

Date: September 27, 2021

TO: THE MUNCIE BAR ASSOCIATION AND THE GENERAL PUBLIC

**Notice of Proposed Amended Local Rule Court Rules  
September 27, 2021**

The Delaware County Board of Judges pursuant to Trial Rule 81 give notice to the bar and the public of their proposed amended Local Rules to be effective **January 1, 2022**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for Local Rules concerning assignment of cases and caseload allocation.

The time period for the bar and the public to comment shall begin on October 1, 2021, and shall close on November 1, 2021. The proposed amended rules will be adopted, modified or rejected before November 1, 2021, and changes made if required after the comment period has ended.

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

The Honorable Linda Ralu Wolf, Presiding Judge of the DELAWARE Circuit Court c/o Emily M. Anderson, Court Administrator, Attn: Public Comment on Local Rules, DELAWARE County Justice & Rehabilitation Center, 3100 S. Tillotson Ave., Muncie, Indiana, 47302. Or, e-mail to: [emanderson@co.delaware.in.us](mailto:emanderson@co.delaware.in.us)

A paper copy of the proposed amended local rule will be made available for viewing in the office of the Clerk of Delaware County and the Delaware County Clerk's Filing Office, Delaware County Justice and Rehabilitation Center, 3100 S. Tillotson Ave., Muncie, Indiana during normal business hours. Persons with Internet access may view the proposed amended Local Rules at the following websites: [www.co.delaware.in.us/clerk](http://www.co.delaware.in.us/clerk) and [www.courts.IN.gov/rules/local](http://www.courts.IN.gov/rules/local)

**DELAWARE COUNTY BOARD OF JUDGES** Declined to Approve Proposed Change of Jurisdiction

\_\_\_\_\_  
/s/  
Marianne Vorhees, Judge  
Delaware Circuit Court No. 1

\_\_\_\_\_  
John M. Feick, Judge  
Delaware Circuit Court No. 4

\_\_\_\_\_  
/s/  
Kimberly S. Dowling, Judge  
Delaware Circuit Court No. 2

Declined to Approve Proposed Change of Jurisdiction

\_\_\_\_\_  
/s/  
Linda Ralu Wolf, Presiding Judge  
Delaware Circuit Court No. 3

\_\_\_\_\_  
Thomas A. Cannon Jr, Judge  
Delaware Circuit Court No. 5

**LR18-SC00-DLR-0001**  
**Small Claims Practice and Procedure**

**A. Scheduling.**

1. The Clerk of the Court shall schedule an initial trial on the complaint. At the initial trial, the defendant shall admit or deny liability as to the claim.
2. If the defendant fails to appear at an initial trial after proper service, the plaintiff may request judgment. If the plaintiff fails to appear at the initial trial after proper notice, the court may dismiss the action without prejudice.
3. If the defendant appears and admits liability the parties may sign and file an Agreed Judgment.
4. If the defendant appears and denies liability, the court shall set the matter for a bench trial and notify all parties.

**B. Attorney Fees.**

A party who is represented by an attorney and is requesting attorney's fees shall present to the court a written affidavit detailing the time spent, services rendered, and hourly rate requested. There shall be a rebuttable presumption that a reasonable attorney fee based upon the amount of the judgment is as follows:

JUDGMENT	ATTORNEY FEE
Less than \$500.00	\$150.00
Over \$500.00 but less than \$1,250.00	\$250.00
Over \$1,250.00 but less than \$2,500.00	\$500.00
Over \$2,500.00 but less than \$4,000.00	\$800.00
Over \$4,000.00 but less than \$6,000.00	\$1,000.00
Over \$6,000.00 but less than \$ <u>10,000.00</u>	\$1,200.00

**C. Continuances.**

A party seeking to continue a hearing date must file a written motion for continuance, and the court may grant the motion if the party seeking the motion shows good cause. Forms for continuance can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

**D. Judgments.**

A party seeking a default judgment shall file an Affidavit of Non-Military Service and Competency. These forms can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

**E. Proceedings Supplemental.**

If a party does not pay the judgment after its entry, the party seeking payment may file a Motion for Proceedings Supplemental and an Order to Appear in Court and Answer as to Wages, Assets, Property, and Income. The Clerk will provide a hearing date. The forms can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

