

STATE OF INDIANA- COUNTY OF FLOYD
IN THE FLOYD COUNTY AND SUPERIOR COURTS

**NOTICE OF PROPOSED NEW CASELOAD ALLOCATION PLAN
FOR THE COURTS OF RECORD OF FLOYD COUNTY**

August 15, 2017

In accordance with Trial Rule 81, the Floyd Circuit and Superior Court find good cause to deviate from the schedule for adopting new local court rules and hereby give notice to the bar and the public that the Courts propose to replace the current caseload allocation plan at **LR22-TR00-117** with the new plan below. Supreme Court approval is required for the new plan and may not take effect until so approved.

The time period for the bar and the public to comment begins on **August 15, 2017**, and closes on **September 15, 2017**. The proposed **effective date** for the new caseload allocation plan is **upon Supreme Court approval**

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

Honorable J. Terrence Cody, Judge of the Floyd Circuit Court
Attention: Public Comment on Local Rules
417 City-County Building; 311 Hauss Square
New Albany, IN 47150
tcody@floydcounty.in.gov

The proposed new caseload allocation plan will also be made available for viewing on the Clerk's website or in the office at:

Clerk of Floyd County
235 City-County Building; 311 Hauss Square
New Albany, IN 47150

Honorable Susan L. Orth
Floyd Superior Court No. 1

Honorable Maria D. Granger
Floyd Superior Court No. 3

Honorable Glenn G. Hancock
Floyd Superior Court No. 2

Honorable J. Terrence Cody
Floyd Circuit Court

LR22-TR00-117
ASSIGNMENT OF CASES TO EQUALIZE WORKLOAD
BETWEEN COURTS

A. Assignment. The judges of the Circuit and Superior Courts shall meet on or before October 15 of each year to assign cases to review the Caseload Allocation Plan. Different numbers of cases may be assigned to each court based on the caseload statistics received each year from the Office of Court Services.

B. Transfer. Transfer between the Floyd Circuit Court and the Floyd Superior Courts shall be accomplished pursuant to IC 33-29-1-9 & 10, which allows the judges to transfer cases between courts with mutual consent and to sit on any case in any court with mutual consent.

C. Criminal Cases.

For all crimes committed on or after July 1, 2014:

- (1) As it has been the existing practice of the Floyd County Courts and except as otherwise provided in Sections (3), (5) and (6) of this Rule if a Defendant is charged with a new offense of any Level and has a pending case, or is presently on probation or has a case under advisement or a case which has been diverted in the Circuit Court, Superior Court #1 or Superior Court #3 then such new case shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.
- (2) All Murder cases shall be divided equally between the Circuit Court, Superior Court #1 and Superior Court #3.
- (3) All Levels 1 & 2 Felonies, Levels 3 & 4 Felonies, Level 5 Felony, Level 6 Felony and Domestic Battery cases (Misdemeanor and Felony) shall be filed as follows (except as otherwise designated below):
 - (a) Level 1 & 2 Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in the Superior Court #1 and 25% shall be filed in the Superior Court #3.
 - (b) Level 3 & 4 Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in Superior Court #1, and 25% shall be filed in the Superior Court #3.
 - (c) Level 5 Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in the Superior Court #1, and 25% shall be filed in the Superior Court #3.
 - (d) Level 6 Felonies: 75% shall be filed in Superior Court #1 and 25% shall be filed in Superior Court #3. If a Defendant is charged with Level 6 Felony on or after July 1, 2017 and is then on probation in a Circuit Court case then that case or cases shall be transferred to Superior Court #1 or Superior Court #3, as the case may be. If a Defendant has a pending case in Circuit Court any Level 6 Felony filed on or after July 1, 2017 shall be filed in the Circuit Court.

- (e) Domestic Battery Cases (Misdemeanor and Level 6 Felonies): 75% shall be filed in Superior Court #1 and 25% shall be filed in Superior Court #3.
- (4) All Traffic Infractions and Ordinance Violations shall be filed in the Superior Court #2.
- (5) All Motor Vehicle Code violations shall be filed in Superior Court #2.
- (6) All Traffic Misdemeanor and Level 6 Felony Traffic cases shall be filed in Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.
- (7) If a Defendant has a pending case or is on probation or has a case under advisement or a case which has been diverted in Superior #2 is charged with a new Level 6 non-traffic Felony, such cases shall be assigned as follows: 75% shall be filed in Superior Court #1 and 25% shall be filed in Superior Court #3.
- (8) All other Misdemeanor offenses cases shall be filed in the Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.

<u>Prior Code</u>	<u>HEA 1006</u>
Murder	Murder
Class A	Levels 1 & 2
Class B	Levels 3 & 4
Class C	Level 5
Class D	Level 6

For all crimes committed prior to July 1, 2014:

- (1) All Murder cases shall be divided equally between the Circuit, Superior #1 and Superior #3 Courts.
- (2) All Class A, Class B, Class C, Class D Felony and Domestic Battery cases (Misdemeanor and Felony) shall be filed as follows (except as otherwise designated below):
- (a) Class A Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in the Superior Court #1 and 25% shall be filed in the Superior Court #3.

