

STATE OF INDIANA)	MARION CIRCUIT AND
)	SUPERIOR COURTS
)	
COUNTY OF MARION)	
)	
In Re Local Court Rules)	

Notice of Proposed Local Rule Amendments, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts in compliance with the provisions of Trial Rule 81 give Notice of proposed amendments to their local court rule concerning the **Criminal Division Rules**. And, pursuant to Trial Rule 81(D), the Judges find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of amendments to local rules. Accordingly, the Courts issue the following proposed amendments to the Marion County Local Court Rules and ask for comment from the bar and the public. Underlining indicates proposed additions and ~~striking through~~ indicates deletions. The amended rule will be effective on **March 14, 2017**.

Comments to this proposed Local Rule amendment will be received through **Noon on March 14, 2017**. Comments to this proposed amended Local Rule should be e-mailed to the Office of the Court Administrator, c/o Pauline Beeson, at Pauline.Beeson@indy.gov or mailed to:

Pauline Beeson
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T1221
Indianapolis, IN 46204

All of the above is so ORDERED this 14th day of February, 2017.

s/ Timothy Oakes
* Judge Timothy Oakes
Presiding Judge
Marion Superior Court

* Original signature on file with the Court.

LR49-CR2.3-101 CASE CONSOLIDATION

It shall be the policy of the Marion Superior Court, that wherever possible consistent with good case management principles, cases involving the same defendant shall be consolidated into one court for resolution of all of the pending cases.

“Pending” as defined herein means any existing Major Felony, Class D/Level 6 Felony, or Misdemeanor case which is in pre-disposition status.

(a) Murder, Class A, B and C Felony Cases, and Level 1, 2, 3, 4, and 5 Felony Cases (hereinafter “Major Felony case”)

Any subsequently filed Major Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

Any subsequently filed Class D/Level 6-Felony or Misdemeanor case shall be assigned and/or transferred to the Court where the defendant’s oldest Major Felony case is pending.

In the event the defendant has an open Class D/Level 6 Felony or Misdemeanor case pending in any criminal court and is subsequently charged with a Major Felony case, the pending Class D/Level 6 Felony or Misdemeanor case shall be transferred to the Major Felony Court.

In the event the defendant has an open probation case and/or open community corrections violation pending in any criminal court and is subsequently charged with a Major Felony case, the probation case and/or open community corrections violation shall be transferred to the Major Felony Court, unless the probation case and/or open community corrections violation can be resolved without the resolution of the new Major Felony case.

~~No classification of cases is exempt from consolidation under this sub-paragraph.~~ Cases pending in major felony drug court and in Class D/level 6 felony drug court are exempt from consolidation under this sub-paragraph.

(b) Class D/Level 6 Felony Cases

Any subsequently filed Misdemeanor or Class D/Level 6 Felony case shall be assigned and/or transferred to the Court where the defendant’s oldest existing Class D/Level 6 Felony case is pending.

In the event the defendant has an open Misdemeanor case in any criminal court and is subsequently charged with a Class D/Level 6 Felony case, the Misdemeanor case shall be transferred to the Class D/Level 6 Felony Court.

In the event the defendant has an open probation case and/or open community corrections violation pending in any Class D/Level 6 Felony or Misdemeanor Court and is subsequently charged with a Class D/Level 6 Felony case, the probation case and/or open community corrections violation shall be transferred to the Class D/Level 6 Felony Court where the new case has been filed, unless the probation case and/or open community

corrections violation can be resolved without the resolution of the new Class D/Level 6 Felony case.

“Pending” as defined herein means any existing Class D/Level 6 Felony or Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms G16 and G17, drug court cases, cases assigned to the Drug Courtrooms G14 and G25, or cases that are linked with a co-defendant. However, if one of the co-defendants is accepted into the PAIR program, the accepted defendant may be severed and transferred to the designated Mental Health Court without the non-accepted co-defendant(s) case(s).

(c) Misdemeanor Cases

Subject to the provisions of paragraphs (a) and (b) above, any subsequent Misdemeanor case filed against a defendant shall be assigned and/or transferred to the Court where the defendant’s oldest existing Misdemeanor case is pending with the exception that Court G13 (Traffic Court) shall not receive assignment or transfer of cases when Court G13 has the oldest pending case. However, older Court G13 Traffic cases may be transferred to the Misdemeanor Court with a newer pending case.

