

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR HOWARD COUNTY)

Case No. 34S00-1505-MS-306

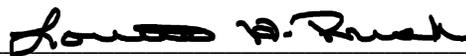
ORDER APPROVING AMENDED LOCAL RULES

The Judges of the Howard Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Howard Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR34-AR1-2 and LR34-CR2.2-29 comply with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR34-AR1-2 and LR34-CR2.2-29 for Howard Circuit and Superior Courts, set forth as an attachment to this Order, is approved effective August 1, 2015.

DONE at Indianapolis, Indiana, on 5/21/2015.



Loretta H. Rush
Chief Justice of Indiana

LR34-AR1-2

ASSIGNMENT OF CASE FILINGS:

A. HOWARD CIRCUIT COURT: All Juvenile Matters, Adoptions, and other cases required by law to be filed in the Circuit Court shall be filed in the Howard Circuit Court.

B. HOWARD SUPERIOR COURTS I, II & 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, by the Clerk.

C. HOWARD SUPERIOR COURT III: Small Claims, Infractions, Ordinance Violations, and Petitions for specialized Driving Privileges pursuant to IC 9-30-16 shall be filed in The Howard Superior Court III. Howard Superior Court III 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 Section (J) 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. HOWARD SUPERIOR COURT I: Miscellaneous Matters (MI), except for Petitions for Specialized Driving Privileges pursuant to IC 9-30-16, shall be filed in Howard Superior Court I.

D. OTHER CIVIL FILINGS: All other civil cases shall be filed in The Howard Circuit Court, the Howard Superior Court II, or the Howard Superior Court IV. The court of filing shall be determined by random selection, by the Clerk, using a method which will result in thirty percent (30%) being filed in Circuit Court, and thirty-five percent (35%) being filed in Superior Court II, and thirty-five percent (35%) being filed in Superior Court IV.

LR34-CR2.2-29

FILING CRIMINAL CASES

A. WEEKLY ROTATION: Beginning January 2, 2006, weekly rotation will be as follows:

1. Week # 1 - Circuit Court
2. Week # 2 - Superior Court II
3. Week # 3 - 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. FILING FELONIES: The court in which criminal charges shall be filed, other than as hereafter provided, will be the court on 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 cases where the charges are drawn under IC 35-48, or IC 16-42-19 (The Indiana Legend Drug Act) the cases shall be filed in Superior Court I. In the event of multiple counts, with charges drawn under IC 35-48, and other criminal statutes, the case shall be filed in the court which would otherwise be proper for the highest charged class of felony. Provided, however, in cases where the highest felonies are of the same class, the cases shall be filed in superior Court I.

4. In cases where the charges are drawn under IC 35-46-1-15.1, IC 35-42-2-1.3, or, if the victim is or was the spouse of the accused, is or was living as the spouse of the accused, or has a child in common with the accused, under IC 35-43-1-2, 35-43-2-1.5, 35-43-2-2, 35-45-2-1, 35-45-2-2, 35-45-2-5 or 35-45-10-5 (all hereinafter collectively referred to as “domestic or family violence”), the cases shall be filed in Superior Court I. In the event of multiple counts, with charges involving domestic or family violence and other criminal statutes, the case shall be filed in the court which would otherwise be proper for the highest charged class of felony. Provided, however, in cases where the highest felonies are of the same class, the cases shall be filed in Superior Court I.

5. 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. SUPERIOR COURT III: This court will be the court in which misdemeanors, other than those referred to in B(3) or B(4) hereof, and felonies involving the operation of a motor vehicle 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 the 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 with 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
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 case.

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 the 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.