

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

**Notice of Proposed Amendment to Local Court Rule
October 25, 2023**

In accordance with Trial Rule 81 of the Indiana Court Rules, the Clark Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rule on the allocation of cases (LR10-AR00-5) for the courts of record of Clark County, effective January 1, 2024.

All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for Local Rules concerning caseload allocation and the amended rule will not take effect until approved by the Supreme Court.

Notice has been given to the public by posting on the website of the Clark County Clerk (<https://www.co.clark.in.us/index.php/clark-county-indiana-government/clark-county-indiana-clerk-s-office>) and at the Indiana Judiciary webpage for Local Rules (<https://www.in.gov/courts/publications/local-rules/>), and by furnishing a copy to the officers of the Clark County Bar Association. A paper copy of the proposed amended local rule will be made available for viewing in the Clerk of Clark County office, 501 E. Court Avenue, Room 137, Jeffersonville, Indiana 47130, during normal business hours.

The time period for the bar and the public to comment shall begin on November 1, 2023, and shall close on November 30, 2023. The proposed amendments to the rule will be adopted, modified, or rejected before December 15, 2023, and the final version of the rule will be submitted to the Indiana Supreme Court for review and approval no later than December 16, 2023.

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

Hon. Vicki Carmichael, Presiding Judge of Clark Circuit, Attn: Public Comment on Local Rules, Clark Circuit Court No. 4, 501 E. Court Avenue, Room 253, Jeffersonville, IN 47130; or vcarmichael@clarkcounty.in.gov.

Dated this 25th day of October 2023 on behalf of the Judges of Clark County.

_____/S/_____
Vicki L. Carmichael, Presiding Judge
Clark Circuit Court No. 4

RULE 5 [LR10-AR00-5] ALLOCATION OF CASES

A. Applicability. This rule shall apply to all felony and misdemeanor cases filed in the Circuit and Superior Courts in Clark County, Indiana and in the Clarksville Town Court.

B. Major Felony and Firearm Seizure/Retention Cases. Except as otherwise specifically provided for, all cases which include Murder, Class A, Class B, Class C, Level 1, Level 2, Level 3, Level 4, or Level 5 Felony offenses as the most serious charged offense, shall be assigned as follows:

1. Cases alleging the most serious offense was committed during the months of February, April, June, August, October or December shall be assigned to the Judge of Circuit Court No. 1.

2. Cases alleging the most serious offense was committed during the months of January, March, May, July, September, or November shall be assigned to the Judge of Circuit Court No. 4.

3. Cases involving the seizure and retention of a firearm under I.C. 35-47-14 et. seq. shall be filed as outlined in paragraph B.1 or B.2 as determined by the month in which the firearm was seized.

Cases with co-defendants shall be filed in the same court.

C. Misdemeanor. Class D Felony and Level 6 Felony Cases. Except as otherwise specifically provided, all cases having a Class D Felony or Level 6 as the most serious charge shall be assigned to the Judge of Circuit Court No. 3. Misdemeanor offenses occurring in Clarksville shall be assigned to the Judge of Clarksville Town Court; all other misdemeanor offenses, except as noted in paragraph D below, shall be assigned to the Judge of Superior Court No. 5.

D. Traffic-Related Cases. All misdemeanor and felony cases which include a charge relating to traffic or motor vehicles under Title 9, Article 30, Chapter 5 of the Indiana Code or Indiana Code

35-42-1 (Homicide) shall be assigned to the Judge of Circuit Court No. 3, with the exception noted below in F when a charge of Neglect of a Dependent is also filed. Traffic infraction (IF) and ordinance violation (OV) cases shall be assigned to the Judge of Superior Court No. 5.

E. Controlled Substances and Civil Forfeiture Cases. ~~All Class A, Class B, Class C, Class D, Level 1, Level 2, Level 3, Level 4, Level 5 and Level 6 felony cases which include a charge related to Controlled Substances under Indiana Code 35-48 or Legend Drugs under Indiana Code 16-42 shall be assigned to the Judge of Circuit Court No. 2. Except as noted in paragraphs C and D above, cases which include driving offenses shall be assigned to the Judge of Circuit Court No. 3. Cases involving controlled substance charges and a murder, Class A, Class B, Class C, Level 1, Level 2, Level 3, Level 4, or Level 5 Felony offense shall be assigned to the Judge of Circuit Court No. 1 or No. 4 as outlined in paragraph B above.~~

1. Except as otherwise specifically provided for, all Class A, Class B, Class C, Class D, Level 1, Level 2, Level 3, Level 4, Level 5 and Level 6 felony cases which include a charge related to Controlled Substances under Indiana Code 35-48 or Legend Drugs under Indiana Code 16-42 shall be assigned to the Judge of Circuit Court No. 2.