In the event the defendant has an open probation case pending in any Misdemeanor Court and is subsequently charged with a new Misdemeanor case, the probation case shall be transferred to the new Misdemeanor Court unless the probation case can be resolved without the resolution of the new Misdemeanor case.

Pending as defined herein means any existing Misdemeanor case which is in pre-disposition status.

This rule shall not apply to Domestic Violence cases, cases assigned to Domestic Violence Courtrooms G16 and G17, drug court cases, cases assigned to the Drug Courtrooms G14 and G25, or cases that are linked with co-defendants. However, if one of the co-defendants is accepted into the PAIR program, the accepted defendant may be severed and transferred to the designated Mental Health Court without the non-accepted co-defendant(s) case(s).

(d) Mental Health Alternative Court Cases

A case in any misdemeanor or felony Court involving a defendant who may have mental illness or mental disabilities may be referred to the Mental Health Alternative Court (MHAC) to determine eligibility for admission into that Court. If eligible and provisionally accepted, the case may, at the discretion of the Judicial Officer, be transferred to the Mental Health Alternative Court.

(e) Change of Venue Cases

All cases received by the criminal division on change of venue from outside Marion County shall be assigned to a room within the division on a random basis by the same method used to assign cases of original jurisdiction in Marion County.

(f) Dismissed and Refiled Cases

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be refiled in the court where the case was originally docketed. The refiled case must be accompanied with a Notice of Refile including the following information about the previously filed case: 1) cause number; 2) date of arrest; 3) days of incarceration; 4) days on bond; 5) date of dismissal; and 6) whether a request has been made under Criminal Rule 4 for a fast and speedy trial, if so the date the request was made and the time accrual since that date.

(g) Other Considerations

In the event that a case involves both felony and misdemeanor offenses, pursuant to Administrative Rule 1, the case shall be considered a felony case for the application of this rule.

It shall be the responsibility of the Prosecutor's Office to provide a listing of all pending cases with the case filing documents to ensure that all case transfers can be made consistent with this rule. It shall also be the responsibility of the Prosecutor's Office to direct file a subsequently filed case into the Court where there is an existing pending case for the same defendant consistent with subsections (a), (b), and (c) of this section. For purposes of this rule an existing pending case includes cases designated as an "MC" case.

All filings must comply with the requirements of Indiana Administrative Rule 9. The Court will take no action on any case containing filings that are non-compliant with said rule.

Notwithstanding any other provision in these local criminal rules, the Judge of each room of the criminal division, by appropriate order entered of record may transfer and re-assign to any other room of the criminal division any cause pending in that room subject to acceptance by the receiving court. Further the Presiding Judge of the Criminal Division or the Executive Committee may order the transfer of cases from one Court to another if the Presiding Judge or the Executive Committee finds that a transfer and reassignment of cases is necessary to provide for the speedy and fair administration of justice.

LR49-CR00-107. DISCOVERY

1. GENERAL

- (a) The Court at initial hearing will automatically order the State to disclose and furnish all relevant items and information under this Rule to the defendant (s) within twenty (20) days from the date of the initial hearing, subject to Constitutional limitations and protective orders, and the defendant (s) to provide the State with discovery within forty-five (45) days of the initial hearing.
- (b) No written motion is required, except:
 - (1) To compel compliance under this Rule
 - (2) For additional discovery not covered under this Rule
 - (3) For a protective order
 - (4) For an extension of time
- (c) All Discovery shall be completed by the omnibus date unless extended for good cause shown.
- (d) Although each side has a right to full discovery under this Rule, each side has a corresponding duty to seek out the discovery. Motions for original discovery and compliance with Indiana Rule of Evidence 404(b) are unnecessary and disfavored. Motions for specific discovery are permitted. Failure to file a Motion to Compel may result in the waiver of this right; failure to comply with providing discovery may result in sanctions, including the exclusion of evidence.

2. STATE DISCLOSURE

- (a) The State shall disclose the following material and information within its possession or control:
 - (1) The names and last known addresses of persons whom the State intends to call as witnesses, with their relevant written or recorded statements. The State may refrain from providing a witness' address under this rule if the State in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness or the witness' immediate family. If the State does not disclose the witness' address for the reason stated under this rule then the State shall make the witness available for deposition or interview by defense counsel upon reasonable notice.

Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. The party seeking disclosure or a protective order under this rule shall include in the party's motion or request a statement showing that the attorney making the motion or

request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. This statement shall recite in addition, the date, time and place of this effort to reach agreement, whether in person or by telephone and the names of all parties and attorneys participation therein. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the Court may take such action as appropriate.

