

STATE OF INDIANA – COUNTY OF TIPPECANOE
IN THE TIPPECANOE CIRCUIT AND SUPERIOR COURTS

**NOTICE OF PROPOSED LOCAL RULE AMENDMENT AND
FINDING OF GOOD CAUSE TO DEVIATE FROM ESTABLISHED SCHEDULE**

FEBRUARY 28, 2022

In accordance with Trial Rule 81, the judges of the Tippecanoe Circuit and Superior Courts hereby give notice to the local bar and the public that they propose to amend LR79-AR1(E) Rule 1, County Caseload Plan, to provide clarity regarding the assignment of small claims and eviction cases. The judges hereby find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D), because there are no substantive changes, and the sole intent is to provide clarity of a rule that is already in place.

The proposed rule is set forth below, with new text is shown by underlining and deleted text shown by ~~striketrough~~:

LR79-AR1(E) Rule 1. County Caseload Plan.

As of the date of the Order adopting these Rules, and subject to any modifications which may subsequently be made, the Tippecanoe County Caseload reads as follows:

All cases wherein the most serious charge alleged is Murder, a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony and those Class D felonies or Level 6 felonies specified below shall be assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County, on a random basis according to the following ratio:

Court Ratio

Tippecanoe Circuit Court 2

Superior Court of Tippecanoe County 4

Superior Court No. 2 of Tippecanoe County 4

For any defendant who has a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony case pending or who is serving a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony sentence, whether executed or suspended, any new case in which the most serious charge alleged is a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony shall be filed in the court having jurisdiction of the oldest such prior case.

Upon learning that such a case has been filed in the wrong court, the prosecutor shall within 14 days move to transfer the case to the proper court.

Class D felony and Level 6 felony cases assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County are as follows:

Battery on a Child

Possession of Child Pornography

Child Exploitation

Vicarious Sexual Gratification

Child Solicitation

Child Seduction

Dissemination of Matter Harmful to Minors

Neglect of a Dependent

Arson

Sexual Conduct in Presence of Minor

Kidnapping

All Class D felonies, Level 6 felonies, misdemeanors, and infractions alleging a violation of Indiana Code Title 9, Traffic Code, except cases in which the lead charge is Operating While Suspended with Prior Conviction, a Class A misdemeanor, and only those civil plenary cases with claims up to \$10,000 shall be assigned to Superior Court No. 6 of Tippecanoe County.

All traffic infractions or misdemeanors alleging a violation of Indiana Code Title 9, Traffic Code ONLY filed against an individual sixteen (16) or seventeen (17) years of age shall be filed in Superior Court No. 6 of Tippecanoe County.

All cases in which Operating While Suspended with Prior Conviction, a Class A misdemeanor is the lead charge shall be filed in Superior Court No. 7.

~~All civil cases involving landlord-tenant claims shall be filed in Superior Court No. 7.~~

~~All other civil cases involving small claims shall be filed in Superior Court No. 4.~~

Civil cases intended to be subject to the small claims rules and jurisdictional limits, whether filed as SC or EV cases, shall be divided between Superior Court No. 4 and Superior Court No. 7, as follows:

All SC cases involving landlord/tenant issues and EV (small claims) shall be filed in Superior Court No. 7.

All SC cases involving issues other than landlord/tenant issues shall be filed in Superior Court No. 4.

Civil cases involving landlord/tenant issues exceeding the small claims jurisdictional limit, whether filed as EV (civil) or other case type, shall be filed in Circuit Court, Superior Court, or Superior Court No. 2.

All search warrants and 72 hour holds approved by the Tippecanoe County Magistrate shall be filed in Superior Court No. 4 of Tippecanoe County.

All Class D felonies, Level 6 felonies, misdemeanors, and infractions alleging a violation of Indiana Code not specifically set forth in these rules shall be assigned to Superior Court No. 4, Superior Court No. 5 and Superior Court No. 7 of Tippecanoe County on a random basis according to the following ratio:

Court Ratio

Superior Court No. 4 of Tippecanoe County 1

Superior Court No. 5 of Tippecanoe County 1

Superior Court No. 7 of Tippecanoe County 1

Where it is alleged a defendant committed the offense of Escape or Failure to Return to Lawful Detention (I.C. 35-44.1-3-4) in violation of an order issued by a Tippecanoe County Court, the charge of Escape or Failure to Return to Lawful Detention shall be filed in the court which issued the order.

Where it is alleged a defendant committed the offense of Escape or Failure to Return to Lawful Detention (I.C. 35-44.1-3-4) in violation of an order issued by a court in any other county, state or jurisdiction, the charge of Escape or Failure to Return to Lawful Detention shall be filed in Tippecanoe Superior Court 5.

Superior Court No. 3 of Tippecanoe County exercises juvenile jurisdiction only. All juvenile case types shall be filed in Superior Court No. 3. All MI cases types involving Collaborative Care shall be filed in Tippecanoe Superior Court No. 3.

All MI case types involving Petitions for Order Granting Minor Approval to Marry shall be filed in Superior Court No. 3 as a confidential case with payment of filing fees. No criminal cases shall be filed in Superior Court No. 3. Cases wherein juvenile jurisdiction is waived shall be filed in accordance with LR79-AR 1 (County Caseload).

When it is alleged that defendants jointly commit a crime or crimes and the most serious charge alleged is Murder, the cases shall be assigned together to Tippecanoe Circuit Court, Superior Court of Tippecanoe County or Superior Court No. 2 of Tippecanoe County on a random basis in the ratio of 2:4:4 set forth above.

