

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

**Notice of Proposed New Rule or Amendment(s) to Local Court Rule(s)
May 1, 2024**

In accordance with Trial Rule 81 of the Indiana Court Rules, the Decatur Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rules LR16-TR-79-1, LR16-CR00-1, LR16-AR00-1, and LR16-CR2.2-1 for the courts of record of Decatur County, effective January 1, 2025.

All new text is shown by underlining and deleted text is shown by strikethrough. Supreme Court approval is required for Local Rules concerning LR16-TR-79-1, LR16-AR00-1, and LR16-CR2.2-1, and will not take effect until approved by the Supreme Court.

Notice has been given to the public by posting on the website of the Decatur County Clerk 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 Decatur County Bar Association. A paper copy of the proposed amended local rule(s) will be made available for viewing in the office of the Clerk of Decatur County, 150 Courthouse Square, Ste 244, Greensburg, Indiana 47240 during normal business hours.

The time period for the bar and the public to comment shall begin on June 1, 2024, and shall close on June 30, 2024. The proposed amendments to the rule will be adopted, modified or rejected before July 31, 2024, and, if required, the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than August 1, 2024.

Comments by the bar and the public should be made in writing to: Hon. Matthew D. Bailey, Judge of the Decatur Superior Court, Attn: Public Comment on Local Rules, County Courthouse, 150 Courthouse Square, Ste 219, Greensburg, Indiana 47240 or superiorcourt@decaturcounty.in.gov.

DATED this 1st day of May, 2024 on behalf of the Judges of Decatur County.

_____/S/_____
Matthew D. Bailey
Judge, Decatur Superior Court

LR16-TR79-1 Selection of Special Judges in Civil Cases

When a special judge must be appointed pursuant to Trial Rule 79(H), the other Decatur County Judge shall be appointed as special judge, ~~and, if the other Decatur County Judge accepts jurisdiction, the Clerk of the Court shall transfer the case to the other Decatur County Court.~~ In the event that the other Decatur County Judge has previously recused or is not eligible to serve pursuant to the Code of Judicial Conduct, the judges of the following courts shall be eligible for appointment on a rotating basis: Jennings Circuit Court, Jennings Superior Court, Jennings County Magistrate, Bartholomew Circuit Court, Bartholomew Superior Court No. 1, Bartholomew Superior Court No. 2, Bartholomew Superior Court No. 2 Magistrate, Rush Circuit Court, Rush Superior Court, Franklin Circuit Court No. 1, ~~and~~ Franklin Circuit Court No. 2, Brown Circuit Court, Brown Circuit Court Magistrate, Jackson Circuit Court, Jackson Superior Court No. 1, and Jackson Superior Court No 2. All of the above-named judges are within Administrative District 21 or are from a contiguous county and have agreed to serve as a special judge in the court where the case is pending.

When, under this rule, no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify the case to the Indiana Supreme Court for the selection of a special judge.

(Amended effective February 11, 2013)

LR16-CR00-2 Bail Schedule

Pursuant to Indiana Code 35-33-8-4 and Indiana Criminal Rule 26, the Decatur Circuit Court and Decatur Superior Court issue the following local rule establishing the amount and conditions of bail for persons charged with criminal offenses.

(A) GENERAL PROVISIONS

- (1) This bail schedule is a preliminary setting that is subject to review and modification by the court in individual cases at any time.
- (2) A person who is on pre-trial release for a pending criminal case, is on probation, or is on community corrections, shall not be released, and bail shall be set by the court after a hearing.
- (3) For persons who are legal residents of Indiana, bail amounts may be posted by paying ten percent (10%) of the bail amount in cash.
- (4) For persons who are legal residents of other states, bail amounts may only be posted by means of a commercial surety bond from a surety company.
- (5) For persons who are foreign nationals, bail amounts may only be posted by paying the full bail amount in cash.
- (6) In addition to the stated bail amount, the person must pay the \$5.00 Special Death Benefit Fee required by Indiana Code 35-33-8-3.2(d)(1).
- (7) If a person posts bail by paying ten percent (10%) cash, the person shall also pay an administrative fee of ten percent (10%), but not to exceed fifty dollars (\$50.00), as permitted by Indiana Code 35-33-8-3.2(a)(2)(B).
- (8) A person who pays ten percent (10%) by means of a credit card must also pay the credit card service fee as permitted by Indiana Code 33-37-6.
- (9) At the time of his release, the person shall provide a present mailing address, telephone number, social security number, and date of birth. Failure to provide the required information shall result in the person being held until bail is set after a hearing.

(B) SPECIAL OFFENSE PROVISIONS

- (1) ~~*Domestic Violence.* If a person is arrested for a crime classified as being a crime of domestic violence (see Indiana Code 35-31.5-2-78), the person shall not be released earlier than eight (8) hours from the time of the person's arrest as required by Indiana Code 35-33-8-6.5. Crimes Committed Against a Family or Household Member (IC 35-33-8-6.5). A person may not be released on bail for at least twenty-four (24) hours from the time of the person's arrest if the person is arrested for one (1) or more of the following offenses committed against a family or household member: a crime of domestic violence, Battery, Domestic Battery, Aggravated Battery, Strangulation, Rape, Sexual Battery, Invasion of Privacy, Criminal Stalking, Criminal Recklessness, Criminal Confinement, Burglary, and Residential Entry.~~

(2) *Sex Offenses.* A person charged with child molesting in violation of Indiana Code 35-42-4-3, child solicitation in violation of Indiana Code 35-42-4-6, or who is a “Sexually Violent Predator Defendant” as defined in Indiana Code 35-38-1-7.5 or Indiana Code 11-8-8-5, may not be released until bail is set at a hearing held in conformance with Indiana Code 35-33-8-3.5(c).