The Court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.

- (2) Any written, oral or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements.
 - (3) A transcript of those portions of grand jury minutes containing testimony of persons whom the prosecuting attorney intends to call as witnesses at the hearing or trial.
 - (4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.
 - (5) Any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused.
 - (6) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
 - (7) All evidence required by Indiana Rules of Evidence 404(B), at least thirty (30) days prior to trial, or within two weeks following the request for trial, whichever is later.
- (b) The State shall disclose to defense counsel any material or information within its possession or control that tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment therefore.
 - (c) The State may perform these obligations in any manner mutually agreeable to the prosecutor and defense counsel.

3. DEFENDANT DISCLOSURE

- (a) Defendant's counsel shall furnish the State with the following material and information within his/her possession or control.
- (1) Any defense that he/she intends to make at a hearing or trial.
 - (2) The names and last known addresses of persons whom the defense intends to call as witnesses, with their relevant written or recorded statements and any record of prior criminal convictions known to him/her. The defense may refrain from providing a witness' address under this rule if the defense in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness or the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this rule then the defense shall make the witness available for deposition or interview by counsel for the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. The party seeking disclosure or a protective order under this rule shall include in the party's motion or request a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. This statement shall recite in addition, the date, time and place of this effort to reach agreement, whether in person or by telephone and the names of all parties and attorneys participation therein. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the Court may take such action as is appropriate. The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.
 - (3) Any books, papers, documents, photographs, or tangible objects he/she intends to use as evidence.
 - (4) Medical, scientific, or expert witness evaluations, statements, reports, or testimony that may be used at a hearing or trial.
 - (5) All Evidence required by Indiana Rules of Evidence 404(B), at least 30 days prior to trial, or within two (2) weeks following the request for trial, whichever is later.
- (b) After the formal charge has been filed, upon written motion by the State, the Court may require the accused, among other things, to:
- (1) Appear in a line-up.
 - (2) Speak for identification by witnesses to an offense.

- (3) Be fingerprinted.
- (4) Pose for photographs not involving re-enactment of a scene.
- (5) Try on articles of clothing.
- (6) Allow the taking of specimens of material from under his/her fingernails.
- (7) Allow the taking of samples of his/her blood, hair, and other materials of his/her body that involve no unreasonable intrusion.
- (8) Provide a sample of his/her handwriting.
- (9) Submit to a reasonable physical or medical inspection of he/her body.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

4. ADDITIONS, LIMITATIONS, AND PROTECTIVE ORDER.

(a) **Discretionary Disclosures.**

Upon a showing of materiality to the preparation of the defense, and if the request is reasonable, the court, in its discretion, may require disclosure to defense counsel of relevant material and information not covered by this Rule.

(b) **Denial of Disclosure.**

The Court may deny disclosure authorized by this Rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure to counsel.

(c) **Matters Not Subject to Disclosure.**

- (1) **Work product.** Disclosure hereunder shall not be required of legal research or records, correspondence, reports or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staffs, or of defense counsel or his/her staff.
- (2) **Informants.** Disclosure of an informant's identity shall not be required where there is a paramount interest in non-disclosure and a failure to disclose will not infringe the Constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at a hearing or trial.

- (a) Either side may apply for a protective order for non-disclosure of requested discovery.
- (d) **Restrictions on production of discovery.** Upon Motion to the Presiding Judge of the Courtroom pursuant to Trial Rule 26(c), discovery provided to an opposing party containing subject matter that is sensitive in nature, as determined by the Court, may be prevented from duplication or distribution, in any capacity. Upon granting of those Motions, attorneys of record shall be the only people in possession of the copies of the restricted discovery. The defendant may view the discovery in a meeting with their counsel, however they are not permitted to their own copy of the discovery. Should a defendant elect for a pro se representation, they may view the discovery in a closed hearing, but are not permitted to their own copy of the discovery.
- (e) **Sanctions.** Any violation of this rule may result in a sanction deemed appropriate by the Court.

5. DEPOSITIONS

Any sworn tape-recorded interview in which the prosecutor, the defense attorney and the witnesses are present shall be considered a deposition under the Indiana Trial Rules. Deputy prosecutors and public defenders shall cooperate in using such recorded statements instead of formal depositions under any circumstance that will expedite case preparation.

6. FILING REQUIREMENTS

All pleadings, petitions, and motions shall be filed electronically with the Clerk of Courts designated by the Court at any time during filing hours established by the Clerk and the Court and shall be accompanied by a proposed order. ~~All orders submitted to the Court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record. Service of orders on the Marion County Prosecutor and the Marion County Public Defender Agency may be through mailbox service established in each courtroom.~~ Facsimile filing is not permitted.

