

STATE OF INDIANA COUNTY OF WAYNE
IN THE WAYNE CIRCUIT AND SUPERIOR COURTS

Notice of Proposed Amendments to Local Court Rules

August 4, 2023

In accordance with Trial Rule 81 of the Indiana Court Rules, Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior Court No. 3, hereby give notice to the bar and the public that the Courts propose to amend the Local Rules on the allocation of cases in Wayne County, specifically LR89-AR1-014 Random Filing of Civil Cases and LR89-CR00-013 Filing Procedure for Criminal Cases for the courts of record of Wayne County, effective January 1, 2024.

All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for the above referenced amendments and will not take effect until approved by the Supreme Court.

Notice has been given to the public by posting on the website of the Wayne 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 Wayne County Bar Association. A paper copy of the proposed amended local rules will be made available for viewing in the office of the Clerk of Wayne County, 301 E. Main, Richmond, Indiana 47374, during normal business hours.

The time period for the bar and the public to comment shall begin on August 14, 2023, and shall close on September 15, 2023. The proposed amendments to the rule will be adopted, modified or rejected before October 2, 2023, and the final version of the rule will be submitted to the Indiana Supreme Court for review and approval.

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

Hon. Charles K. Todd, Jr., Wayne Superior Court No. 1, Attn: Public Comment on Local Rules, 301 E. Main Street, Wayne County Courthouse, Richmond, Indiana 47374.

DATED this 4th day of August, 2023 on behalf of the Judges of Wayne County, who are unanimously in favor of the same.

/s/ Charles K. Todd, Jr.
Judge Charles K. Todd, Jr.
Wayne Superior Court No. 1

PROPOSED AMENDED LOCAL RULE LR89-AR1-014

LR89-AR1-014 RANDOM FILING OF CIVIL CASES

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior Court No. 3 hereby adopt the following filing procedure for civil cases filed in Wayne County as follows:

1. All small claims (SC) and eviction (EV) cases shall be filed in Wayne Superior Court No. 3.
2. All Child in Need of Services (JC) cases, Juvenile Delinquent (JD) cases, Termination of Parental Rights (JT) cases, Juvenile Status (JS) cases, ~~and Guardianship cases (GU) arising out of a JC or JD cases,~~ and all Protective Order (PO) cases in which the Respondent is a juvenile, shall be filed in Wayne Superior Court No. 3.
3. Agreed upon adoption (AD) cases arising out of a JC or JT case shall be filed in Wayne Superior Court No. 3.
4. All mental health (MH) cases shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
5. All Petitions seeking expungement or related relief under I.C.35-38-5-1 et seq., IC 31-39-8-1 et seq. (juvenile expungement), or I.C. 35-38-9-1 et seq., and assigned a ~~Civil Miscellaneous (MI)~~ an Expungement (XP) case number, shall be filed as follows:
 - a. Relief sought from conviction/disposition/adjudication in only one (1) prior case shall be filed in the court that originally entered judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case; and,
 - b. Relief sought from conviction/disposition/adjudication in more than one (1) prior case shall be filed in the court that entered the most recent judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case.
6. All other civil cases including, but not limited to, Civil Plenary (CP before 1/1/2002, now PL) Mortgage Foreclosure (MF), Civil Collections (CC), Civil Tort (CT), Domestic Relations (~~DR~~) (DC, DN), Reciprocal Support (RS), Seizure of Firearms (RF), Adoptions (AD), not otherwise filed in Wayne Superior Court No. 3 pursuant to Paragraph 3 above, Probate Supervised (ES), Probate Unsupervised (EU), Guardianships (GU) ~~not arising out of a JC or JD,~~ Trusts (TR), Protective Orders (PO) except those in which the Respondent is a juvenile (which shall be filed in Wayne Superior Court No. 3), and Civil Miscellaneous (MI), ~~excluding expungement related cases which are provided for in Paragraph 5 above,~~

shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2. All tax sale cases shall be filed in the Wayne Superior Court No. 2.