## **F. Contempt/Issuance of Body Attachment.**

The procedure to be used after a debtor fails to appear at a proceedings supplemental hearing shall be as follows:

- (1) If a debtor fails to appear at a hearing as ordered, the court shall not issue a writ of attachment unless the procedures set out in this rule are followed. The judgment creditor may file a motion for contempt citation against the debtor for failure to appear. The motion for contempt citation must be filed within thirty (30) days of the failure to appear. The motion for contempt citation shall include a clear statement of the facts alleged to constitute contempt including the date on which the contempt is alleged to have occurred.
- (2) The motion for contempt citation and order to appear must be delivered to the judgment debtor personally and proof of personal service must be filed with the court. Personal service includes certified mail signed by the judgment debtor.
- (3) If the judgment debtor fails to appear after being personally served with the motion for contempt citation and order to appear, the judgment creditor may file a request for body attachment. The request for body attachment must be filed within thirty (30) days of the debtor's failure to appear for the hearing in the contempt citation. The request for body attachment must reflect that the order to appear was personally served on the judgment debtor and must include telephone numbers at which the judgment creditor may be contacted as well as sufficient information to identify the debtor.
- (4) The writ of attachment shall contain identifying information regarding the judgment debtor including a current address, social security number or date of birth, and distinguishing physical features, if known. The writ shall also contain the date of issuance and in capital letters the following statement: **SERVE DURING THE COURT'S BUSINESS HOURS. DO NOT PLACE IN JAIL. BRING DIRECTLY TO COURT. THIS WRIT EXPIRES 180 DAYS FROM DATE OF ISSUANCE.**
- (5) Upon serving the writ, the law enforcement officer shall deliver the judgment debtor to court staff who shall attempt to contact the judgment creditor at the telephone numbers provided by the creditor and notify the creditor that the judgment debtor is present at the court. The creditor shall have two hours or until the close of business, whichever comes first, to appear before the court and question the judgment debtor. The court may permit the judgment creditor to question the debtor by telephone. If the judgment creditor cannot be reached or does not appear, the judgment debtor shall be released.

## **G. Bankruptcy Stay.**

Any party seeking a stay due to a bankruptcy filing should file a Notice to Stay the Proceeding stating that they have included the debt at issue with the bankruptcy court and include the bankruptcy cause number.

**H. Releasing Judgments.**

A party shall file a Release of Judgment with the court after the opposing party has paid a judgment in full. These forms can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

**I. Dismissals.**

The party who filed a Notice of Claim, Counterclaim, or Cross-Claim may file a written Motion to Dismiss the claim at any time before the court enters a judgment. These forms can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

**J. Hearing Dates Following Dismissal.**

If the court dismisses a Notice of Claim upon the plaintiff's written request, and if a Counterclaim or Cross-Claim is still pending, the hearing will be held on the Counterclaim or Cross-Claim.

**K. Small Claims Manual.**

The Delaware County Small Claims Manual is available on the County Clerk and Courts' websites.

**L. Self-Help Forms.**

All Self-Help forms can be found in the Self Help Legal Center located in the lobby of the Justice Center or online on the County Clerk's and Courts' websites.

*(Amended effective January 1, 2020; further Amended December 14, 2020; further Amended January 1, 2022)*

**LR18-CR00-DLR-0005**  
**Discovery and Motions in Limine in Criminal Cases**

**I. Discovery**

**A. Duty of the State of Indiana**

In all Murder, Class A, Class B, Class C, and Class D felony cases; and in all 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 filed in Muncie City Court or Delaware County Circuit Courts, unless relieved by court order, the Prosecuting Attorney shall, within thirty (30) days after the initial hearing furnish the attorney for the Defendant the following:

