

# PUBLIC NOTICE

May 7, 2014

## Hamilton County Circuit and Superior Courts Proposed Local Court Rule Changes

The Judges of the Hamilton County Circuit and Superior Courts find good cause to deviate from the schedule for amending local court rules pursuant to Trial Rule 81(D), and request Supreme Court approval of the proposed addition and/or amendments.

The following proposed additions, amendments and/or deletions to the Hamilton County Local Court Rules are posted for public comment:

<b>LR29-CR00-301</b>	<b>ORDER OF ADOPTION (Amended)</b>
<b>APPENDIX A</b>	<b>CRIMINAL RANDOM FILING (Amended)</b>
	<b>HAMILTON COUNTY BOND SCHEDULE (Amended)</b>

The above rule changes are on separate pages and deletions are shown by ~~striking~~ and new text is shown by **bold underlining**.

Comments will be received until June 13, 2013, and should be sent to one of the following addresses:

Administrator of the Courts  
Hamilton County Courts  
One Hamilton County Square, Suite 313  
Noblesville, IN 46060-2232

E-Mail: [orval.schierholz@hamiltoncounty.in.gov](mailto:orval.schierholz@hamiltoncounty.in.gov)

Following a review of the public comments, the Hamilton County courts will adopt, modify, or reject the proposed local rule changes by June 27, 2014.

If approved, the effective date for these rule changes will be July 1, 2014.

# HAMILTON COUNTY LOCAL RULES

## ORDER OF ADOPTION

PURSUANT TO TRIAL RULE 81 OF THE INDIANA RULES OF PROCEDURE, THE HAMILTON COUNTY CIRCUIT AND SUPERIOR COURTS HEREBY ADOPT THE FOLLOWING RULES TO AID IN THE FAIR AND EFFICIENT RESOLUTION OF DISPUTES. THESE RULES APPLY TO ALL ATTORNEYS AND PRO SE LITIGANTS. THESE RULES (OR THEIR SUBPARAGRAPHS) SHALL BE CITED TO THE COURT AS:

“HAMILTON COUNTY LOCAL ADMINISTRATIVE RULE \_\_\_\_” (OR “LR29-AR\_\_ - \_\_\_\_”);

“HAMILTON COUNTY LOCAL TRIAL RULE \_\_\_\_” (OR “LR29-TR\_\_ - \_\_\_\_”);

“HAMILTON COUNTY LOCAL CRIMINAL RULE \_\_\_\_” (OR “LR29-CR\_\_ - \_\_\_\_”);

“HAMILTON COUNTY LOCAL FAMILY LAW RULE \_\_\_\_” (OR “LR29-FL\_\_ - \_\_\_\_”);

“HAMILTON COUNTY LOCAL JURY RULE \_\_\_\_” (OR “LR29-JR\_\_ - \_\_\_\_”);

“HAMILTON COUNTY LOCAL TRIAL DE NOVO RULE \_\_\_\_” (OR “LR29-DN\_\_ - \_\_\_\_”),

“HAMILTON COUNTY LOCAL PROBATE RULE \_\_\_\_” (OR “LR29-PR\_\_ - \_\_\_\_”); AND

“HAMILTON COUNTY LOCAL JUVENILE RULE \_\_\_\_” (OR “LR29-JV\_\_ - \_\_\_\_”),

AND SHALL BE SO CITED WHEN BEING RELIED UPON IN SUPPORT OF ANY ACTION SOUGHT BY THE COURT.

THESE RULES ARE GENERALLY NOT APPLICABLE TO SMALL CLAIMS PROCEEDINGS BECAUSE THOSE PROCEEDINGS ARE GOVERNED BY THE INDIANA RULES FOR SMALL CLAIMS AND THE HAMILTON COUNTY SMALL CLAIMS LITIGANT’S BOOKLET. HAMILTON COUNTY LOCAL TRIAL RULE 210, HOWEVER, GOVERNS THE SELECTION OF A SPECIAL JUDGE IN A SMALL CLAIMS CASE.