7. The judges of the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2, shall periodically review the filing patterns of civil cases, and the Judges of such courts reserve the right to transfer cases in the event of a disproportionate distribution of cases in order to balance the caseload and expedite dispositions of all pending civil cases.
8. In the event that a cause is filed in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2, and the Court in which said cause is filed discovers that there is a related cause(s) (related party/parties and/or subject matter) in one of the other two (2) such Courts and said Court determines that the cause should be transferred to the Court with the pre-existing cause(s) for judicial efficiency or that the same would be prudent based on subject matter, said Court may transfer the cause to the Court with the pre-existing cause(s) subject to written consent of the judge of the receiving Court.

PROPOSED AMENDED LOCAL RULE LR89-CR00-013

LR89-CR00-013 FILING PROCEDURE FOR CRIMINAL CASES

This rule shall govern the filing of criminal cases in Wayne County:

- A. Misdemeanors are filed in Wayne Superior Court 3 unless the misdemeanor accompanies a felony charge filed in Wayne Circuit Court, Wayne Superior Court 1, or Wayne Superior Court 2.
- B. The following felonies shall be filed in Wayne Superior Court 3, unless at least one Level 6, 5, 4, 3, 2 or 1 Felony (other than those filed under I.C.9-30-5 or 9-30-6 and Resisting Law Enforcement, a Level 6 Felony pursuant to I.C. 35-44.1-3-1(c)(1)) or murder, is also filed against the same defendant in the same Information or Indictment:
 1. Battery, a Level 6 Felony, filed under I.C.35-42-2.1.
 2. Domestic Battery, a Level 6 Felony, filed under I.C.35-42-2-1.3.
 3. Strangulation, a Level 6 Felony, filed under I.C.35-42-2-9.
 4. Possession of marijuana, hash oil, hashish, salvia, a synthetic cannabinoid or other substance listed at I.C.35-48-4-11, a Level 6 Felony.
 5. All offenses filed under I.C.9-30-5.

6. All offenses involving the operation of a motor vehicle while driving privileges are suspended, restricted or forfeited.

7. Resisting Law Enforcement, a Level 6 Felony pursuant to I.C.35-44.1-3-1(c)(1)).

C. If the defendant:

1. has at least one pending criminal case, or
2. is on probation

in Circuit Court, Superior Court 1 or Superior Court 2, then any felony charges brought against the same defendant, other than those felony charges listed in (B)(~~4-6~~ 1-7), are to be filed in the Court having jurisdiction over the matter referred to at (C)(1) or (C)(2).\

~~D. If the defendant:~~

- ~~1. — has at least one pending case, and/or~~
- ~~2. — is on formal felony probation~~

~~in Superior Court 3, then any Level 6 Felony charge brought against the same defendant shall be filed in Wayne Superior Court 3.~~

E. D. Except as otherwise dictated by paragraph (A), (B), or (C), ~~or (D)~~, criminal cases shall be filed in a random and equal manner in Circuit Court, Superior Court 1, and Superior Court 2, which shall include RF causes.

F. E. If the Judge or personnel of a Court are required as witnesses in any case, the case shall not be filed in that Court, and the Clerk shall cause that case to be randomly filed in a different Court, unless otherwise excepted by this rule.

~~G. When the State of Indiana chooses to refile a dismissed case, the case shall be assigned to the Court from which the dismissal was taken. This rule applies to all charges arising out of the same offense report, arrest report or set of operative facts.~~

H. F. In order to provide for an appropriately balanced caseload and appropriate use of court resources, the judges of the Wayne County Courts may, from time to time, transfer cases to other Courts within Wayne County. Transfer of cases shall be by written order of the forwarding Court, and shall be subject to written consent by the judge of the receiving Court.

~~If unusual and unforeseen circumstances occur, d~~ Deviation from the provisions of this rule may be obtained for a particular case with the approval of the Courts.

J. G. The filing of any case in a manner contrary to the rules set out above shall not be considered as grounds to support a motion for transfer or for a change of venue from the Court or judge. The presiding judge may transfer such a case at his or her discretion.

~~K.~~ H. In the event that a criminal offense is added or significantly modified by statute, including any alternation in the level of misdemeanor or felony, the judges of the Wayne

Circuit and Superior Courts will issue a temporary local rule to address the proper filing of such offense. The temporary local rule will have effect until the local rule can be formally amended.