1. The names and addresses of persons whom the Prosecuting Attorney intends to call as witnesses at the trial, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the accused herein or any statements of others which contain a declaration of the accused.
3. Those portions of the Grand Jury minutes which contain statements of witnesses whom the Prosecutor intends to call and directly examine at trial, which statements are probably within the control of the prosecution and which statements will relate to matters covered in the witness' testimony in this case, for the purpose of cross-examination and impeachment of such witness' credibility.
4. The relevant testimony which is reduced to writing of persons whom the Prosecutor intends to call as a witness at the trial, but who did not testify before the Grand Jury.
5. Any reports or statements of experts made in connection with this case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
6. Any books, papers, documents, photographs or tangible objects, which the Prosecuting Attorney intends to use in the trial or which were obtained from or belong to the accused or his family.
7. Any record or prior criminal convictions of persons whom the Prosecutor intends to call as witnesses at the trial.
8. Any declarations against interest made by the Defendant.
9. Any evidence the Prosecutor might have, favorable to the Defendant.
10. Copies of any photographs which the prosecution has in its possession which it intends to introduce as evidence.
11. Any description of the Defendant's conduct, if any, that the prosecution intends to introduce as an implied admission.
12. Any promises, rewards, or inducements provided to prosecution witnesses or defense witnesses.

13. Any victim's statement that was recorded or memorialized and that is under the State's control.
14. Any and all medical reports in appropriate cases.
15. That portion of police reports containing substantially verbatim statements of witnesses.
16. The criminal record of the Defendant, including arrests and convictions.
17. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The State shall also allow counsel for the Defendant to examine any and all physical evidence, whether or not the prosecution intends to present the evidence at trial, within thirty (30) days after the initial hearing.

**B. Duty of Counsel for the Defendant.**

In all Murder, Class A, Class B, Class C, and Class D felony cases; and in all 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 filed in Muncie City Court or Delaware County Circuit Courts, unless relieved by court order, counsel for the Defendant shall, within thirty (30) days after receiving the discovery from the State of Indiana in any criminal action filed against the Defendant, furnish the attorney for the State of Indiana the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.
2. A summary of any special or statutory defense(s), which Defendant intends to make at a hearing or trial in this cause.
3. Names and last known addresses of persons Defendant intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to the Defendant.
4. Any books, papers, documents, photographs, or tangible objects Defendant intends to use as evidence or for impeachment at a hearing or trial.

**C. Duty When Defendant is Not Represented by Counsel.**

If a Defendant is not represented by an attorney, the above duties do not apply. The parties must file written motions with the court to request discovery.

#### **D. Protective Order Regarding Materials Received in Discovery**

In order to ensure a fair trial for both sides of the litigation as well as to provide for the protection and privacy of witnesses and victims, the Delaware County Circuit Court Board of Judges hereby adopts the following general Protective Order regarding discovery materials.

1. Discovery material shall not be used by any person for any purpose other than to prepare for trial in a charged action and shall not be publicly exhibited, shown, displayed, or disseminated, (including uploading it to an internet site or social media site) in any form or fashion except in judicial proceedings and/or disciplinary proceedings.

2. Counsel for the State and for the Defendant may display and review discovery materials with potential witnesses in the case, including expert witnesses. All witnesses who review discovery materials are bound by this Protective Order.

3. Once discovery material has been provided to the defendant, defense counsel, or the State no additional copy of the discovery material shall be made by the State, the defendant, the defendant's attorney, investigator, expert or any other representative or agent of the defendant without the permission of the Court, following notice to opposing counsel and opportunity to object. However, defense counsel may provide a copy of the discovery material to his/her client and the parties may copy discovery material for internal use to prepare for trial, subject to the restrictions in Paragraph 1 and 2 above.

4. The State shall not provide copies of evidence illegal to reproduce or distribute, such as child pornography. Where copying is illegal, impractical or where there is good cause to not produce copies of evidence and exhibits, parties may provide descriptions of the evidence and allow an opportunity for reviewing such evidence to opposing parties. The court may resolve disputes over timing and manner of discovery.

5. Defense attorneys of record shall make the defendant aware of the existence and content of this rule as well as the penalties for violating the provisions of the rule.

6. At the conclusion of the litigation, any and all copies of discovery material which are not entered into evidence, shall be returned to party from whom they were received or counsel shall keep them in a secure manner.

7. This Protective Order shall not terminate upon disposition of a case but shall remain in full effect until the court which disposed of the case enters a contrary order, or until the Board of Judges modifies this Protective Order.