Where it is alleged that defendants jointly commit a crime or crimes, and the most serious charge alleged is a Class A, B or C felony or a Level 1, 2, 3, 4 or 5 felony, their cases shall be filed together in the same court. In any such cases where one or more of the defendants has a Class A, B or C felony or a Level 1, 2, 3, 4 or 5 felony case pending or is serving a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 sentence, whether executed or suspended, all the cases shall be filed in the court having jurisdiction of the oldest such prior case. Any case in which the most serious charge is a Class D felony, Level 6 felony, misdemeanor or infraction shall be filed as specified above, notwithstanding any charges against co-defendants.

A judge, by appropriate order may transfer and reassign to any other court of record in the county, any pending case, subject to acceptance by the receiving court.

A case transferred to Tippecanoe County by reason of change of venue from another county may be assigned to a court by agreement of the parties. In the absence of such an agreement, the case shall be filed in accordance with this Local Rule on Case Assignments.

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which dismissal was taken.

All petitions for civil orders of protection shall be filed initially in Superior Court No. 5 of Tippecanoe County.

Petitions for dissolution of marriage in which a fee waiver is requested shall be filed in Superior Court No. 2.

Petitions for Establishment of Paternity, Establishment/Enforcement of Child Support, Legal Separation to Establish Child Support, Reciprocal Support, Reciprocal Enforcement of Child Support (UIFSA), Modification of Support under Uniform Child Custody Jurisdiction Act, and/or Enforcement or Registration of Foreign Child Support Order initiated by State of Indiana IV-D Child Support Office shall be filed in Superior Court No. 3.

Petitions to expunge records under I.C. 35-38-9-1 shall be filed in the court in which the charges were filed under a new expungement (XP) cause without the payment of court costs, and if no charges were filed or the petition includes Section 1 requests from multiple courts, then said petitions shall be filed in Tippecanoe Superior Court No. 2 under a new expungement (XP) cause without the payment of court costs.

Petitions to expunge misdemeanor convictions under I.C. 35-38-9-2, minor Class D or Level 6 felony convictions under I.C. 35-38-9-3, less serious felony convictions under I.C. 35-38-9-4, and certain serious felony convictions under I.C. 35-38-9-5 shall be filed under a new expungement (XP) cause with the payment of court costs. Said petitions shall be filed in the court in which conviction was entered, unless the petition seeks to expunge causes from multiple courts, then the petition shall be filed in Tippecanoe Superior Court No. 2. The payment of court costs is required so long as the petition includes a request to expunge at least one conviction.

Petitions to expunge records concerning a delinquent child or a child in need of services under I.C. 31-39-8 shall be filed in Superior Court 3 of Tippecanoe County in the original cause without payment of filing fees. Petitions to expunge substantiated reports of the Department of Child Services under I.C. 31-33-27-5 shall be filed in Superior Court No. 3 under a JM cause with payment of filing fees. Petitions to expunge juvenile records under I.C. 35-38-9-1 shall be filed in the original cause without payment of filing fees.

The Presiding Judges of the Superior Courts 4, 5, 6 and 7 shall assign the Magistrate to serve any of the Tippecanoe Circuit or Superior Courts in a manner which provides greater assistance to the courts with greater caseloads.

The Presiding Judge of Superior Court No. 3 of Tippecanoe County shall assign the Juvenile Magistrate to serve Superior Court No. 3 in a manner necessary to assist with the juvenile caseload.

The Supervising Judge of Superior Court No. 3 of Tippecanoe County shall assign the IV-D Commissioner to serve Tippecanoe Circuit Court, Superior Court, Superior Court No. 2 and Superior Court No. 3 in a manner which provides assistance for caseloads involving the IV-D Child Support Office.

All other civil cases, regardless of type, not otherwise mentioned herein, shall be filed in either Circuit Court, Superior Court 1, or Superior Court 2, except for civil cases designated DN which may also be filed in Superior Court No. 7.

History

Adopted Aug. 1, 2006, effective Jan. 1, 2007. Amended Nov. 30, 2007, effective Jan. 1, 2008; amended Jan. 6, 2010, effective Jan. 1, 2010; amended Oct. 10, 2011, effective retroactive to Jan. 1, 2011; amended effective September 1, 2012. Amended effective September 1, 2013. Amended effective July 1, 2014. Amended effective July 1, 2015. Amended Effective April 1, 2017. Amended effective January 1, 2020. Amended effective January 1, 2021.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on February 28, 2022, and shall close on March 30, 2022. The rule amendment will be effective upon approval of the Indiana Supreme Court.

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

Judge Sean M. Persin
Attention: Public Comment on Local Rule Change
Tippecanoe Circuit Court
301 Main Street
Lafayette, Indiana 47901

A paper copy of this proposed local rule change will be made available for viewing, during regular business hours, in the office of the:

Clerk of Tippecanoe County
Courthouse, Second Floor
301 Main Street
Lafayette, Indiana 47901

Persons with internet access may also view the proposed local rule change on the website of the Clerk of Tippecanoe County and the Indiana Judicial Website.

Honorable Sean M. Persin	Tippecanoe Circuit Court
Honorable Randy J. Williams	Superior Court of Tippecanoe County
Honorable Steven P. Meyer	Superior Court No. 2 of Tippecanoe County
Honorable Faith A. Graham	Superior Court No. 3 of Tippecanoe County
Honorable Mathew S. Sandy	Superior Court No. 4 of Tippecanoe County
Honorable Kristen E. McVey	Superior Court No. 5 of Tippecanoe County
Honorable Michael A. Morrissey	Superior Court No. 6 of Tippecanoe County
Honorable Daniel J. Moore	Superior Court No. 7 of Tippecanoe County