(3) *Crimes of Violence* (IC 35-33-8-3.6). A person released prior to his initial hearing who is charged with committing a violent crime, as defined in Indiana Code 5-2-6.1-8, is prohibited from having contact with the alleged victim for ten (10) days after release or until the initial hearing, whichever occurs first. At the initial hearing, the court may reinstate or modify the no contact order.

(4) *Intoxication.* No person shall be released, regardless of the other provisions of this bail schedule, unless the person clearly manifests a state of sobriety at the time the provisions of this bail schedule would otherwise permit release.

(a) A person who is under the influence of alcohol or controlled substances shall be held in custody until such time as the Sheriff of Decatur County determines, at his discretion, that the person may be released without danger to himself or others.

(b) If the person’s blood alcohol content is known, the person shall be held, at a minimum, for the period of time specified in Indiana Code 35-33-1-6.

(5) *Resisting Law Enforcement.* A person charged with Resisting Law Enforcement -in violation of Indiana Code 35-44.1-3-1 may not be released until bail has been set by the court after a hearing.

(C) **FELONY OFFENSES.** For all felony offenses, bail shall be set by the court after a hearing.

~~(1) For murder and Level 1–5 felony offenses, bail shall be set by the court after a hearing.~~

~~(2) For Level 6 felony offenses charged for violations of Indiana Code 35-42-2 and Indiana Code 35-44.1-3, bail shall be set by the court after a hearing.~~

~~(3) For all other Level 6 felony offenses, bail shall be set at \$5,000.~~

(D) **MISDEMEANOR OFFENSES**

(1) For the following misdemeanor offenses, bail shall be set by the court after a hearing:

(a) Battery (Indiana Code 35-42-2-1),

(b) Domestic Battery (Indiana Code 35-42-2-1.3), and

(c) Invasion of Privacy (Indiana Code 35-46-1-15.1).

(2) For the following misdemeanor offenses, bail shall be \$3,000:

(a) Operating a Vehicle with a Specified Amount of Alcohol or Controlled -Substance (Indiana Code 9-30-5-1),

(b) Operating a Vehicle While Intoxicated (Indiana Code 9-30-5-2),

(c) Criminal Recklessness (Indiana Code 35-42-2-2),

(d) Resisting Law Enforcement (Indiana Code 35-44.1-3-1), and
(e) ~~Carrying a Handgun Without a License (Indiana 35-47-2-1), and~~
(~~f~~)(e) Dealing in Marijuana (Indiana Code 35-48-4-10).

(3) For all other misdemeanors not specified herein, the person shall be released on his own recognizance.

LR16-AR00-1 Civil Case Filings

Civil cases with the following case types shall be filed in the Decatur Circuit Court: DC, DN, AD, ES, EU, EM, GU, GM, TR, JC, JD, JS, JT, JP, JM, JQ, RS, TS, ~~and TP~~, and RF. Civil cases with the following case types shall be filed in the Decatur Superior Court: PL, CT, MI, IF, OV, OE, CC, MF, SC, EV, and PO. All civil cases with case types not specified herein may be filed in either court. A case with any case type may be transferred from one court to the other court, subject to acceptance by the receiving court.

LR16-~~AR21~~~~CR2.2~~-1 Criminal Case Filings and Reassignment

- (A) If the highest offense level charged is a misdemeanor, then the case shall be filed in the Decatur Superior Court.
- (B) If the highest offense level charged is a felony, then the case shall be filed according to the following rules, to be applied in order:
- (i) If the highest offense level charged is a felony arising under Title 9 of the Indiana Code, then the case shall be filed in the Decatur Superior Court.
 - (ii) If the defendant has a pending criminal case charging a felony offense in either the Decatur Circuit Court or the Decatur Superior Court, then the case shall be filed in the court where the pending case is. In the event that the defendant has pending criminal cases charging felony offenses in both courts, then case assignment shall be done by random selection.
 - (iii) All other criminal cases charging felony offenses shall be assigned by random selection with one-half (1/2) of the cases assigned to each court.
- (C) Judges of the Decatur Circuit Court and the Decatur Superior Court may transfer any pending case to the other Decatur County Court or may appoint the other Decatur County Judge as special judge.
- (D) In the event that a change of judge is granted or a judge is disqualified or recuses, then reassignment shall be made on a rotating basis to one of the judges/magistrates of the following courts: Jennings Circuit Court, Jennings Superior Court, Jennings County Magistrate, Bartholomew Circuit Court, Bartholomew Superior Court No. 1, Bartholomew Superior Court No. 2, Bartholomew Superior Court No. 2 Magistrate, Rush Circuit Court, Rush Superior Court, Franklin Circuit Court No. 1, Franklin Circuit Court No. 2, Ripley Circuit Court, Ripley Superior Court, Shelby Circuit Court, Shelby Superior Court No. 1, Shelby Superior Court No. 2, Shelby County Magistrate, Jackson Circuit Court, Jackson Superior Court No. 1, Jackson Superior Court No. 2, ~~and~~ Brown Circuit Court, and Brown Circuit Court Magistrate.
- (E) When, under these rules, no judge is available for appointment, or when, in the discretion of the regular presiding judge, the particular circumstance warrants selection of a special judge by the Indiana Supreme Court, the presiding judge shall certify these facts to the Indiana Supreme Court and request an appointment of a special judge under the applicable procedural rules.

(Adopted May 22, 2008, effective January 1, 2009; amended June 1, 2011; amended June 1, 2012; amended effective February 11, 2013; amended effective February 15, 2017; amended effective July 1, 2017; amended effective December 19, 2017; amended effective July 1, 2018; amended effective September 1, 2021).