsequent charge(s) is filed, the subsequent charge(s) shall be filed in the court as designated by the weekly rotation schedule in section A. The previous charge(s) will be considered pending if the State filed the charge(s) and the court has not entered a dismissal or judgment of conviction or acquittal of the pending charge(s).

**C. MISDEMEANORS, INFRACTIONS, AND ORDINANCE VIOLATIONS:** The Howard Superior Court III is the court in which all misdemeanors, infractions, and ordinance violations are filed, with the following qualifications:

1. A misdemeanor charge which is filed contemporaneous with a felony charge against the same individual will be filed in the court where the felony charge is filed;

2. Where a defendant has a pending misdemeanor charge and a subsequent felony charge is filed, the misdemeanor charge will remain in Superior Court III, or with the consent of the accused, the Prosecutor, and the Judge of Superior Court III, may be transferred to the court having the felony case under Transfer of Action, Local Civil Rule 3.

**D. CHANGE OF JUDGE:** Where there has been a change of venue granted, or an order of disqualification or recusal entered, the Clerk shall select a successor judge by random selection from the other four (4) Howard County Courts.

If this process does not result in the selection of a Special Judge, the Clerk shall select a Special Judge in rotating order from the Judges of the following Courts, comprising courts contiguous to, or within the same administrative district as Howard County:

Miami Circuit  
Miami Superior 1  
Miami Superior 2  
Cass Circuit  
Cass Superior 1  
Cass Superior 2  
Carroll Circuit  
Carroll Superior  
Clinton Circuit  
Clinton Superior  
Tipton Circuit  
Grant Circuit  
Grant Superior 1  
Grant Superior 2  
Grant Superior 3  
Grant County Magistrate  
Fulton Circuit  
Fulton Superior

The Clerk shall maintain the list of Special Judges, and shall select from the list on a rotating basis when appointment under this local rule is required. If a judge is skipped in the rotation because of ineligibility or disqualification, he or she shall be selected first for the next eligible cause.

**E. TIME FOR OBJECTION:** Any party may file a written objection to an alleged violation of this rule. Upon a finding that the charge(s) were improperly filed, the court where the charge(s) were originally filed shall transfer the charge(s) to the proper court without the necessity of obtaining consent from the receiving court. Any such objection shall be deemed waived unless filed on or before thirty (30) days after Omnibus Date; however, upon a showing of good cause and in the interest of justice, the court may permit the filing of the objection any time before the commencement of trial.

**LR34-CR00-30  
BAIL SCHEDULE**

**A. AMOUNTS:** The following amounts shall be the amounts set for bail in those courts which authorize the use of the schedule, unless otherwise ordered by the Court:

<b>CLASS OF OFFENSE</b>	<b>BAIL AMOUNT</b>
A. Murder	None
B. Habitual Offender	\$50,000.00
C. Level 1 Felony	\$75,000.00
D. Level 2 Felony	\$50,000.00
E. Level 3 Felony	\$40,000.00
F. Level 4 Felony	\$30,000.00
G. Level 5 Felony	\$20,000.00
H. Level 6 Felony	\$10,000.00
I. Class A Misdemeanor	\$8,000.00
J. Class B Misdemeanor	\$6,500.00
K. Class C Misdemeanor	\$5,000.00

**EXCEPTIONS TO SCHEDULE**

**B. MULTIPLE CHARGES:** If a person is arrested for allegedly committing more than one offense, bail shall be set in the amount established above for the most serious offense.

**C. NO BOND UNTIL SEEN BY JUDICIAL OFFICER:** The bail schedule shall not apply to cases in which a person is arrested for committing an offense, attempting to commit an offense, or conspiracy to commit an offense, listed below:

Child Exploitation  
Child Molesting  
Child Seduction  
Child Sexual Trafficking  
Child Solicitation  
Criminal Confinement of a Minor  
Criminal Deviate Conduct

Dealing in a Narcotic Drug / Methamphetamine / Cocaine as a Level 1, 2, or 3 Felony  
Human Trafficking  
Incest  
Kidnapping  
Neglect of a Dependent Resulting in Death or Catastrophic Injury  
Possession of a Firearm by a Serious Violent Felony  
Rape  
Sexual Battery  
Sexual Misconduct with a Minor

**D. INTOXICATED PERSONS:** If any person is arrested or charged involving intoxication or use of drugs and, in the opinion of the Sheriff or his department, cannot safely be released because of such condition, that person shall be held until the Sheriff or his department determines that the person would not constitute a danger to himself or others. This provision is subject to the rule that all persons arrested who remain in jail shall be brought into court no later than the next day court is in session. The Sheriff shall refer to Indiana Code § 35-33-1-6 in making such determination.

