In the Indiana Supreme Court

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CLERK
Indiana Supreme Court
Court of Appeals
and Tax Court

In the Matter of the Approval of Local Rules for Delaware County	Supreme Court Case No. 18S00-1611-MS-566

Order Approving Amended Local Rule

The Judges of the Delaware Circuit Court request the approval of an amended local rule for caseload allocation in accordance with Indiana Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the Delaware Circuit Court, this Court finds that the proposed rule amendment, LR18-CR00-DLR-0006 complies with the requirements of Indiana Administrative Rule 1(E), and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR18-CR00-DLR-0006 for Delaware Circuit Court, set forth as an attachment to this Order, is approved effective the date of this Order.

Done at Indianapolis, Indiana, on 11/2/2016.

Loretta H. Rush
Chief Justice of Indiana

LR18-CR00-DLR-0006
Criminal Practice and Procedure

A. Assignment of Cases.

The following case numbers shall be used for crimes committed on or before June 30, 2014: Felonies, which include MR (Murder), FA (class A felony), FB (class B felony), FC (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Murder, or A, B, C felonies or D felonies. The following case numbers shall be used for crimes committed on or after July 1, 2014: F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); L5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal), and misdemeanors in conjunction with Level 1, 2, 3, 4, 5 and 6 felonies.

Except for Level 6 felonies, all cases charging Murder, Levels 1, 2, 3, 4, and 5 will be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred.

The following monthly rotation is now established, effective August 1, 2016:

- Circuit Court No. 4 - the first month (August, 2016)
- Circuit Court No. 5 - the second month;
- Circuit Court No. 1 - the third month;
- Circuit Court No. 2 - the fourth month;
- Circuit Court No. 3 - the fifth month;

Thereafter, the monthly rotation among the courts will continue in this sequence until further order.

All cases charging Level 6 felonies (except for "Domestic Violence Felonies" set out below) will be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred, with the following exceptions: Level 6 felonies occurring during the following months shall be assigned as follows:

March, 2017:	Circuit Court No. 2
August, 2017:	Circuit Court No. 3
June, 2018:	Circuit Court No. 4

If a Defendant has allegedly committed multiple offenses in different months, the date of the earliest alleged offense shall control the assignment.

A "Domestic Violence Felony" is defined as follows:

A charge against a defendant under Indiana Code section 35-42-2-1(g)(3) and (4) as a Level 6 or above felony (Battery Resulting in Bodily Injury to a Pregnant Woman; Battery with a previous conviction against the same victim).

A charge against a defendant under Indiana Code section 35-42-2-1.3 as a Level 6 or above felony (Domestic Battery);

A charge against a defendant under Indiana Code section 35-42-2-9 as a Level 6 felony (Strangulation).

All domestic violence felonies shall be filed in Circuit Court No. 1, regardless of the month in which the offense is alleged to have occurred, and even though the defendant might have a felony pending in another court.

After October 1, 2016, if the State files a Domestic Violence Felony and the defendant has a pending felony in another court, upon request by the State and/or Circuit Court No. 1, the felony pending in another court shall be transferred to the Circuit Court No. 1.

B. <u>Standalone Misdemeanors and Misdemeanors Transferred from Muncie City Court.</u>

1. If a felony case is pending against a defendant, a misdemeanor shall be filed in or transferred into the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.

2. If no felony cases are pending against the Defendant, the misdemeanor will be filed or transferred into in the Delaware Circuit Court No. 4 or No. 5 under the following rotation schedule:

- Circuit Court No. 4: January, March, May, July, September and November;
- Circuit Court No. 5: February, April, June, August, October, and December.

3. A "pending" case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

C. Transfer and Reassignment.

A judge may transfer and reassign to any of the other five Circuit Court Judges a pending case, by issuing a written order for transfer, and subject to the receiving court's acceptance.

Lower classes of felonies shall transfer to the court where the case alleging the higher felony offense is pending. A "pending" case is a case not yet disposed by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

Domestic Violence Felonies as defined in Section A shall not transfer to a court where a higher felony is pending unless by request of the State and/or Circuit Court No. 1.

D. Filing and Reassignment of class Level 6 felony or D felony Cases.

Except for Domestic Violence Felonies as defined in Section A, any Level 6 felony or Class D felony case may be filed in the Division of the Circuit Court that holds another pending felony charge, regardless of when the Level 6 felony or class D felony offense was allegedly committed.

Except for Domestic Violence Felonies as defined in Section A, if a Defendant charged with a pending Level 6 felony or class D felony case is later charged with a higher felony, i.e., Murder, Level 1, Level 2, Level 3, Level 4 and level 5 felonies or class A, class B, or class C felony, the Court with the Level 6 felony or class D felony case shall transfer the Level 6 felony or class D felony case to the court with the higher pending felony case, either on its own motion or at a party's request.

A "pending" case is a case not yet disposed of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

E. Re-filing by the State.

In the event the State of Indiana dismisses a case and later re-files that case, the State shall file the case in the court which dismissal was taken.

In the event the State of Indiana dismisses a case, any subsequent related cases filed against such defendant within ninety (90) days shall be assigned to the court from which dismissal was taken.

F. Additional Related Charges.

If the State files additional related charges against a Defendant, after the case is initially assigned, the State shall file all additional related charges in the court of initial assignment.

G. Additional Unrelated Charges.

Except as to Level 6 felonies or as to class D felonies, as set out in Section D above, if the State files additional unrelated charges against a Defendant, after the case is initially assigned, the State shall file all unrelated charges in the court based upon the month in which the offense allegedly occurred.

H. Reassignment.

If a judge grants a change of judge motion, or should a judge find it necessary to disqualify and assign a different judge to a case, the Clerk shall reassign the case as follows:

- Cases from the Delaware Circuit Court No. 1 shall be reassigned to the Delaware Circuit Court No. 2.
- Cases from the Delaware Circuit Court No. 2 shall be reassigned to the Delaware Circuit Court No. 3.
- Cases from the Delaware Circuit Court No. 3 shall be reassigned to the Delaware Circuit Court No. 4.
- Cases from the Delaware Circuit Court No. 4 shall be reassigned to the Delaware Circuit Court No. 5.
- Cases from the Delaware Circuit Court No. 5 shall be reassigned to the Delaware Circuit Court No. 1.

If the judge to whom the case is assigned cannot assume jurisdiction for any reason, the Clerk shall assign the case to the next judge in the consecutive order as set out above.

I. Special Judge Assignment – Outside Delaware County

If the Clerk is unable to assign a special judge under the provisions of paragraph H, then the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the judges from the following available panel of judges:

a. Presiding Judge, Blackford Circuit Court;
b. Presiding Judge, Blackford Superior Court;
c. Presiding Judge, Henry Circuit Court No. 1
d. Presiding Judge, Henry Circuit Court No. 2;
e. Presiding Judge, Henry Circuit Court No. 3;
f. Presiding Judge, Jay Circuit Court;
g. Presiding Judge, Jay Superior Court;
h. Presiding Judge, Randolph Circuit Court;
i. Presiding Judge, Randolph Superior Court;

If a special judge selected from the rotating list is ineligible for, disqualified from, or excused from appointment, then the regular sitting judge shall direct the Delaware County Clerk to select (on a rotating basis) the next judge on the list.

If the Clerk is unable to assign a special judge from the judges listed above, then the Clerk shall select a judge from the contiguous counties of Madison or Grant.

In the event that no judicial officer within the above list is eligible to serve as special judge, or if the case's particular circumstances warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court to appoint a special judge.