

## Court and Clerk Records

### Access and Maintenance: Protocol for Transfer of Records When Court Abolished

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#### **COURTS ABOLISHED BY STATUTE & SUCCESSOR COURTS CREATED**

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When the General Assembly abolishes a court, the legislation abolishing directs how the records of the abolished courts are managed. For example, P.L. 201-2011 (sections 116, 117 and 118) abolished the Clark Superior courts as of January 1, 2012, and the Henry Superior courts and the Madison Superior courts as of July 1, 2011. These sections provided for the transfer of all cases and matters pending in these courts at the close of business on December 31, 2011, for Clark County and on June 30, 2011, for Henry and Madison counties to the new courts created in those counties on January 1, 2012, and July 1, 2011, respectively. All property and obligations of the abolished courts became the property and obligations of the newly created courts.

The Indiana Office of Court Services (IOCS) has devised best practices for handling cases pending in the abolished court that are transferred to another court:

- Pending cases are assigned new case numbers with the Administrative Rule 8 court identifier for the receiving court.
- The receiving court counts these cases as transferred-in cases on their Quarterly Case Status Reports.
- Cases that are in a “decided” status at the time the old court is abolished, but are subsequently re-docketed, are assigned a new case number when they are re-docketed. For example, a case in Henry Superior Court No. 1 that was decided prior to its transition to a circuit court but became re-docketed later receives a new case number as follows:

33D01-1006-DR-000125 becomes 33C02-1006-DR-000125

If the preferred procedure is not followed and the court identifier is not changed when the cases are transferred to the receiving court, a CCS (Chronological Case Summary) entry is required in each case explaining that by operation of law, the case was transferred from the abolished court to the receiving court as of the proper effective date, and all motions, pleadings, notices, process, and orders filed or entered as of the date the case was transferred to the receiving court are captioned in the receiving court.

## **COURTS ABOLISHED BY CITY OR TOWN ORDINANCE**

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Ind. Code 33-35-1-1 permits a second- or third-class city or a town to establish or abolish a city or town court by ordinance in 2024 or every 4<sup>th</sup> year thereafter. When a court is abolished, the city or town is required to give notice of its action to the Office of Judicial Administration (OJA).

When a city or town court is abolished, Ind. Administrative Rule 10(E) requires that the records of that court be transferred to the clerk of the circuit court of the county in which the city or town court was located. Any unpaid tickets for cases filed in the abolished court are then paid through the circuit court clerk. The outstanding tickets are given new case numbers, if possible, by changing only the court identifier in the first group of characters. However, if this change creates a conflicting case number, then an entirely new case number is assigned.

OJA suggests that infraction and ordinance violation cases pending at the time the city or town court is abolished are assigned to a circuit or superior court in the county that DOES NOT handle infraction and ordinance violation cases under the local caseload allocation rule. This procedure is the most straightforward way to number and track any outstanding infraction or ordinance cases from the abolished city or town court and reduce the possibility of conflicting case numbers. For example, an unpaid ticket from a Town Court with a case number such as 91I01-1108-IF-0096 changes to 91C01-1108-IF-0096.

If it is necessary to transmit an SR 16 to the Bureau of Motor Vehicles under a new circuit or superior court case number to close an FTA or FTP that originated under a city or town court case number, and the FTA/FTP is not closed automatically because of the difference

in the Court Case Number, a report is generated by the BMV for manual review. If the BMV is satisfied that the SR 16 is a match to an existing FTA or FTP suspension, the BMV will manually close the suspension.

Misdemeanor cases still pending at the time the city or town court is abolished are assigned to the circuit or superior court(s) that handle misdemeanor cases under the local rule for assignment of criminal cases required by Ind. Criminal Rule 2.2.

Civil cases pending in a city court when the court is abolished are assigned to a circuit or superior court that handles civil cases. When the case is assigned to a circuit or superior court, the case retains the original assigned case type selected in the city court. Even if more than one court handles civil cases under the caseload allocation rule, all civil cases transferred from the city court are assigned to a single court to facilitate tracking.

## **ELECTRONICALLY MAINTAINED CITY AND TOWN COURT RECORDS**

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All records for which the retention periods have not expired under Admin. R. 7, if maintained electronically, are printed out and transferred to the clerk of the circuit court. The Record of Judgments and Orders (Order Book) is maintained permanently for all case types. Chronological Case Summaries (CCS) for Infraction Cases and Ordinance Violation Cases are maintained for 10 years after the final disposition of the case. The CCS for all other case types are maintained permanently.

If you have any questions or need any assistance, please contact the Office's Record Manager, Tom Jones, [tom.jones@courts.in.gov](mailto:tom.jones@courts.in.gov), and can assist in resolution of any issues.

## **TRANSFER OF COURT RECORDS – EFFECTIVE SEPTEMBER 1, 2016**

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Admin. R. 10 provides:

(E) Transfer of Court Records - Court Creation or Closure.

- (1) Creation of a New City or Town Court. Cases pending in another city or town court under an inter-local agreement that would otherwise be in the jurisdiction of the newly created city or town court shall be transferred to the newly created court as a part of

its initial caseload. Notice of the transfer and docketing of each pending Court Record shall be given to all parties of record as required by the Rules of Trial Procedure.

- (2) Termination of a Court. Upon the adoption of an ordinance or statute that terminates the existence of a court, the judge of the court subject to termination shall immediately notify the Judicial Administration.
  - (a) City and Town Courts.
    - (i) All disposed Court Records subject to retention under Administrative Rule 7 and pending Court Records together with the CCS and monies held in trust by the clerk of the terminated court shall be transferred to the Clerk of the Circuit Court upon closure of the terminated court.
    - (ii) Pending Case Records shall be docketed equally, by case type, in the Circuit or Superior Courts within the Judicial Circuit or according to their adopted and approved Caseload Allocation Plan for the case types transferred.
    - (iii) Court Administrative Records for pending cases shall be delivered to the court to which the relevant Case Record is docketed.
    - (iv) All monies received by the Circuit Court Clerk from the abolished court shall be deposited in the appropriate accounts of the Circuit Court Clerk and remitted to the appropriate recipient as established by law or an entered final judgment.
    - (v) Notice of the transfer and docketing of each pending Case Record shall be given to all parties of record as required by the Rules of Trial Procedure.

- (vi) Retention Schedules - All closed Case Records subject to retention shall be transferred to the Circuit Court Clerk and held for the balance of the retention period.
- (b) Circuit or Superior Courts - Notice of transfer and docketing of each pending Case Record shall be given to all parties of record as required by the Rules of Trial Procedure.