

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

NOTICE OF PROPOSED AMENDMENT TO CRIMINAL SPECIAL JUDGE RULE

December 23, 2015

In accordance with Trial Rule 81 of the Indiana Court Rules, the Allen Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the local court rule on **Assignment of Criminal Cases** and **Special Judge Assignment** at **LR02-CR2.2-1** to be effective **February 1, 2016**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~.

In accordance with Trial Rule 81(B), and because good cause exists under TR 81(D) to deviate from the schedule for amending local court rules, the time period for the bar and the public to comment shall begin on **December 23, 2015** and shall close on **January 22, 2016**. Supreme Court approval is required and so requested for this amendment.

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

John McGauley, Court Executive

Allen Superior Court

john.mcgauley@allensuperiorcourt.us

A paper copy of the proposed amended local rule will be made available for viewing in the office of the Clerk of Allen County during normal business hours, Allen County Courthouse, 715 S. Calhoun Street, Fort Wayne, IN 46802. Persons with Internet access may view the proposed amended local rules at the following website:

<http://www.in.gov/judiciary/2994.htm>

For the Courts of Record of Allen County

_____/S/_____

Frances C. Gull

Judge, Allen Superior Court

LR02-CR2.2-1 Assignment of Criminal Cases

Pursuant to CR 2.2 Effective January 1, 2005, Criminal cases filed in Allen County, Indiana shall be before the Court herein designated as follows:

A. Original Assignments-Charged by Information

1. All Criminal cases filed by information, charging an offense of:

Operating a Motor Vehicle With Lifetime Suspension, a Class C Felony, I.C. 9-30-10-17;

Operating While Intoxicated, a Class D felony, I.C. 9-30-5-3;

Operating Vehicle as Habitual Traffic Violator, a Class D felony I.C. 9-30-10-16;

Criminal Non-Support of Dependents, I.C. 35-46-1-5 through I.C. 35-46-1-7;

shall be filed before the Allen Circuit Court.

2. All other criminal cases, filed by Information, other than those filed before the Allen Circuit Court pursuant to Paragraph 1 above, shall be filed in the Allen Superior Court, Criminal Division.

3. Unless pendent to a felony, all misdemeanors shall be filed in the Misdemeanor and Traffic Division of the Allen Superior Court, Criminal Division.

4. Within the Allen Superior Court, Criminal Division, felony offenses shall be filed as follows:

a) Two (2) Judges shall preside over all Murder, Class A, B and C felonies, excluding Drug cases.

b) One (1) Judge shall preside over all Class D Felonies, and over all Drug cases not assigned to the Drug Court Intervention Program.

5. Designation of Judges to the categories, referred to in Section 4(a) and (b), shall be by Order of the Judges of the Allen Superior Court, Criminal Division, to be made on or before May 1, 1995 and annually prior to January 1 each year thereafter.

B. Original Assignment-Indictment by Grand Jury. All criminal prosecutions, investigated and by True Bill returned as a Grand Jury indictment, shall be filed in the respective Criminal Courts of Allen County as provided in Paragraph A above.

C. Assignment By Transfer. Transfers of cases may be made between the Allen Circuit Court and the Allen Superior Court, Criminal Division, at the discretion of and with the consent of respective Judges of said Courts to accommodate the respective work load of said judges. Said transfers shall be made pursuant to I.C. 33-33-2-25 and I.C. 33-33-2-26

Transfers of individual cases may be made among Judges of the Allen Superior Court, Criminal Division, at the discretion of and with the consent of said Judges to accommodate the respective work loads of said Judges.

D. Special Judge Assignment by Change of Venue [~~CR 12(B)~~]. In the event of disqualification, recusal, or other change of Judge, the case shall be reassigned in random order in equal numbers to one of the Judges exercising Felony or Misdemeanor jurisdiction in Allen County. A Judge who previously served in the case is not eligible for reassignment.

If a judge is not available for reassignment from the judges in Allen County, then the Clerk of the Court shall select a special judge (on a rotating basis) from a list of judicial officers from contiguous counties.

In the event no Judge is available for reassignment of a Felony or Misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a Felony or Misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding Judge may request the Indiana Supreme Court for such appointment.

E. Miscellaneous. Cases dismissed and re-filed shall be filed or assigned to the Judge presiding at the time of the dismissal, regardless of the foregoing rules of assignment.

This rule may be modified upon order and notice of a minimum of 30 days by the Allen Circuit Court or the majority of the Judges of the Allen Superior Court, Criminal Division. Following such an order of modification, should the Judges of the Allen Circuit and Allen Superior Court, Criminal Division fail to adopt a new plan pursuant to CR2.2 within 30 days, the Supreme Court of Indiana shall be notified.

Adopted effective April 11, 1995 Amended September 29, 2004, effective January 1, 2005; amended September 28, 2010, effective January 1, 2011; amended effective February 1, 2016.