ORDERED ADOPTED AS AMENDED AND EFFECTIVE THIS 1ST DAY OF ~~JANUARY~~ **JULY**, 2014. **NOTE:** **AMENDED CRIMINAL RANDOM FILING RULE IS ONLY APPLICABLE FOR OFFENSES COMMITTED AFTER JULY 1, 2014.**

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PAUL A. FELIX, JUDGE  
HAMILTON CIRCUIT COURT

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STEVEN R. NATION, JUDGE  
HAMILTON SUPERIOR COURT No. 1

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DANIEL J. PFLEGING, JUDGE  
HAMILTON SUPERIOR COURT No. 2

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WILLIAM J. HUGHES, JUDGE  
HAMILTON SUPERIOR COURT No. 3

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J. RICHARD CAMPBELL, JUDGE  
HAMILTON SUPERIOR COURT No. 4

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WAYNE A. STURTEVANT, JUDGE  
HAMILTON SUPERIOR COURT No. 5

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GAIL BARDACH, JUDGE  
HAMILTON SUPERIOR COURT No. 6

**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 misdemeanors (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 or other method as the judges of said courts shall agree. All ~~class-D Felonies~~ **F6 felonies** (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 or other method as the judges of said courts shall agree. 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** Misdemeanor and ~~class-D~~ **F6** felony battery offenses, strangulation offenses, and invasion of privacy offenses shall be filed in Superior Court No. 3.

**301.40** All Murder (MR Case type), ~~Class A (FA Case Type)~~ **F1 & F2 case types**, ~~Class B (FB Case Type)~~ **F3 & F4 case types**, and ~~Class C (FC Case Type)~~ **F5 case type** felonies 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 felony or misdemeanor offenses in the same court as that of the pending case. This paragraph does not apply to ~~D-Felony~~ **F6 felony** or misdemeanor OWI offenses.
- 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 misdemeanor or ~~class-D~~ **Felony F6 felony** offenses (except those assigned to Superior Court No. 3 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 offenses listed under Sections 301.30 or 301.40 as set forth in Sections 301.30 and 301.40.

d. 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.

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

f. 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.

**APPENDIX A  
TO LR29-CR00-305.10**

**HAMILTON COUNTY BOND SCHEDULE**

**SCOPE:** This bond schedule applies to all cases to be filed in the Circuit and Superior Courts of this County and in the City of Carmel, City of Noblesville, and Town of Fishers Courts. THE SHERIFF OF HAMILTON COUNTY IS HEREBY ORDERED TO FOLLOW THIS BOND SCHEDULE FOR SETTING BONDS FOR ALL PERSONS ARRESTED WITHOUT WARRANTS FOR CRIMINAL OFFENSES TO BE FILED IN THE ABOVE COURTS:

<b>FELONIES:</b>	MURDER .....	NO BOND
	HABITUAL OFFENDER .....	\$50,000
	CLASS A <u>LEVEL 1 &amp; 2</u> .....	\$50,000
	CLASS B <u>LEVEL 3 &amp; 4</u> .....	\$25,000
	CLASS C <u>LEVEL 5</u> .....	\$10,000
	CLASS D <u>LEVEL 6</u> .....	\$ 5,000

<b>MISDEMEANORS:</b>	CLASS A MISDEMEANOR .....	\$ 2,500
	CLASS B MISDEMEANOR.....	\$ 1,000
	CLASS C MISDEMEANOR.....	\$ 500

**EXCEPTIONS:** The following are exceptions to the above listed schedule:

Operating While Intoxicated, Second Offense (Class-D <u>Level 6</u> felony).....	\$ 7,500
Operating While Intoxicated Resulting in Serious Bodily Injury (Class-D <u>Level 6</u> felony).....	\$ 7,500
Dealing Marijuana Less Than 30 Grams (Class A misdemeanor) .....	\$ 3,500
False Reporting or Informing (Class A or B misdemeanor).....	\$ 2,500
Leaving the Scene of a Property Damage Accident (Class B or C misdemeanor).....	\$ 2,500
Leaving the Scene of a Personal Injury Accident (Class A misdemeanor) .....	\$ 5,000
Operating While Intoxicated (Class C misdemeanor) .....	\$ 2,500
Operating a Vehicle With at Least .08 (Class C misdemeanor) .....	\$ 2,500
Operating a Motorboat While Intoxicated (Class C misdemeanor).....	\$ 2,500
Operating a Motorboat With at Least .08 (Class C misdemeanor).....	\$ 2,500
Refusal to Identify Self (Class C misdemeanor).....	\$ 1,500
Possession of Drug Paraphernalia (Class A misdemeanor).....	\$ 1,000
Driving While Suspended (Class A misdemeanor) .....	\$ 1,000
Public Intoxication (Class B misdemeanor) .....	O/R (when alcohol free)
Illegal Cons./Poss./Transp. of Alcohol (Class C misdemeanor) .....	O/R (when alcohol free)