**E. ARREST IN CIVIL PROCESS:** The bail schedule applies only to arrest on criminal charges. On civil arrests (body attachments), the bond applicable is the amount stated by the court on the Body Attachment. Such bail is to be accepted in cash, or, where applicable, by credit card. The court will consider the cash bail posed to be the property of the person arrested and subject to attachment.

**F. TEN PERCENT CASH:** In all cases, unless a specific order to the contrary is made by the court when setting bail, the person, if a resident of the State of Indiana, may post cash in the amount ten percent (10%) of the bail. The court approved bond form must be used. If ten percent (10%) is posted, the paid sum shall be returned at the close of the case with the following deductions:

- (a) administrative fee as per statute;
- (b) fine, fees, and costs;
- (c) restitution ordered by the court;
- (d) alcohol or drug program fees;
- (e) reimbursement to the Howard County Public Defender Supplemental fund;
- (f) costs of extradition;
- (g) Probation User fees.

**G. CONDITIONS OF PRE-TRIAL RELEASE:** Whether released after posting bond, or released on their own recognizance, the arrested person's pre-trial release is conditioned upon maintaining good and lawful behavior, appearing in court for all court appearances, informing the respective court in writing of any change of address within 48 hours, not using or possessing illegal drugs, and complying with all other conditions of pre-trial release set by a judicial officer. For all Class A, B, and C felony and Level 1, 2, 3, 4 and 5 offenses, the arrested person may not leave the State of Indiana without prior approval of the court. A violation of any condition of

pre-trial release may result in the court revoking the arrested person's bond and the issuing a warrant for arrest.

**H. PRE-TRIAL RELEASE:** In accordance with Rule 26 of the Indiana Rules of Criminal Procedure, and so long as funding is available, Howard County shall perform pre-trial release screenings to assist in bail and pre-trial release decisions. Said decisions shall be made by a judicial officer at or before an initial hearing and are not restricted by any other provisions of the Bail Schedule set out herein. All participants in pre-trial release under this subsection shall abide by all conditions of Subsection G of **LR34-CR00-Rule 30. BAIL SCHEDULE**. Pre-trial release decisions under this section shall be governed by the following provisions:

*1. Eligible Defendants:* Arrested individuals eligible for screening must voluntarily agree to participate in the screening process and shall include all individuals arrested in Howard County for non-violent misdemeanor and/or felony offenses excluding:

- a) Offenses listed in Ind. Code 35-50-1-2, 11-8-8-4.5, and/or 11-8-8-5;
- b) offenses ineligible for direct placement on a community corrections program, and or offenses of Escape or Failure to Return to Lawful Detention;
- c) Any Defendant currently on parole, probation, or pre-trial release for an offense prohibited by this rule;
- d) Any felony enhanced by the general Habitual Offender Statute;
- e) Any offender currently subject to the jurisdiction of any problem-solving court.

*2. Screening Procedure:* Screeners shall be employees of Howard County Probation and/or Howard County Community Corrections and shall perform screening on all newly arrested *Eligible Defendants* in the Howard County Jail. The Screening process may include a pre-trial questionnaire, the Pre-Trial IRAS, the Brief Jail Mental Health Screen, the Correctional Mental Health Screen, and/or other evidence base screening approved by the Magistrate or Elected Judicial Officers of Howard County. The screeners shall prepare a Risk Report which may include answers to the pre-trial questionnaire, the results of any evidence-based screening tools, criminal history information, and/or failure to appear history. Said report shall be discoverable to the parties but shall not be accessible to the public.

*3. Admissibility:* Pursuant to Rule 26 of the Indiana Rules of Criminal Procedure, except as outlined in Rule 26 (D)(2) of the Indiana Rules of Criminal Procedure, evidence of an arrestee's statements and evidence derived from those statements made for use in preparing the pre-trial questionnaire, any of the assessment tools outlined herein, and/or the Risk Report are not admissible against the arrestee, in any criminal or civil proceeding, and may not be used in any other court except in a pretrial proceeding. The screening tools administered to the *Eligible Defendants* outlined herein shall not be disclosed to the parties without a court order, shall be maintained by Howard County Community Corrections, and may be destroyed one (1) year after the Defendant's release from the Pre-Trial Program.

