

**STATE OF INDIANA – COUNTY OF ELKHART
IN THE ELKHART CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed New Rule or Amendment(s) to Local Court Rule(s)
June 1, 2024**

In accordance with Trial Rule 81 of the Indiana Court Rules, the Elkhart Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend Local Rules on Caseload Allocation Plan for Elkhart County, Local Rules for Family Courts and Orders of Protection for Elkhart County, and Local Jury Rules for Elkhart County.

All new text is shown by **bold** and underlining and deleted text is shown by ~~strikethrough~~.

Supreme Court approval is required for Local Rules concerning Special Judge Selection, Criminal Filing Order, Court Reporter Rules, and Caseload Allocation Rules. (*if necessary*)

Notice has been given to the public by posting on the website of the Elkhart County Clerk and at the Indiana Judiciary webpage for Local Rules (<https://www.in.gov/courts/publications/local-rules/>), and by furnishing a copy to the officers of the Elkhart County Bar Association. A paper copy of the proposed amended local rule(s) will be made available for viewing in the office of the Clerk of Elkhart County, 101 N. Main St., #204, Goshen, IN 46526 during normal business hours.

The time period for the bar and the public to comment shall begin on June 6, 2024, and shall close on July 6, 2024. The proposed amendments to the rule will be adopted, modified, or rejected before July 31, 2024, and, if required, the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than August 1, 2024. The effective date of the proposed rules is January 1, 2025.

Comments by the bar and the public should be made in writing to:

Hon. David C. Bonfiglio, Judge of the Elkhart Superior Court No. 6, Attn: Public Comment on Local Rules, Elkhart County Courthouse, 315 S. Second St., Elkhart, IN 46516; or localrulecomment@elkhartcounty.com.

DATED this 30th day of May, 2024 on behalf of the Judges of Elkhart County.

/s/ David C. Bonfiglio
Judge, Elkhart Superior Court No. 6

Rule LR20-AR1-106. Caseload Allocation Plan for Elkhart County

106.2. Civil And Juvenile: Assignment Of Civil and Juvenile Cases

A. Elkhart Circuit Court

- 30% Plenary (PL)
- 30% Tort (CT)
- 100% Tax Sales (TS)
- 100% Tax Petitions (TP)
- **25% Expungements (XP-Discretionary)**

B Elkhart Superior Court 1 D01

- Protective Orders (PO) related to criminal law cases In Superior Court 1 that are pending or under supervision.
- **25% Expungements (XP-Discretionary)**
- No other Civil or Juvenile types of cases

C. Elkhart Superior Court 2 D02

- Commercial Court Cases
- 35% Plenary (PL)
- 35% Tort (CT)
- 50% Mental Health
- 50% Mortgage Foreclosure (MF)
- **50% Expungements (XP-Mandatory)**
- All Estates (ES)
- All Estates Unsupervised (EU)
- All Estates Miscellaneous (EM)
- All Trusts (TR)
- Miscellaneous Civil 50% Except Grandparent Visitations, Name Changes, Specialized Driving Privileges, Lifetime Rescission requests, BMV Fee Waiver
- No other Juvenile or Civil type cases
- Red Flag (RF) (Civil)

D. Elkhart Superior Court 3 D03

- 50% Mental Health

- **25% Expungements (XP-Discretionary)**

- No other Civil or Juvenile case types except Miscellaneous Civil (MI) involving the Forfeiture or Seizure of Property and Plenary (PL) cases involving Forfeiture or Seizure of Property
- Red Flag (RF) (Criminal)

E. Elkhart Superior Court 4 D04

- No Civil or Juvenile Cases Except as follows:

- **25% Expungements (XP-Discretionary)**

- ~~Expungements (XP)~~

- Miscellaneous Civil (MI): as follows allowed: Specialized Driving Privileges, BMV Fee Waiver Requests, Lifetime Rescission Requests

F. Elkhart Superior Court 5 D05

- 50% Mortgage Foreclosure (MF)
- **50% Expungements (XP-Mandatory)**
- 35% Plenary (PL)
- 35% Tort (CT)
- 100% Collections (CC)
- 50% Miscellaneous Civil (MI) Except Grandparent Visitations, Name Changes, Specialized Driving Privileges, Lifetime Rescission requests, BMV Fee Waiver
- 100% Small Claims SC See Section 110.3 below.
- 100% Evictions EV
- No other Juvenile or Civil type cases

G. Elkhart Superior Court 6 D06

- All Juvenile Paternity (JP)
- All Domestic Relations with children (DC)
- All Domestic Relations without children (DN)
- All Reciprocal Support (RS)
- All Adoptions (AD)
- All Guardianships (GU)
- All Protection Orders (PO) except those filed in Elkhart Superior Court related to a pending criminal case or a criminal case under supervision.