2. Cases subject to paragraph E.1 above as a Class A, Class B, Class C, Level 1, Level 2, Level 3, Level 4, or Level 5 Felony which also include a charge relating to traffic or motor vehicles under Title 9, Article 30, Chapter 5 of the Indiana Code or Indiana Code 35-42-1 (Homicide) shall be assigned to the Judge of Circuit Court No. 2. Cases subject to paragraph E.1 above as a Class D, or Level 6 Felony which also include a charge relating to traffic or motor vehicles under Title 9, Article 30, Chapter 5 of the Indiana Code or Indiana Code 35-42-1 (Homicide) shall be assigned to the Judge of Circuit Court No. 3.

3. Cases subject to paragraph E.1 above which also include a Level 4 or Level 5 Felony

offense under I.C. 35-47-4 et. seq., I.C. 35-47-2-1.5, or I.C. 35-43-4-2(a)(3) shall be assigned to the Judge of Circuit Court No. 2. Cases subject to paragraph E.1 above which also include a charge of murder, Class A, Class B, Class C, Level 1, Level 2, Level 3, Level 4, or Level 5 Felony offense shall be assigned to the Judge of Circuit Court No. 1 or No. 4 as outlined in paragraph B above.

4. Cases involving civil forfeiture under I.C. 34-24-1 et. seq. and/or I.C. 34-24-2 et. seq. shall be assigned to the Judge of Circuit Court No. 2.

F. Juvenile Criminal Cases. All cases which include a misdemeanor or felony charge against a defendant alleged to be under the age of eighteen (18) at the time of the commission of the offense, shall be assigned to the Judge of Circuit Court No. 4.

All cases which include a charge of Neglect of a Dependent or Contributing to the Delinquency under Indiana Code 35-46-1-8 or Violation of Compulsory School Attendance under Indiana Code 20-8.1-3 shall be assigned to the Judge of Circuit Court No. 4.

G. Attempt, Conspiracy, and Aiding Cases. For purposes of this Rule, when a case includes a charge of Attempt under Indiana Code 35-41-5-1, Conspiracy under Indiana Code 35-41-5-1, or Aiding under Indiana Code 35-41-2-4, proper assignment of the case shall be determined by reference to the substantive offense underlying each charge.

H. Re-filing of Dismissed Cases. In the event a criminal case is dismissed, and thereafter, the same or similar case is filed against the same defendant(s) based upon the same transaction, the case shall be assigned to the judge who entered the Order of Dismissal on the earlier case.

I. Juvenile Paternity Cases. Juvenile Paternity cases shall be assigned to the Judge of Circuit Court No. 4.

J. Other Juvenile Cases. All Juvenile CHINS cases, Juvenile Delinquency, Juvenile Status

cases, Juvenile Termination of Parental Rights cases, and Juvenile Miscellaneous cases shall be assigned to the Judge of Circuit Court No. 4.

K. Mortgage Foreclosure and Civil Collection Cases. Mortgage Foreclosure and Civil Collection cases shall be assigned to the Judge of Superior Court No. 6.

L. Civil Tort and Civil Plenary Cases. Civil Tort and Civil Plenary cases shall be assigned to the Judge of Superior Court No. 6.

M. Small Claims and Eviction Cases. All Small Claims and Eviction cases shall be assigned to the Judge of Superior Court No. 6.

N. Mental Health Cases. All Mental Health cases shall be assigned to the Judge of Circuit Court No. 1.

O. Domestic Relations Cases. Domestic Relations cases (DC and DN) shall be assigned to the Judge of Superior Court No. 5.

P. Reciprocal Support and IV-D Child Support Cases. All Reciprocal Support cases and IV-D child support ~~cases~~ issues shall be assigned to the Judge of Superior Court No. 6. Any issues unrelated to child support shall be referred back to the originating court to hear all pending issues.

Q. Protective Order Cases. All Protective Order cases shall be assigned to the Judge of Superior Court No. 6 except as follows consistent with LR10-FR00-10:

1. If a protection order has been granted in a Protection Order case (PO) and a Petition for Dissolution of Marriage, Legal Separation Petition (DR, DC, or DN), or Juvenile Paternity (JP) case, which involves the same parties, has been subsequently filed, the Protection Order case shall be assigned to the judicial officer presiding over the Dissolution of Marriage, Legal Separation Petition (DR, DC, or DN), or Juvenile Paternity (JP) action.