8. Any violation of this Order may be punishable by contempt of court.

#### **II. Motions in Limine.**

In all Murder, Class A, Class B, Class C, and Class D felony cases; and in all 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, unless relieved by court order, the following items are excluded from evidence, and the Court prohibits any reference at the fact-finding hearing to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. The fact that the Defendant failed to make a statement either orally or in writing at the time of his arrest.
2. Any questioning of the Defendant, or any statements which Defendant may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the Defendant.
3. Any previous arrest or detention of the Defendant which did not result in a conviction.
4. Any other alleged offenses, allegedly involving the Defendant, in which he or she was neither arrested nor charged.
5. Any prior conviction of the Defendant, except those which may be used for the purpose of impeachment.
6. The statutory penalty for the offense(s) charged, or any and all included offenses.

The rule regarding Motions in Limine applies in cases where Defendant is represented by counsel, and it also applies to cases where Defendant is not represented by counsel.

*(Amended effective January 1, 2018; further Amended effective January 1, 2020; further Amended effective January 1, 2022)*



**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: MR (Murder); 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.

All felonies, charging Murder, Levels 1, 2, 3, 4, 5 and 6 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 October 1, 2019, through December 31, 2021:

- Circuit Court No. 2 - the first month (October 1, 2019)
- Circuit Court No. 3 - the second month;
- Circuit Court No. 4 - the third month;
- Circuit Court No. 5 - the fourth month;
- Circuit Court No. 1 - the fifth month.

Effective January 1, 2022, the following monthly rotation is established:

Circuit Court No. 4 – January, 2022

Circuit Court No. 5 – February, 2022

Circuit Court No. 1 – March, 2022

Circuit Court No. 3 – April, 2022

Circuit Court No. 1 – May, 2022

Circuit Court No. 4 – June, 2022

Circuit Court No. 5 – July, 2022

Circuit Court No. 1 – August, 2022

Circuit Court No. 3 – September, 2022

Circuit Court No. 1 – October, 2022

Circuit Court No. 4 – November, 2022

Circuit Court No. 5- December, 2022

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

Effective January 1, 2022: (1) the Judge in Delaware Circuit Court No. 2 shall remain in the monthly call rotation for after-hours warrants/blood draws/mental health calls; and (2) during regular business hours, the Judges will handle warrants and blood draw requests per the above rotation.

## **B. Standalone Misdemeanors and Misdemeanors Transferred from Muncie City Court.**

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, unless the conditions below are met, and acceptance is not required.

If a Defendant charged with a pending felony case is later charged with a higher felony, the Court with the lower level felony shall transfer the lower level 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.

~~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.~~ If the case transferred is a Level 5 or Level 6 felony, the transferring court shall order the Clerk to transfer the case to the receiving court, and the Clerk shall transfer the case without an order of acceptance.

## **D. Filing and Reassignment of Class Level 6 felony or D felony Cases.**

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.

~~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.**

If a Defendant has allegedly committed multiple offenses in different months, the date of the highest-level alleged offense shall control the assignment. If a Defendant has committed the same level of felony in different months, the date of the first alleged offense shall control the assignment.

(Amended effective January 1, 2022)

**LR18-CR00-DLR-0006.5**  
**Criminal Case Reassignment and Special Judge Selection**

**A. 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~~3.
- Cases from the Delaware Circuit Court No. 2 shall be reassigned to the Delaware Circuit Court No. ~~3~~1.
- 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.

**B. Special Judge Assignment – Outside Delaware County**

If the Clerk is unable to assign a special judge under the provisions of ~~paragraph H~~ Trial Rule 79(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.

*(Amended effective February 1, 2017; further Amended effective January 1, 2018; further Amended effective March 16, 2018; further Amended effective October 9, 2018; further Amended effective October 1, 2019; further Amended effective January 1, 2020; further Amended effective January 1, 2022)*

**LR18-TR79-DLR-0011**  
**Civil Practice and Procedure**

The following local rule regarding selection of special judges where a special judge does not accept a civil case under TR 79(D), is now adopted by the undersigned judges of the Delaware Circuit Court, in conjunction with the other Courts of Administrative District 15.