- (b) Class B Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in Superior Court #1, and 25% shall be filed in the Superior Court #3.
 - (c) Class C Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in the Superior Court #1, and 25% shall be filed in the Superior Court #3.
 - (d) Class D Felonies: 25% shall be filed in the Circuit Court, 50% shall be filed in the Superior Court #1, and 25% shall be filed in the Superior Court #3.
 - (e) Domestic Battery Cases (Misdemeanor and Felony): 25% shall be filed in the Circuit Court, 50% shall be filed in Superior Court #1, and 25% shall be filed in the Superior Court #3.
- (3) All Traffic Infractions and Ordinance Violations shall be filed in the Superior Court #2.
 - (4) All Motor Vehicle Code violations shall be filed in Superior Court #2.
 - (5) All Traffic Misdemeanor and Class D Felony Traffic cases shall be filed in Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.
 - (6) All other Misdemeanor offenses, excepting Domestic Violence cases shall be filed in the Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit Court, Superior Court #1, or Superior Court #3. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.

D. Civil Cases

- (1) Except as provided by statute, Civil Tort, Civil Plenary, Mortgage Foreclosure, and Miscellaneous cases may be filed on an open basis in the Circuit Court, Superior Court #1, Superior Court #2, or Superior Court #3.
- (2) Civil Collection cases \$2,500 and over shall be filed as follows:
 - (a) 50% in Superior Court #1.
 - (b) 50% in Superior Court #3.
- (3) Civil Collections cases under \$2,500 shall be filed in Superior Court #2.
- (4) Tax Sale (Application for Judgement and Petitions for Issuance of Tax Deed) shall be filed in Circuit Court.

E. Protection Order. All Protection Orders shall be filed in Superior Court #3 (See Local Rule LR22-FR00-314 regarding transfer of Protection Order cases).

F. Domestic Relations Cases. All Pro Se DN and DC cases shall be filed in the Superior Court #3. All non-pro se DN and DC cases may be filed on an open basis in the Circuit Court, Superior Court #1, or Superior Court #3.

G. Small Claims. All Small Claims cases shall be filed in Superior Court #2.

H. Mental Health. Mental Health cases may be filed in any of the Floyd County Courts.

I. Juvenile. All JP, JC, JT and JM (CHINS) cases shall be filed in Circuit Court subject to LR22-TR-00-117 B. All JD, JS and JM (Delinquent) cases shall be filed in Circuit Court subject to LR22-TR-00-117 B. All JP, JD, JS and JM (Delinquent) shall be heard by the Magistrate unless the Magistrate has a conflict or is unavailable. In such event the elected Circuit Court Judge or a Senior Judge shall hear the case. If the State of Indiana files a Motion to Waive Juvenile Jurisdiction in a JD case, the waiver hearing shall be conducted by the elected Circuit Court Judge.

J. Adoptions, Guardianships and Estates. All Adoptions, Guardianships, Trust matters and Estates (supervised, unsupervised and miscellaneous) shall be filed in the Circuit Court.

K. Adult Problem Solving Court Program(s).

- (1) Floyd County Problem Solving Court Program(s) shall be established pursuant to IC 33-23-16-11 and in accordance with Floyd County Local Rules to provide specialized services, including: clinical assessment, education, referral for treatment, and service coordination and case management for eligible defendants and probationers, as determined by its written policy and procedures.
- (2) Those persons directed to participate in a Floyd County Problem Solving Court Program shall pay the following fees in accordance with IC 33-23-16-23
 - (a) The program fee, not to exceed one hundred (\$100.00) dollars, per admission for initial problem solving court services regardless of the length of participation;
 - (b) The court service fee, not to exceed fifty (\$50.00) dollars per month beginning in the second month of participation and for each month of participation thereafter for the duration of individual's participation; and
 - (c) The transfer fee, not to exceed twenty-five (\$25.00) dollars, transfer to the problem solving court.
 - (d) Any additional costs associated with recommended treatment, fees, other costs and restitution.
- (3) The clerk of the court shall collect and transmit the program fee within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

- (4) The day-to-day operation and management of the Veterans Court of Southern Indiana shall be assigned to Floyd Superior Court 3.
- (5) All criminal charges shall be filed as provided for in this rule. However, after a charge has been filed, a judge may refer the defendant to a Problem Solving Court, and if accepted by the Problem Solving Court the Judge may transfer the defendant's case to the Problem Solving Court for admission and disposition in accordance with IC 33-23-16-13, 14 or 15 and the Problem Solving Court policies and procedures.
- (6) A Problem Solving Court may initiate and/or accept transfers of individuals from another court.

L. Allocation of use of the Magistrate for Purposes of Weighted Caseload Utilization.

Circuit Court shall be allocated two and one-half (2 ½) days per week for use of the Magistrate. Superior Court #2 shall be allocated one and one-half (1 ½) days per week for use of the Magistrate. Superior Court #1 and Superior Court #3 shall each be allocated one half (½) day per week for use of the Magistrate. When reporting quarterly and annual statistics to Indiana Office of Court Services, it shall be the duty of the Court Reporter of each Court to include the Magistrate's allocated time in such quarterly and annual reports.