**EXCEPTIONS FOR OUT-OF-STATE RESIDENTS:** All bond amounts in this bond schedule, whether surety or cash, shall be **doubled** for out-of-state residents.

**CASH BONDS PERMITTED:** A person may post a cash bond instead of a surety bond as follows:

**FELONIES:** MURDER ..... NO BOND  
CLASS A, B, or C Levels 1, 2, 3, 4 & 5.. Same as Bond Schedule  
CLASS D Level 6..... One-half (1/2) of the Bond Schedule

**MISDEMEANORS:** CLASS A, B, or C ..... One-half (1/2) of the Bond Schedule

All cash bonds shall be posted with the Hamilton County Sheriff or the Hamilton County Clerk only after the person posting the bond has signed the Cash Bond Agreement. Pursuant to I.C. 35-33-8-3.2 and 35-33-8-4, the Hamilton County Clerk shall retain a portion of each cash bond posted in criminal cases as an administrative fee. The administrative fee shall not exceed ten percent (10%) of the monetary value of the cash bond or \$50, whichever is less.

**LACK OF IDENTIFICATION:** Any person who cannot be positively identified at book-in shall be held **without bond** until the person is brought before the Court for a hearing to determine bond. This includes, but is not limited to, those individuals who refuse to cooperate in their identification by refusing to be fingerprinted, individuals who possess conflicting identification, and individuals whose identifying information cannot be verified.

**24-HOUR HOLD:** A person arrested for battery, stalking, invasion of privacy, or strangulation, shall not be allowed to post bond under this schedule until 24 hours after book-in.

**BOND AMOUNTS ARE CUMULATIVE - EXCEPTIONS:** If a person has been arrested for multiple charges, the bond amount shall be the total amount required for all charges, except for the following situations:

1. If a person has been arrested for multiple alcohol charges (operating while intoxicated, public intoxication, illegal consumption/transportation), only the highest class bond for one charge shall be imposed for all of the alcohol charges; and
2. If a person has been arrested for multiple misdemeanor charges, the total cumulative bond for all of the misdemeanors shall not exceed \$5,000 (\$10,000 for out-of-state residents).

**BOND NOT AVAILABLE:** This bond schedule shall not be used for any person arrested for a crime when it can be reasonably determined that the person was on probation, parole, bond or release on the person=s own recognizance for another offense. In such case, the person shall be detained in custody until a Court establishes the bond.

**CONDITIONS OF BOND:** As conditions of bond or release on recognizance (O/R), **all persons posting a Bond** are subject to the following conditions: (a) they **shall appear** in Court at all times required by the Court; (b) they **shall not leave the State of Indiana** without the **prior written** consent of the Court; (c) they **shall not commit nor be arrested** for another criminal offense; (d) they shall keep their attorney and the Court advised in writing of any change of address within 24 hours of such change; and, (e) they shall comply with any other condition ordered by the Court. Pursuant to I.C. 35-33-8-3.2(a)(4) a person=s release may also be conditioned upon refraining from any direct or indirect contact with the alleged victim of an offense or any other individual as ordered by the Court. **Violation of any condition may result in the revocation of bond and the issuance of a re-arrest warrant.**

**SUPERSEDES:** This Bail Bond Schedule is effective July 1, 2014 but does not supersedes all the previous Bail Bond Schedules, dated January 1, 2012, ordered by the Circuit and Superior Courts of this County and the City of Carmel, and City of Noblesville, and Town of Fishers City Courts.

**SO ORDERED** this 1<sup>st</sup> day of ~~January~~ July, 2012 4.

Original signed by the Honorables Felix , Nation, Pflieger, Hughes, Campbell, Sturtevant, Bardach, Poindexter, Caldwell, and Henke