

In the  
Indiana Supreme Court

FILED  
FEB - 6 2014  
M. J. ...  
CLERK OF THE  
INDIANA SUPREME COURT  
COUNTY CLERKS  
AND TAX COURT

IN THE MATTER OF THE )  
 )  
APPROVAL OF LOCAL RULES ) Case No. 06S00-1402-MS- 88  
 )  
FOR BOONE COUNTY )

ORDER APPROVING AMENDED LOCAL RULES

The Judges of the Boone 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.

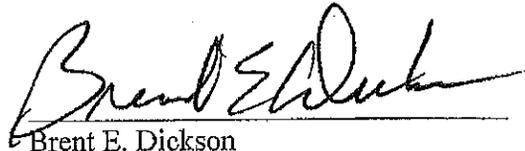
Upon examination of the proposed rule amendments requested by the Boone Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR06-CR00-BLR-13, LR06-FL00-BLR17.1 and LR06-AR01-BLR-30 comply with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR06-CR00-BLR-13, LR06-FL00-BLR17.1 and LR06-AR01-BLR-30 for Boone Circuit and Superior Courts, set forth as attachments to this Order, are approved effective on the date of this Order. The Clerk of this Court is directed to forward a copy of this Order to the Hon. J. Jeffrey Edens, Boone Circuit Court, 310 Courthouse Square, Lebanon, IN 46052-2159; the Hon. Matthew C. Kincaid, Boone Superior Court 1, 307 Courthouse Square, Lebanon, IN 46052-2159; to the Hon. Rebecca McClure, Boone Superior Court 2, 112 Courthouse Square, Lebanon, IN 46052-2159; to the Clerk of the Boone Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Boone Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment

for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on February 6, 2014.

A handwritten signature in black ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson  
Chief Justice of Indiana

**NON-DISCRETIONARY FILING OF CRIMINAL CASES**

Effective January 1, 2014, (or as soon thereafter as the Indiana Supreme Court may approve if later) all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit as follows:

**Misdemeanors (cases in which only misdemeanors are charged)**

- A. Cases in which the only misdemeanor charged is Operator Never Licensed, I.C. 9-24-18-1 shall be assigned to Circuit Court.
- B. Cases in which the only misdemeanor charged is Driving While Suspended, I.C. 9-24-19-2 or 9-24-19-3, shall be assigned to Circuit Court.
- C. All other I.C. 9 *et. seq.* (Title IX traffic) misdemeanor cases shall be assigned to Superior Court II.
- D. All cases charging misdemeanors under I.C. 35-48-4, 35-42-2-1, 35-43-5 and Title VII crimes, alone or in conjunction with other misdemeanor offenses, shall be assigned to Superior Court II.
- E. All other misdemeanor cases, not covered by A-D, shall be assigned to Circuit Court.

**Felonies:**

- F. All cases in which one or more felony counts are charged under I.C. 35-36-1-3, 35-36-1-4 or 35-36-1-5 (incest, neglect of a dependent and criminal nonsupport of a child) shall be assigned to Circuit Court.
- G. All cases in which the only felony count charged is Driving While Suspended under I.C. 9-24-2-4 shall be assigned to Superior Court I,
- H. All felony cases, not covered by paragraph F or G, in which the only felony charged is a charge under I.C. 9 *et. seq.* (a Title IX Traffic offense) shall be assigned to Superior Court II.
- I. All felony and misdemeanor operating while intoxicated cases shall be assigned to Superior Court II, no matter what other felony charges may be filed therewith.
- J. All felony cases not assigned, pursuant to paragraphs F through I, shall be assigned 50% to Superior Court I, 30% to Circuit Court and 20% to Superior Court II by random draw as provided in paragraph L below.

- K. If a case charges both a non-traffic code felony and a misdemeanor, other than an alcohol related misdemeanor, the case shall be considered a felony and assigned pursuant to paragraph J above.
- L. The rotation of cases under Paragraph J shall be accomplished by using a set of one hundred balls. The set of balls shall contain 50 balls marked Superior Court I, 30 balls marked Circuit Court, and 20 balls marked Superior Court II. The balls (those selected and those yet to be selected) shall be securely maintained by the Clerk of the Court. Each time a felony case is assigned, pursuant to paragraph J, the Clerk shall draw a ball and assign the case the Court designated on that ball. The ball drawn shall be held by the Clerk with the other balls that have been drawn until all one hundred balls have been drawn. At that point, all one hundred balls shall be returned to the receptacle from which they are drawn and the process shall begin anew. The Clerk shall maintain a log of the balls drawn and the case assignments made. A "selection sheet" shall be placed in each file assigned, pursuant to paragraph J, noting the person who made the draw and the Court to which the case was assigned.
- M. If, after assignment, a case is dismissed and later re-filed, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with Indiana Criminal Rule 2.2., so as to provide a procedure for non-discretionary assignment of criminal cases.
- N. In cases assigned, pursuant to paragraph J above, where a charge or charges are filed against one or more than one defendant and such charge or charges arise out of the same factual allegations or same criminal episode, such cases shall be assigned, upon the request of the prosecutor, to the same Court in which the first such case was assigned, pursuant to paragraph J. In such event, the subsequent case or cases shall be assigned to the same court as the first one and another ball shall be removed from the draw for the court to which the subsequent case was assigned.
- O. Notwithstanding Item J above, whenever the Defendant is charged in a cause wherein the basis for the charge or charges has resulted/ or results in the filing of a CHINS proceeding in Circuit Court, then such cause shall be transferred to the Circuit Court, upon request by the Prosecutor, the Department of Child Services, or the Court, on its own motion.
- P. Notwithstanding any of the foregoing, the Judges of Boone County may agree to transfer any criminal case between or among themselves upon good cause shown by the prosecutor or counsel for the Defendant, or upon their own motion, when in the interests of judicial economy or the interests of justice so require.