2. If a protection order is requested subsequent to the filing of a Petition for Dissolution of Marriage, Legal Separation Petition (DR, DC, or DN), or Juvenile Paternity (JP) case, which involves the same parties, the protection order matter shall be filed in a separate Protection Order (PO) action, in the Court having jurisdiction over the Petition for Dissolution of Marriage, Legal Separation Petition (DR, DC, or DN), or Juvenile Paternity (JP) action so that the same judicial officer is presiding over both cases.

R. Guardianship and Estate Cases. Guardianship cases involving adults shall be assigned to the Judge of Circuit Court No. 1 and Guardianship cases involving children shall be assigned to the Judge of Circuit Court No. 4. Estate cases (supervised and unsupervised) shall be assigned to the Judge of Circuit Court No. 1.

S. Trust Cases. All Trust cases shall be assigned to the Judge of Circuit Court No. 1.

T. Adoption Cases. All Adoption Cases shall be assigned on an equal basis to the Judges of the Circuit Courts and the Superior Courts.

U. Conservancy Districts. Conservancy district cases shall be assigned to the Judge of Circuit Court No. 1.

V. Tax Sale. Tax sale cases shall be assigned to the Judge of Circuit Court No. 1.

W. Family Court Exceptions. This subsection applies to situations of pending CHINS or juvenile delinquency matters in Circuit Court No. 4. Notwithstanding any other provision of this Rule, when a family law case (e.g., dissolution, paternity, guardianship, adoption, reciprocal support) or a modification of an existing family law case involving the same family in the pending CHINS or juvenile delinquency matter is presented to the Clerk for filing, that matter shall be filed in or transferred to Circuit Court No. 4. When a CHINS or juvenile delinquency case is filed in Circuit Court No. 4 after a family law case has been filed in any other court, the judge with jurisdiction over the family law case shall transfer that case to Circuit Court No. 4. The Judge of Circuit Court No. 4 may request a transfer of

certain criminal cases where those cases have a direct impact on allocation of parenting time or placement of the child in a pending CHINS or delinquency matter.

X. Problem Solving Court Exceptions. This subsection applies to any problem-solving court operated by the Clark Circuit Courts. When an individual is accepted into the problem-solving court, any case associated with that individual shall be transferred to the court having jurisdiction over the problem-solving court.

Y. Exceptions for Defendant with Pending Cases. When a new criminal case filing involves a defendant who has a pending criminal case, other than a Petition to Revoke Probation, the provisions of this subsection shall apply. If a defendant has a pending case in Circuit Court No. 1 or Circuit Court No. 4 and is charged with a new offense that is not solely (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, the new case shall be filed where the current case is pending. If a defendant has a pending case in Circuit Court No. 2, Circuit Court No. 3, or Superior Court No. 5 that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, and a new case is filed against that defendant in Circuit Court No. 1 or Circuit Court No. 4, the pending case in Circuit Court No. 2, Circuit Court No. 3, or Superior Court No. 5 shall be transferred to Circuit Court No. 1 or Circuit Court No. 4 upon the filing of the new charge. If there is a pending level 6 felony filed in Circuit Court No. 3 and the defendant is charged with a new misdemeanor offense, that misdemeanor offense shall be filed in Circuit Court 3.

Z. Transfer of Cases. Any case that is transferred between courts shall be done so pursuant to I.C. 33-33-10-15 and 33-33-10-15.3. Case numbers shall not be changed except upon the proper transfer of a case pursuant to this rule.

AA. Magistrates. The presiding judges of the Clark Circuit Courts ~~1, 2, 3, and 4~~ shall assign a magistrate to serve any of the Circuit or Superior Courts in a manner which provides greater

assistance to the courts with greater caseloads. ~~As such, a judicial officer of a court of record may serve as acting judge in another court within Clark County. This Rule shall automatically expire on January 1, 2025.~~

BB. Error in Case Assignments. Any error in the assignment of a criminal case shall not constitute grounds for an appeal or post-conviction relief unless actual bias or prejudice of the judge hearing the case is demonstrated.

CC. Clerk Management of Case Assignment Process. The Clerk of the Circuit Courts shall, upon the approval of the Judges of each Circuit or Superior Court, implement and manage an appropriate, efficient system for distribution of cases described in the foregoing subsections as being the object of assignment "on an equal basis."

(Amended October 6, 2021)