LR49-CR00-108 BAIL

1. SCOPE

This Provisional Bail Schedule shall apply to all defendants arrested outright in Marion County. This schedule shall not apply to those cases where a judicial officer already has issued a warrant with a predetermined bail.

2. GENERAL PROVISIONS

- (a) Bail amounts set pursuant to this schedule shall be based upon the lead charge brought against the defendant. No bail amount set pursuant to this schedule shall exceed \$200,000. ~~The bail clerk does not have discretion to alter provisional bail amounts. Bail amounts set pursuant to this schedule shall not be altered until such time as the assigned trial judge has the opportunity to conduct further review.~~
- (b) ~~Arrestee Processing Center commissioners~~ Judicial Officers are responsible for setting the bail pursuant to this schedule, and may impose appropriate pre-trial release conditions. ~~reviewing the bail set by the bail clerk and may correct that amount pursuant to the schedule if a commissioner becomes aware of relevant information not considered when bail was first set. Arrestee Processing Center commissioners also may impose appropriate pre-trial release conditions.~~

3. MAJOR FELONY BAIL AMOUNTS

(a) General

Murder	No Bail
Class A Felony	\$50,000 Surety
Level 1 Felony	\$50,000 Surety
Level 2 Felony	\$50,000 Surety
Class B Felony	\$20,000 Surety
Level 3 Felony	\$20,000 Surety
Level 4 Felony	\$20,000 Surety
Class C Felony	\$7,500 Surety
Level 5 Felony	\$7,500 Surety

(b) Enhancements: The bail schedule amounts shall double for each of the following circumstances applying to the defendant:

1. The defendant is not a Marion County resident,
2. The crime alleged involves a deadly weapon or serious bodily injury,
3. The defendant has two or more alleged victims,
4. The defendant has two or more prior felony convictions,
5. The defendant has two or more failures to appear,

6. The defendant has ten or more prior arrests (not including public intoxication arrests). This category shall double for each additional 10 arrests a defendant has.
7. The defendant has been arrested for an offense while on probation, parole, bond or released on the person's own recognizance for another offense.

4. CLASS D/Level 6 FELONY BAIL AMOUNTS:

(a) General.

Class D/Level 6 Felony - Own Recognizance (OR) up to \$2,500 Surety, \$2,500 10% Cash Bond, or \$250 Cash Bond.

The bail clerk shall set bail for a Class D/Level 6 felony at \$2,500 Surety. Arrestee Processing Center ~~commissioners~~ Judicial Officers shall have the discretion to modify the bail within the range provided if deemed appropriate.

(b) Enhancements. The bail schedule amounts shall double, up to a maximum of \$5,000, \$5000 10% Cash Bond, or \$500 Cash bond for each of the following circumstances:

1. The defendant is not a Marion County resident,
2. The defendant has one or more failures to appear,
3. The defendant has one or more prior felony convictions,
4. The defendant is charged with one of the following felonies:
 - Battery (I.C. § 35-42-2-1)
 - Criminal Confinement (I.C. § 35-42-3-3)
 - Criminal Gang Activity (I.C. § 35-45-9-3)
 - Criminal Recklessness (I.C. § 35-42-2-2 – all sections)
 - Escape (I.C. § 35-44-3-5/I.C. §35-44.1-3-4)
 - Intimidation (I.C. § 35-45-2-1)
 - Pointing a Firearm (I.C. § 35-47-4-3)
 - Residential Entry (I.C. § 35-43-2-1.5)
 - Resisting Law Enforcement (I.C. § 35-44-3-3/ I.C. §35-44.1-3-1)
 - Stalking (I.C. § 35-45-10-5)
 - Strangulation (I.C. § 35-42-2-8/ I.C. §35-42-2-9)

5. MISDEMEANOR BAIL AMOUNTS

Class A Misdemeanor	Own Recognizance up to \$1,500 10% Cash
Class B Misdemeanor	Own Recognizance
Class B Misdemeanor (Battery)	Own Recognizance up to \$1,500 10% Cash
Class C Misdemeanor	Own Recognizance

The ~~bail clerk~~ Arrestee Processing Center Judicial Officer shall set bail for Class A misdemeanors and Class B misdemeanor battery cases at \$1,500 10% cash. If the new offense is a Class B or Class C misdemeanor and the defendant has been arrested for an offense while on probation, parole, bond, or released on the person's own recognizance for another offense, bail shall be set at \$1,500 10% Cash. Arrestee Processing Center ~~commissioners~~ Judicial Officers shall have the discretion to modify the bail within the ranges provided if deemed appropriate.

