

Date: June 5, 2014

TO: THE MUNCIE BAR ASSOCIATION AND THE  
GENERAL PUBLIC

**NOTICE OF PROPOSED LOCAL COURT RULE AMENDMENT  
DELAWARE CIRCUIT COURT**

The Delaware County Board of Judges pursuant to Trial Rule 81(B) give notice of their proposed amendment to the Local Rule Regarding **Local Rule LR18-CR00-DLR-0006 Criminal Practice and Procedure** of Delaware County. New language is indicated by underlining and deleted language is indicated by ~~striking through~~. These local rules do require Supreme Court approval, being effective after review of any comments on July 1, 2014.

**Comments regarding the proposed amendments must be received by July 7, 2014 and may be submitted in writing to:**

Honorable Thomas A. Cannon Jr., Presiding Judge  
Delaware Circuit Court No. 5  
c/o Lana L. Scroggins, Court Administrator  
100 W. Washington Street  
Muncie, IN 47305  
or by email to: [lscroggins@co.delaware.in.us](mailto:lscroggins@co.delaware.in.us)

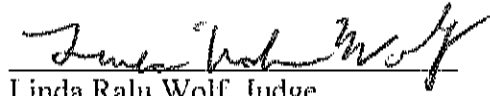
**DELAWARE COUNTY BOARD OF JUDGES**



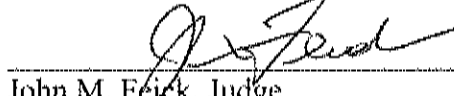
Marianne Vorhees, Judge  
Delaware Circuit Court No. 1



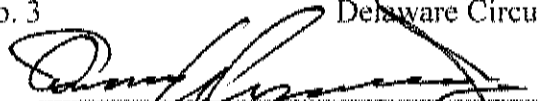
Kimberly S. Dowling, Judge  
Delaware Circuit Court No. 2



Linda Ralu Wolf, Judge  
Delaware Circuit Court No. 3



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

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

**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: 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 July 1, 2014:

- Circuit Court No. 4 - the first month (July 2014)
- Circuit Court No. 5 - the second month;
- Circuit Court No. 1 - the third month;
- Circuit Court No. 2 - the fourth month;
- Circuit Court No. 3 - the fifth month;

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

If a Defendant has allegedly committed multiple offenses in different months, the date of the earliest alleged offense shall control the assignment.

**B. Criminal Cases Transferred from Muncie City Court or Yorktown Town Court.**

1. Any case transferred from the Muncie City Court or the Yorktown Town 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.

2. 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.

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.

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 of by guilty plea, jury trial, bench trial, bench disposition, or dismissal.

**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.**

Except as to Level 6 felonies or as to class D felonies, as set out in Section D above, if the State files additional unrelated charges against a Defendant, after the case is initially assigned, the State shall file all unrelated charges in the court based upon the month in which the offense allegedly occurred.

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