- Juvenile Chins (JC)
- Juvenile Delinquency (JD)
- Juvenile Status (JS)
- Juvenile Miscellaneous (JM)
- Juvenile Termination (JT)
- Juvenile Protection (JQ)
- Miscellaneous Civil (MI) limited to Grandparent Visitation and Name Change
- No other civil type cases

106.3. Caseload Allocation Plan

Calculated on ~~2019 filings in that the pandemic impacted filings although the filings continue to trend upward to pre-pandemic levels;~~ **the first four months of 2024 filings, as** this is the best estimate of caseloads ~~in due to the completely reorganized reorganization of our judicial court system~~ **on January 1, 2024, to include the addition of two county paid judicial officers.**

Judicial Officer	Circuit	Superior 1	Superior 2	Superior 3	Superior 4	Superior 5	Superior 6
Elizabeth Bellin VACANT Juvenile Magistrate							5.00
Dean Burton Civil Magistrate	1.25		.50	.50		2.75 5.00	
Eric Ditton Criminal Magistrate	.50	.25		1.50	5.00 2.75		
James Fox Title IV-D Family Referee							5.00
New Appointed Judicial Officer Family Referee							5.00
New Appointed Judicial Officer Mary Hammer Criminal/Small Claims Referee		2.25			2.75 5.00		

Judicial Officer	Circuit	Superior 1	Superior 2	Superior 3	Superior 4	Superior 5	Superior 6
Total days reported for all additional judicial officers	1.25 .50 days	2.25 .25 days	One-half day .50 0 days	One-half day .50 day 1.5 days	7.75 days	2.75 5.00 days	15 days
Have calculated for WCL	1.25 1.0	1.45 1.05	1.10 1.00	1.40 1.30	2.75 2.55	1.55 2.00	4.00
Need for each court	1.40 1.11	1.66 .95	1.16 .80	1.19 1.31	3.11 2.51	1.66 1.97	4.12 3.97
Utilization totals	1.12 .01	1.14 .90	1.05 .80	1.08 1.01	1.13 .98	1.07 .99	1.03 .99

Rule LR20-~~CR13~~**AR21**-NAFC-304. Selection of Special Judges in Criminal Cases

304.1. Appointment of Judges

When the appointment of a special judge is required under ~~Criminal Rule 13~~ **Administrative Rule 21** of the ~~Indiana Rules of Criminal Procedure~~ **Administrative Rules** or an order of disqualification or recusal is entered in a case, or where a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), the provisions of this Rule constitute the exclusive manner for the selection of special judges in circuit and superior courts in all criminal proceedings in Elkhart County.

- A. If the case is in the Elkhart Circuit Court, then it must be transferred to Elkhart Superior Court 3.
- B. If the case is in Elkhart Superior Court 3, it must be transferred to Elkhart Circuit Court.
- C. If the case is in Elkhart Superior Court 1, it must be transferred to Elkhart Superior Court 4.
- D. If the case is in Elkhart Superior Court 4, it must be transferred to Elkhart Superior Court 1.

If, after the above transfer, the judge of the transferee court is unable to hear the case, then the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other judicial officers within Elkhart County regardless of divisional assignment, then from the judges within the judicial district and then from the judges of contiguous counties. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.

Rule LR20-TR79-40~~32~~ **32**. Special Judge Selection

40~~32~~ **32**.1. Selection of Agreed Special Judge

Within seven (7) days of the notation in the Chronological Case Summary of a judge granting a motion for change of judge or recusing or disqualifying from a case pursuant to Trial Rule 79(C) or otherwise, the parties shall attempt to select a special judge by agreement. As required by Trial Rule 79(D), the parties shall have seven (7) days within which to file a written agreement.

40~~3~~2.2. When No Agreed Special Judge

When a change of judge has been granted and the parties are unable to agree upon a special judge or have agreed to proceed directly under this subsection, then the Clerk of the Court shall transfer the case to one of the other judicial officers within Elkhart County on a rotating basis as follows: Elkhart Circuit Court, Elkhart Superior Court 1, Elkhart Superior Court 2, Elkhart Superior Court 3, Elkhart Superior Court 4, Elkhart Superior Court 5.