6. SPECIAL CONSIDERATIONS

(a) Domestic Violence Cases

Class C Felony	\$25,000 Surety
Level 5 Felony	\$25,000 Surety
Class D Felony	\$10,000 Surety plus \$10,000 10% Cash
Level 6 Felony	\$10,000 Surety plus \$10,000 10% Cash
Class A Misdemeanor	\$5,000 Surety plus \$5,000 10% Cash

A person charged with a crime of domestic violence as defined in I.C. § 35-31.5-2-78 shall be kept in custody and not released on bail for at least eight (8) hours from the time of arrest pursuant to I.C. § 35-33-1-1.7 and I.C. § 35-33-8-6.5.

If a domestic violence charge is not the lead charge and this schedule would require a higher bail for the domestic violence charge standing alone, the ~~bail clerk~~ Arrestee Processing Center Judicial Officer should set the bail as if the domestic violence charge were the lead charge.

(b) Invasion of Privacy Cases

Class D Felony	\$10,000 Surety plus \$10,000 10% Cash
Level 6 Felony	\$10,000 Surety plus \$10,000 10% Cash
Class A Misdemeanor	\$5,000 Surety plus \$5,000 10% Cash

If an invasion of privacy charge is not the lead charge and this schedule would require a higher bail for the invasion of privacy charge standing alone, the ~~bail clerk~~ Arrestee Processing Center Judicial Officer should set the bail as if the invasion of privacy charge were the lead charge.

(c) Operating Vehicle While Intoxicated (Misdemeanor) Cases

Bail shall be set at \$1,500 10% Cash with a \$1,000 increase for each prior conviction under I.C. § 9-30-5 or each prior conviction for a crime of a similar nature to I.C. § 9-30-5 from another jurisdiction.

(d) Operating Vehicle While Intoxicated (L6 Felony) Cases

Bail shall be set at \$2,500 10% Cash with \$1,000 increase for each prior conviction under I.C. § 9-30-5 et. Al or each prior conviction for a crime of similar nature from another jurisdiction.

(e) Court 13 Cases

A person arrested for or charged with a misdemeanor traffic offense and slated into Court 13 shall be released on the person's own recognizance.

(f) Child Molesting, Child Solicitation, and Sexually Violent Predator Cases

No bail will be issued until the trial court has conducted a bail hearing for a person who is charged with Child Molesting (I.C. § 35-42-4-3) or Child Solicitation (I.C. § 35-42-4-6);

No bail will be issued until the trial court has conducted a bail hearing for a person who has been determined to be a sexually violent predator defendant as defined in I.C. § 35-33-8-3.5.

The Arrestee Processing Center ~~commissioner~~ Judicial Officer shall set such cases for a bail hearing in the appropriate court no later than 48 hours after the person has been arrested or at the earliest possible setting if exigent circumstances prevent holding the hearing within 48 hours.

7. REVIEW OF PROVISIONAL BAIL AMOUNT

Except for felony courts, the trial court to which the defendant's case is assigned shall review the bail set:

- A.** Within five (5) days of the arrest of any defendant who has not yet made bail as set by the Arrestee Processing Center ~~Commissioner~~ Judicial Officer or pursuant to the Provisional Bail Schedule; or,
- B.** Within five (5) days upon receipt of motion of the State or the defendant pursuant to I.C. § 35-33-8-5.