**A. Conflicts by Circuit Court No. 2 Judge in DR (Domestic Relations) and JP (Juvenile Paternity) cases from Title IV-D Court.**

In DR (Domestic Relations) and JP (Juvenile Paternity) cases from Title IV-D Court where the Circuit Court No. 2 Judge has a conflict and enters an order of disqualification or recusal, and parties do not agree to a particular special judge pursuant to TR 79(D), the Clerk of Delaware County shall assign the case to the regular sitting Judge in Circuit Court No. 3. If that Judge is unable to serve as set forth in Trial Rule 79 (H), then the Clerk shall select a special judge pursuant to paragraph B or C of this local rule.

**B. Assignment - Civil.**

In civil cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); 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 (omitting the judge from whom the change of venue is being taken):

- a. ~~Presiding Judge, Delaware Circuit Court No. 1;~~
- b. Presiding Judge, Delaware Circuit Court No. 2;
- c. Presiding Judge, Delaware Circuit Court No. 3;
- d. Presiding Judge, Delaware Circuit Court No. 4;
- e. Presiding Judge, Delaware Circuit Court No. 5;
- f. Presiding Judge, Blackford Circuit Court;
- g. Presiding Judge, Blackford Superior Court;
- h. Presiding Judge, Henry Circuit Court No. 1
- i. Presiding Judge, Henry Circuit Court No. 2;
- j. Presiding Judge, Henry Circuit Court No. 3;
- k. Presiding Judge, Jay Circuit Court;
- l. Presiding Judge, Jay Superior Court;
- m. Presiding Judge, Randolph Circuit Court; and
- n. 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 all judges in Delaware County are ineligible to serve, the sitting judge shall direct the Clerk of Delaware County to select (on a rotation basis) one of the judges from the Administrative District (omitting all Delaware County judges).

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.

**C. Assignment – Juvenile.**

In juvenile cases where the appointment of a special judge is required under TR 76, or the presiding judge has disqualified or recused under TR 79(C), and parties do not agree to a particular special judge pursuant to TR 79(D); the regular sitting judge shall direct the Clerk of Delaware County to select (on a rotating basis) one of the following available judges:

- a. Presiding Judge, Blackford Circuit Court;
- b. Presiding Judge, Henry Circuit Court No. 1
- c. Presiding Judge, Jay Circuit Court; and
- d. Presiding Judge, Randolph Circuit 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.

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.

**D. Maintaining Separate Lists.**

The Delaware County Clerk shall maintain separate civil and juvenile lists, in the rotation order as set forth in this Rule, from which the clerk may determine the appropriate appointment in civil and juvenile cases.

**E. Consent to Authority to Sit as Acting Judge**

The Judges in the Delaware County Courts consent to the judge of the Jay County Circuit Court and the judge of the Blackford County Superior Court, upon request, to sit as acting judge in these courts in any matter as if the judicial officer were the elected or appointed judge of the court, as provided in Administrative Rule 1. The authority to sit as acting judge in a Delaware County Court is granted even when the sitting judge is present and available.

**F. Forfeiture Proceedings**

If the respondent has filed an answer, the court shall schedule a hearing, upon the conclusion of any related criminal matter, to determine the legitimacy of the forfeiture by a preponderance of the evidence pursuant to I.C. 34-24-1-4.

**G. Protective Orders**

If a Protective Order is filed in a court and the judicial officer cannot rule on the ex parte request due to a conflict, the judicial officer shall instruct the Clerk to reassign the protective order pursuant to LR18-CR00-DLR-0006.5(A).

*(Amended effective June 4, 2013; further Amended effective January 1, 2018; further Amended effective March 4, 2019; further Amended effective January 1, 2020; further Amended December 14, 2020; further Amended effective January 1, 2022)*



**LR18-AR00-DLR-0012**  
**Allocation and Assignment of Cases**

Cases shall be filed per the following allocation:

**Circuit Court No. 1**

**Criminal:** ~~The following case numbers shall be used for e~~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 e~~Crimes committed on or after July 1, 2014: MR (Murder); F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal, Firearm Seizure – excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

**Civil:** ~~PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MI (Miscellaneous – only forfeiture actions related to pending criminal cases) excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), ES, EM, EU, GU, TR (Probate), PO (Protective Orders), PC (Post-Conviction Relief).~~

**Juvenile:** JD (Juvenile Delinquency), JS (Juvenile Status), and JM (Juvenile Miscellaneous- Probation Filings Only).

**Circuit Court No. 2**

**Criminal:** ~~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 e~~Crimes committed on or after July 1, 2014: ~~F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony); IF- (Infraction), MC (Miscellaneous Criminal –only related to after-hours warrants or blood draw requests), excluding Firearm Seizure, excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.~~ OV (Ordinance Violation).