*4. Scope of Program:* Release conditions may include: release on a Defendant's own recognizance, with or without additional conditions; placement on Howard County Community

Corrections; cash, surety, or property bond; and/or any other conditions of bail, bond, or pre-trial release authorized by law.

5. *Violations:* Violations of any conditions of pre-trial release in this program shall be addressed by the filing of a written motion of the violation, prepared by any agency supervising the Defendant's Pre-trial release, in the court where the Defendant's case is pending. Upon filing of said written notice, the State may file a written notice to revoke or modify any conditions of the Defendant's pre-trial release. The State may file a motion to revoke or modify pre-trial release irrespective of the filing of any written notice. Nothing in this Rule shall be read to limit the Court's legal authority to address violations, issue warrants, modify conditions, and/or revoke release consistent with all applicable rules of law and procedure. The State may file a motion seeking to have pre-trial release revoked upon filing of any notice from Howard County Community Corrections or without notice.

6. *Purpose:* The purpose of the Pre-Trial Release Program outlined herein is to assess the risk posed by the release of individuals booked into the Howard County jail on a criminal charge, to set appropriate conditions and supervision of those who are released under the authority of the program, and to promote earlier identification of individuals suffering from mental health and/or addictions.

**LR34-SC00-31**  
**SMALL CLAIMS RULE**

In Small Claims cases, attorneys of record are responsible for providing a proposed Order on all matters submitted where an Order is appropriate. The proposed Order may be at the bottom of the document submitted.

**LR34-SC9-32**  
**CONTINUANCES IN SMALL CLAIMS CASES**

Motions to Continue will normally be granted only if the request indicates the position of the adverse party in regard to the continuance.

**LR34-SC8-33**  
**SMALL CLAIMS HEARINGS**

The first hearing date, as shown on the Notice of Claim, will generally be set for trial. If the Defendant fails to appear at this first setting, a default judgment may be requested.

**LR34-AR00-34**  
**PROBLEM-SOLVING COURT FEES**

Participants of any Howard County Problem-Solving Court shall pay fees as follows:

1. For Supervision: in accordance with the current Probation, In-Home Detention, Community Transition Program or Work Release Program supervision fee schedule.

2. For Participation: fees in the amount of fifty dollars (\$50.00) per month, not to exceed five hundred dollars (\$500.00) which shall cover program fees, including but not limited to:

- a. Offender assessment;
- b. Judicial involvement;
- c. Case management;
- d. Program evaluation;

For Services provided by affiliated treatment providers, in accordance with their respective fee schedules.

Any or all of said fees may be waived, by the Problem-Solving Court in its sole discretion, as an “incentive award” for an individual participant.

**LR34-AR00-35**  
**ALCOHOL AND DRUG SERVICES FEES**

Those persons directed to participate in the Howard County Courts Alcohol and Drug Services program shall fees in accordance with the following schedule:

Whole program	\$400.00
Transfer fee (to another county, no evaluation)	\$50.00
Evaluation only	\$100.00
Transfer in (no evaluation, Level I education)	\$100.00

## **LR34-TR32-36 DEPOSITIONS**

### **A. VIDEOGRAPHIC DEPOSITIONS:**

A transcript of the videographic testimony shall be tendered to the Court when the deposition is offered into evidence. Any party may view a videographic deposition in the custody of the Court only upon order of the Court.

### **B. DEPOSITIONS OF EXPERTS:**

All depositions of experts shall be admissible at trial unless objection to the admissibility be given in writing five (5) days prior to the taking of said deposition or within ten (10) days subsequent to notice of the deposition, whichever deadline occurs first. A copy of the notice shall be tendered to the reporter at the time of taking the deposition for inclusion with the deposition. In the absence of such written notification, the deposition of an expert may be admitted by stipulation. The presence of the expert within the limits of the subpoena area shall not be grounds, in and of itself, for the inadmissibility of the deposition at trial. Notwithstanding the above, either party may subpoena such expert for the trial.

### **C. COPY OF DEPOSITION:**

Any party or counsel to an action may obtain a copy of a deposition on file with the Clerk of the Court upon tender of a receipt showing payment to the deposing party of 50% of the cost of said deposition. In addition, the requesting party of counsel shall tender to the Clerk the present statutory rate per page for the copying service.

### **D. MANNER OF RECORDING:**

In order to avoid the costs, associate with reporter transcribed depositions, digital recording and distribution of an electronic audio or video file shall be an acceptable method for the taking of depositions, however a party may object to the same by motion and request a hearing to present evidence as to why a reporter should be required.