LR49-CR20-109. CONTINUANCES, INITIAL HEARINGS and STATUS OF COUNSEL

- (a) **Felonies/misdemeanors.** In order for a party to continue a setting in a felony or misdemeanor case, trial or otherwise, the party shall file a verified written motion stating in detail the reasons why the setting needs to be continued. The motion shall also include the type of hearing, the custody status of the defendant, opposing counsel's position, and three (3) suggested dates that have been agreed upon by the parties for the Court to consider. Such motion shall be filed at least five (5) days before the setting that the party desires the Court to continue unless the time has been modified by the judge presiding over the cause. A written order ~~with sufficient copies for all parties~~ shall accompany the motion. Until such motion is granted by the court, it shall be deemed denied.
- (b) **Misdemeanors.** If a party files a motion for Waiver of Initial Hearing *and the only future court event is scheduled is an initial hearing, or if a party files a motion to add a new case event*, then the party shall include in the motion the type of future case event requested and shall provide suggested dates, per the Trial Court's scheduling guidelines. Such motion shall be filed at least five (5) days before the date on which the hearing is currently set, unless the time has been modified by the Judge presiding over the cause. A written order ~~with sufficient copies for all parties~~ shall accompany the motion.
- (c) **Status of Counsel.** When an attorney's appearance is filed *and the only future case event scheduled is Status of Counsel*, then the Status of Counsel hearing shall be converted to a Pre Trial Conference, unless an accompanying Motion to Continue is also filed, which would follow the Local Rule for Continuances.
- (d) **Infractions/Ordinance Violations.** If a party desires to continue a setting in a case involving only infractions and/or ordinance violations, the party shall file a verified written motion stating in detail the reasons why the setting needs to be continued. Such motion shall be filed at least ten (10) days prior to the setting that the party desires the Court to continue.
- (e) **Continuances for In-Custody Defendants.** No Criminal Court shall grant a continuance in excess of fourteen (14) calendar days for in-custody Class D/Level 6 felony and Misdemeanor cases, or in excess of thirty (30) calendar days for in-custody Major Felony Cases, without good cause shown.

LR49-CR00-115. FEES

(a) Alcohol and Drug Services Program Fee

1. The Marion Superior Court has established a court operated Alcohol and Drug Services Program pursuant to IC § 12-23-14, administered by the Marion Superior Court Probation Department.
2. In any criminal case where substance is alleged to have been a contributing factor, the person convicted shall be ordered to pay a substance abuse fee of \$400.00. This fee includes substance abuse assessment; client intake and orientation; referral to treatment, if required; client monitoring; case management; and compliance monitoring until discharge.
3. The substance abuse fee may be waived by the Court if the person is actively involved in a substance abuse treatment program at the time of sentencing, has successfully completed a substance abuse treatment program as a result of the charge for which the person is currently being sentenced, or is determined to be indigent.
4. Should the case be transferred to another court program, a client may be charged a transfer fee by the program of up to \$100. The receiving program may then charge the difference between the transfer fee and the statutory user fee cap.

(a)(b) In addition to costs as set by I.C 33-37-4-1 whenever an individual is placed on probation, or without placing a person on probation the following fees and costs shall be imposed under the Probation Court or Probation Order unless the sentencing Judge specifically modifies the Order. The fees and costs collected under the Court or Probation Order shall be applied in this following descending order of priority:

- Administrative fee
- Probation User fee
- Alcohol and Drug Service fee (33-37-5-8)
- Court Costs (I.C 33-37-4-1)
- Restitution (35-50-5-3)
- Public Defender Reimbursement * (35-33-7-6)
- Safe School fee (I.C. 33-37-5-18)
- Child Abuse Prevention fee (I.C. 33-37-5-12)
- Drug Interdiction fee (I.C. 33-37-5-9)
- Alcohol Countermeasures fee (I.C. 33-37-5-10)
- Domestic Violence fee (33-37-5-13)

(*Fee imposed only after judicial determination of ability to pay)

In the event that these specific fees, or any other court ordered fees, are not paid, the Court may enter judgment against the individual and may seek appropriate steps to collect the judgment owed.

(c) Whenever a Judicial Officer orders a person to be drug tested an appropriate fee shall be paid at the time of testing, unless the Judicial Officer determines the person is eligible to pay a reduced fee, or is indigent.

If a confirmatory test is requested by an individual, an appropriate fee shall be paid at the time of testing.

(d) All Marion County Courts certified as Problem-Solving Courts under I.C. 33-23-16 may assess costs pursuant to statute.

1. Drug Court. The Judge may impose on those persons directed to participate in the Marion County Drug Court Program a \$100 administrative fee as well as a problem-solving court services fee of \$25 for each month of problem-solving court participation in accordance with I.C. 33-23-16-23. The monthly fee shall not exceed \$600 in total assessment. The clerk of the court shall collect and transmit these fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the county user fee fund established under I.C. 33-37-8.

2. Re-Entry Court. The Judge may impose on those persons directed to participate in the Marion County Re-Entry Court Program a \$100 administrative fee as well as a problem-solving court services fee of \$25 for each month of problem-solving court participation in accordance with I.C. 33-23-16-23. The monthly fee shall not exceed \$600 in total assessment. The clerk of the court shall collect and transmit these fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the county user fee fund established under I.C. 33-37-8.