**Juvenile:** ~~JP (Juvenile Paternity), JD (Juvenile Delinquency), JS (Juvenile Status), JM (Juvenile Miscellaneous), JC (Juvenile CHINS), JT (Juvenile Termination), JQ (Juvenile Protective Order), JM (Juvenile Miscellaneous- Department of Child Services Filings Only).~~

**Civil:** PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), AD (Adoption), MI (Miscellaneous - excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), GU-with related juvenile cases ONLY, RS (Reciprocal Support), PO (Protective Orders).

### **Circuit Court No. 3**

**Criminal:** ~~The following case numbers shall be used for eCrimes 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 eCrimes committed on or after July 1, 2014:~~ MR (Murder); F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal, Waiver of Reinstatement of Fees Cases-excluding Firearm Seizure), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

**Civil:** PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MI (Miscellaneous, Specialized Driving Privilege Cases, Judicial Review of Habitual Violator Suspension Cases), MH (Mental Health), PO (Protective Orders), XP (Expungement), PC (Post-Conviction Relief).

### **Circuit Court No. 4**

**Criminal:** ~~The following case numbers shall be used for eCrimes 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 eCrimes committed on or after July 1, 2014:~~ MR (Murder); F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Firearm Seizure, excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

**City Court:** Any criminal cases transferred from Muncie City Court may be filed in the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.

If no felony cases are pending against the Defendant the misdemeanor will be filed 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.

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

**Juvenile:** NONE

**Civil:** PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), AD (Adoption), MI (Miscellaneous - excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases) PO (Protective Order), SC (Small Claims), EV (Eviction), PC (Post-Conviction Relief).

### **Circuit Court No. 5**

**Criminal:** ~~The following case numbers shall be used for eCrimes~~ 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 eCrimes~~ committed on or after July 1, 2014: MR (Murder); F1 (Level 1 felony); F2 (Level 2 felony); F3 (Level 3 felony); F4 (Level 4 felony); F5 (Level 5 felony); F6 (Level 6 felony), MC (Miscellaneous Criminal – excluding Firearm Seizure, excluding Waiver of Reinstatement of Fees Cases), and misdemeanors in conjunction with Levels 1, 2, 3, 4, 5 and 6 felonies.

**City Court:** Any criminal cases transferred from Muncie City Court may be filed in the Division of the Circuit Court that holds the highest pending felony charge, regardless of when the misdemeanor crime was allegedly committed.

If no felony cases are pending against the Defendant the misdemeanor will be filed 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.

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

**Juvenile:** NONE

**Civil:** PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR, DC, DN (Domestic Relations), MF (Mortgage Foreclosure), MI (Miscellaneous – excluding Specialized Driving Privilege Cases, excluding Judicial Review of Habitual Violator Suspension Cases), PO (Protective Order), SC (Small Claims), EV (Eviction), ES, EU, EM, GU, TR (Probate), TS (Tax Sale), TP (Tax Deed Petition), PC (Post-Conviction Relief).

1. Assignment of cases as heretofore set out will continue to be subject to all Local Rules regarding non-discretionary assignment of felony and misdemeanor cases.
2. Forfeiture Proceedings – The State of Indiana shall file the forfeiture action as a miscellaneous civil (MI) action in the Circuit Court Division where the State either has filed or is required to file the related criminal action pursuant to Local Rule. If the State does not intend to file a criminal action, or the criminal action has been filed with Muncie City Court, the State shall then file the forfeiture as a miscellaneous (MI) action in the Circuit Court where the criminal case would have been filed had it been filed in Circuit Court.

*(Amended effective January 1, 2018; further Amended effective March 4, 2019; further Amended effective January 1, 2020; further Amended December 14, 2020; further Amended March 1, 2021; further Amended effective January 1, 2022)*