40~~3~~2.3. Failure of Special Judge to Accept or to Qualify; Failure to Meet Selection Deadlines

If, after the above transfer, the special judge is unable to hear the case, the Chief Judge of the administrative judicial district of which Elkhart County is a member, must appoint a special judge first from the other judicial officers within Elkhart County regardless of divisional system, then from the judges within the judicial district and then from the contiguous counties. If the Chief Judge of the administrative judicial district is unable to make the appointment, the district judge, who is not a judicial officer in Elkhart County, with the most time of judicial service shall make the appointment.

Rule LR20-TR63-40~~4~~3. Senior Judges, Temporary Judges, and Judges Pro Tempore

All routine appointments of Senior Judges, Temporary Judges, and Judges Pro Tempore may be made by the Judge of the Circuit Court or any Judge of the Superior Court.

Rule LR20-TR81.1-40~~2~~4. Family Court

404.1 Mission of Elkhart County Unified Family Court

The primary mission of the Elkhart County Unified Family Court is to provide a trauma-informed, comprehensive, evidence-based, innovative court dedicated to child and family focused decision making that results in outcomes that advance the needs of children and their families.

404.2 Definitions

404.2.1. Family

The Elkhart County Unified Family Court defines “family” for purposes of these rules in the following manner:

1. “Family” shall include a child, any siblings related by blood, marriage, or adoption to that child, and the biological or adoptive parents of that child, and any step-parents or domestic partners of that child’s biological or adoptive parent(s) who have any care or control of that child, or who have a significant relationship with that child;

2. Persons who are married, or who live together in a domestic partnership, or who recently have been or are currently in a significant relationship but do not live together, who do not have children.

3. Any blood family members living in the same household with any person from the above two groups, including cousins, aunts, uncles, and grandparents; any blood family members related to a non-blood family member of persons who reside together, such as a child's step-sibling, a parent's girlfriend's brother, etc.

404.2.2. Unified Family Court

A Unified Family Court is a court system which operates by hearing all cases related to family law, and through either close coordination of its judicial officers or assigning one judicial officer to hear all cases related to one family, works to improve outcomes for children, their families, and the court itself. A Unified Family Court creates processes to expedite legal matters, therefore saving time and resources for both the court and the families involved; creates partnerships with social service organizations to enhance the wellbeing of court-involved families; and works to increase the overall quality of the legal process for all parties.

404.2.3. Bundling

The process of identifying family cases and determining if TR 81.1 Family Procedures should be utilized.

404.2.4. Triage

The process of Family Court staff assessing a family's needs and risk factors to help determine which pathway the case(s) should be assigned to.

404.2.5. Pathway

One of three distinct tracks a family law case will be assigned to through the Triage process. Assigning cases to a distinct Pathway helps to identify cases that can be resolved more quickly, versus cases that require more judicial time, oversight, and intervention.

404.2.6. Family Needs Interview

An interview conducted by the Family Court Coordinator in cases assigned to the Judicial/Specialized Pathway, with the express purpose of gathering more in-depth personal and collateral information on families in order to provide the Court with general case recommendations and recommendations for a family's participation in therapeutic services.

4024.13. Identification of Family Cases

Upon the filing of any case or the filing in an existing case, in the Family Division, the Clerk or other individual identified by the Court shall conduct a name search, ~~the results of that name search shall be provided to the judicial officer to whom the filing is assigned and shall ensure that family members are appropriately linked in the Odyssey court system. The Family Court Coordinator shall then be responsible for assigning cases to judicial officers based upon whether any~~

~~other open family cases are already being heard within the Family Division. That~~ The assigned Judicial Officer shall determine if Trial Rule 81.1 Family Procedures should be followed. ~~That Judicial Officer should consult with any other Judicial Officer that may already be hearing other cases concerning the same family and determine if bundling should occur and if so, which Judicial Officer should proceed with the bundled cases or in the alternative to bundling close coordination of the cases. If bundling family procedures does occur the court shall issue an order in all bundled~~ related cases pursuant to Trial Rule 81.1. The Judge of Superior Court 6 has final authority on bundling.

The Elkhart Office of Family Court Services has the authority to issue required forms in this process.