- Q. In order to comply with Criminal Rule 13 (c), a list of alternative judges shall be maintained in the offices of the Circuit, Superior I and Superior II Courts. On this list shall be contained the names of the regular sitting Judges in the counties contiguous to Boone County. Whenever the appointment of an alternative sitting Judge is ordered by any of the regular sitting judges of the court where the Judge sits, the Judge shall assign the case to one of the Judges on this list on a rotating basis.
- R. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).

**LR06-FL00-BLR-17.1**

**LIMITED NON-DISCRETIONARY FILING OF DISSOLUTION (DR) MATTERS**

- (1) Effective January 1, 2014 (or as soon thereafter as the Indiana Supreme Court may approve this rule if later) the Boone County Clerk SHALL assign newly filed marriage dissolution (DR) matters for which the Petitioner is unrepresented to the Boone County Courts in the following proportion:
  - A. 60% to Circuit Court;
  - B. 30% to Superior Court I; and
  - C. 10% to Superior Court II
- (2) DR filings for which the Petitioner is represented by an attorney may be filed in any Court in Boone County the Petitioner chooses.
- (3) In all matters where a Petitioner seeks a waiver or partial waiver of filing fees, the request for the same shall be first brought to the attention of the Circuit Court. If the Circuit Court or the Circuit Court Magistrate are unavailable for any reason, be it other business, temporary absence or any reason, the Clerk shall bring the request to either Superior Court I or II for a determination whether to waive any part of a filing fee. After the decision upon the waiver is made, the Clerk will assign the self-represented petitioner dissolution matter to the Court per paragraph 1.
- (4) The Clerk of the Court, with the advice and consent of the Judges, may choose a manner in which to implement the random filing of self-represented DR matters.
- (5) If a self-represented DR matter is dismissed and re-filed, it shall be assigned to the Court it was originally filed in.

**BOONE COUNTY'S CASE LOAD PLAN**

We, the undersigned Judges of Boone County in compliance with Indiana Administrative Rule 1(E), hereby adopt Local Rule 30 entitled "Boone County's Case\_Load Plan."

**WHEREAS**, Indiana Administrative Rule 1(E) requires the Judges of Boone County to implement a caseload allocation plan for the county that ensures an even distribution of judicial workload among the courts of record in the county; and

**WHEREAS**, the Courts of Boone County, pursuant to Legislative direction and the evolution of time, have acquired certain subject matter expertise that the Judges of Boone County believe should not be altered, but instead should be preserved and enhanced upon, i.e., Circuit Court has exclusive jurisdiction over all juvenile matters, including, but not limited to, Status Offenses, Delinquent Offenses, CHINS proceedings and Paternity matters; Superior I has exclusive jurisdiction over all Estates, Guardianships, Probate matters and Adoptions; and Superior II has exclusive jurisdiction over all Small Claims and certain Alcohol and Drug Offenses;

**WHEREAS**, the Judges of Boone County have met and discussed Indiana Administrative Rule 1(E) and have established the following plan for allocation of judicial resources within Boone County which maintains the integrity of the courts in Boone County:

**IT IS THEREFORE ORDERED** by the Judges of Boone County that for calendar year 2009 and beyond, within 60 days of the Supreme Court's issuance of the previous year's Weighted Caseload Report, as reported by the Division of State Court Administration, the report will be reviewed by the Judges to determine whether Boone County's caseload complies with Indiana Administrative Rule 1(E).

To the extent that the difference in utilization of any two (2) Courts of Record exceeds 0.40 percentage points, then the Judges of Boone County agree to alter or modify the distribution of cases in the County to bring each Court within the range of 0.40 percentage points by amending Local Rule 13, Non-Discretionary filing of Criminal Cases. If all the courts of record are within 0.40 percentage points then no action will be taken.

The Judges of Boone County have determined that this method can be implemented with very little administrative effort and that it will have a minimal effect on the Prosecuting Attorney's office and a negligible effect on the Local Bar Association. The statistics for the previous year's criminal filings are readily available and the necessary adjustments can be made very quickly and modifications made to Local Rule 11 can be easily distributed to the Clerk's Office and the Prosecutor's Office.

Consistent with the schedule to be set and monitored by the Indiana Supreme Court Division of State Court Administration (Division), the Boone County Judges will review weighted caseload statistics and submit a new caseload allocation plan or resubmit an existing plan every two (2) years. In addition, an amended Local Rule 13 will be implemented by Boone County Judges, when applicable. Moreover, the Judges of Boone County have agreed to review this Rule every two years to determine whether other adjustments should be made in the distribution of cases in Boone County outside the spectrum of Local Rule 11.