40~~24~~.~~24~~. Consideration of Bundling

Any party, including by not limited to Guardian Ad Litem, CASA, attorney's representing a party or any other professional involved with the children and family may initiate a request for review of cases for bundling. Such Motion for Consideration of Bundling should be filed in each case contemplated for bundling.

The Elkhart Office of Family Court Services has the authority to issued required forms.

Rule LR20-FL00-40~~65~~. Triage of Family Law Cases

40~~65~~. Three Pathways

40~~65~~.1.

~~Applied to Domestic Relations (DR)~~ Domestic Relations with Children (DC), Domestic Relations without Children (DN), Juvenile Paternity (JP), Guardianship (GU), Adoption (AD), Grandparent Visitation, ~~and~~ Change of Name/~~Gender, and Protection Order (PO)~~ cases.

- A. Streamlined: This track requires little exercise of discretion or where the parties have reached full agreement or require less than fifteen minutes of the judicial officer's time.
- B. Tailored Services: These cases, while not suitable for the streamlined track, are typical and do not include sensitive matters or issues likely to need expert or specialized training to be adequately addressed. Virtually all these cases will be suitable for some form of facilitated settlement: Alternative Dispute Resolution
- C. Judicial/Specialized: Cases involving domestic violence, child abuse, substance abuse, or mental health issues require specialized knowledge and expertise to handle them safely and appropriately. These cases benefit from a greater degree of judicial involvement. Such cases can be suitable for a facilitated settlement if the facilitator has sufficient training and if appropriate safeguards are taken (such as shuttle mediation, staggered arrival and departure times, separate waiting areas); some form of alternative dispute resolution may be preferable since litigation can be traumatizing.

4065.2. Triage Questionnaire

Triage Questionnaire Domestic Relations with Children and Juvenile Paternity cases is required: [Triage Questionnaire - DC and JP](#)

Triage Questionnaire is required in Guardianship cases: [Triage Questionnaire - Guardianships](#)

A Compliance Checklist is also required [in DC and JP: Compliance Checklist](#)

4065.3. Cooperation Required

All individuals shall provide information as requested and complete all forms and documents designated by [the Elkhart Office of Family Court Support Services](#) and the Court.

[The Elkhart Office of Family Court Support Services](#) and the Court shall with due notice, provide such forms and documents in a format most likely to assist the Elkhart [Office of Family Court Support Services](#) and the Court in the timely execution of this Rule.

Rule LR20-FL00-4056. Problem Solving Settlement Conferences

4056.1. When ~~r~~Required

A Problem-Solving Settlement Conference is required **for the following cases if they are assigned to the Tailored or Judicial/Specialized Pathways: after filing in** Domestic Relations (DR), Domestic Relations with Children (DC), Domestic Relations without Children (DN), Juvenile Paternity (JP), ~~Juvenile Chins (JC),~~ Guardianship (GU) ~~, and~~ Adoption (AD), Grandparent Visitation (MI), and **Third Party Custody (MI). Change of Name cases:**

~~405.2. Statement in Pleadings~~

~~A statement in a filing that a problem-solving settlement conference is anticipated or is scheduled is acceptable in a request for hearing. All individuals are advised that the Courts do not favor requests for waiver from the requirements of this rule, and that waiver requests should be sought only in exceptional instances and not as a matter of course. Failure to address the issue of a problem-solving settlement conference in any manner is cause for the court to require, within a stated period, an explanation of the failure to address the required problem-solving settlement conference.~~

4056.2 Waiver of Problem-Solving Settlement Conference

The Elkhart County Unified Family Court recognizes there may be situations in which it could be dangerous for parties to conduct a Problem-Solving Settlement Conference. When domestic/family violence is present within a case, or other mitigating circumstances that cause one or more parties to fear for their mental, emotional, or physical safety in a one-on-one meeting with another party, a waiver may be requested. The judicial officer may also issue an order waiving this requirement, and the Family Court Coordinator may also recommend waiving a Problem-Solving Settlement Conference.

In general, the Court shall not favor waivers of this requirement, and waivers are to be sought only in the most exceptional of circumstances. Failure to address the issue of a Problem-Solving Settlement Conference in any manner is cause for the Court to require, within a stated period, an explanation of the failure to address the requirement.

4056.3. Court-Ordered Problem-Solving Settlement Conferences

The Court may order a Problem-Solving Settlement Conference, assisted or unassisted, at any time ~~in the proceedings and may require same prior to the setting of a hearing.~~ **immediately following the completion of bundling, triage, and pathway assignment processes in a case, and may order multiple conferences to occur during the life of a case.**

Rule LR20-FL00-409. Website Work for Parents

Upon completion of triage by the ~~Elkhart Office of Family Court Services or the Court~~ **Family Court Coordinator or other designated Family Court staff**, the Court may require parents to complete the following:

- A. Dissolution of Marriage. **Up to Parents** within fifteen (15) days of notice of this requirement.
- B. Legal Separation. **While we Heal** within fifteen (15) days of notice of this requirement.
- C. Paternity. **Proud to Parent** within fifteen (15) days of notice of this requirement.
- D. Agreed Commitments. Following completion of the website work required by this rule, the parents shall merge or exchange their chosen Commitments from their website work into a set of Agreed Commitments.
- E. Proof of Compliance.

Proof of compliance is required within 20 days of Notice of this requirement by filing with the court the Agree Commitments document. ~~Compliance Checklist required (Insert Link)~~

Rule LR20-FL00-411. Parenting Plan

411.1. Parenting Time Guidelines

The Indiana Parenting Time Guidelines provide useful outlines of the minimum time each parent should have with the children to maintain frequent, meaningful, and continuing contact with them. Those Guidelines state that it is preferable that parents design their own parenting plan and turn to the Guidelines if they are unable to create their own parenting time agreement. See: **Parenting Time Guidelines**

411.2. Parenting Plan

A **Parenting Plan** is required **in Domestic Relations with Children (DC) and Juvenile Paternity cases when parents have an agreement on parenting time.**

Rule LR20-TR4-414. Service of Process.

414.1. Summons, Complaint, and Appearance

Summons: Dissolution of Marriage with Children, Required [Summons DC](#)

Summons: Dissolution of Marriage without Children, Required [Summons DN](#)

Summons: Paternity Required, [Summons JP](#)

A Highlights Summary, **or other Court-approved document explaining basic Court functions, is required to be attached to all Summons when mailed: 400 Series Highlights**

The party filing the initial pleadings (summons, complaint, appearance, etc.) shall (unless exempted) file by way of the Indiana E-Filing System and pursuant to Trial Rules 4 and 86.

- A. By Certified Mail, Private Process, Sheriff (excluding the Elkhart County Sheriff), Publication, other Methods. The initiating party must file a Certificate of Issuance of Summons as set forth in section B of this Rule, below. If the certified mail service of process is utilized, the initiating party must cause the return receipt card to be returned to the initiating party, not returned to the Clerk.
- B. By Elkhart County Sheriff. Once the signed Summons is returned from the Clerk and the fee for Service of Process by Sheriff has been paid to the Clerk, it is the initiating party's obligation to deliver the document(s) to the Elkhart County Sheriff to be served. It is the requesting party's responsibility to provide the Elkhart County Sheriff with three copies of any document(s) to be served along with a proof of payment for this service. Documents may be hand-delivered or mailed to the Elkhart County Sheriff. See Trial Rule 4.12.

Once the document(s) are served by the Elkhart County Sheriff, the Elkhart County Sheriff shall forward the document(s) to the Clerk for entry into the Chronological Case Summary.

If the Elkhart County Sheriff service method is utilized, the initiating party is not required to file a Return of Service.

414.2. Certificate of Issuance of Summons. See Trial Rule 86(G)(2)

Once service is initiated, a Certificate of Issuance of Summons must be filed. [Certificate of Issuance of Summons](#)

Rule LR20-AR00-801. Summoning Jurors

Jurors shall be provided Notice, ~~provide jury qualification and questionnaire, and summoned summons and questionnaire~~ as directed by the Jury ~~Administrator~~ **Manager** as needed by the courts of Elkhart County. ~~A two-tier one-tier system is employed. , first tier is the Notice and qualification questionnaire document by mail or electronic means and the second tier is summons as a member of a jury panel.~~

Not later than ~~two (2) six (6)~~ weeks before a jury panel ~~for jury selection~~ is needed, the **Jury Administrator or Bailiff assigned to each court Manager** shall mail, or cause to be mailed, the

Summons of Jury Service which shall specify the ~~specific dates for~~ **date on** which the prospective juror shall report for jury service **and shall provide access to an online questionnaire. If the prospective juror has no internet access, he or she may request a paper copy.**