

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 **Criminal Division Rules at LR49-CR00-108. BAIL.** 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 **July 23, 2017**.

Comments to this proposed Local Rule amendment will be received through **Noon on July 21, 2017**. Comments to this proposed amended Local Rule should be e-mailed to the Office of the Court Administrator, c/o Emily VanOsdol, at Emily.Vanosdol@indy.gov or mailed to:

Emily VanOsdol

Office of the Court Administrator
Marion County Circuit and Superior Courts

200 East Washington St., Ste. T-1221
Indianapolis, IN 46204

All of the above is so ORDERED this 22nd day of June, 2017.

/s Timothy Oakes

* Judge Timothy Oakes
Presiding Judge

* Original signature on file with the Court.

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. MAJOR FELONY BAIL AMOUNTS

(a) General Provisions

- i. Individuals that are booked in on a Major Felony outright arrest are not permitted to post bond until the case has been submitted to the Initial Hearing Court for a probable cause determination and bond has been set by a Judicial Officer.
- ii. 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.

(b)

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

Domestic Violence:

Class C Felony \$25,000 Surety

Level 5 Felony \$25,000 Surety

(c) 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.

NOTE: Enhancements do not pertain to class "C" felony or level 5 felony Domestic Violence offenses.

- (c) **Filed Cases.** Bond set and release provisions ordered from the Initial Hearing Court may be altered by the Housing Court at the time the formal charges are filed.

(d) 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 Initial Hearing Court 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.

3. MISDEMEANOR & CLASS D/LEVEL 6 FELONY BAIL AMOUNTS:

(a) **General Provisions**

- i. Individuals that are booked in on a misdemeanor, class D, or level 6 outright arrest are permitted to post bond as soon as they are booked in by the Marion County Sheriff's Office and bond is set.

- ii. Bail amounts set pursuant to this schedule shall be based upon the lead offense identified by the arresting officer on the Officer's Arrest Report.
- iii. All individuals released either on their own recognizance or on bail are required to abide by conditions of release ordered by the Court.

(b) **Operating a Vehicle While Intoxicated**

Individuals arrested for Operating a Vehicle While Intoxicated shall be released on their own recognizance, unless they have a prior conviction under I.C. § 9-30-5 or for a crime of a similar nature to I.C. § 9-30-5 from another jurisdiction. An individual booked in for Operating a Vehicle While Intoxicated with a qualifying conviction under this paragraph must be held for pick up by Marion County Community Corrections for Alcohol Monitoring. Bail shall be set at \$500 Cash for any individual arrested for Operating a Vehicle While Intoxicated who also has more than one prior conviction under I.C. § 9-30-5 or for a crime of a similar nature to I.C. § 9-30-5 from another jurisdiction.

(c) **General Misdemeanor Bail Amounts**

All individuals booked in on misdemeanor offenses shall be released on their own recognizance, except for the following offenses:

<u>Battery</u>	<u>\$150 Cash</u>
<u>Possession of a Handgun without a License</u>	<u>\$150 Cash</u>
<u>Domestic Violence (Including Invasion of Privacy)</u>	<u>per schedule</u>
<u>Operating While Intoxicated with prior conviction</u>	<u>per schedule</u>

(d) **General FD/F6 Bail Amounts**

Individuals booked in on one of the following level six or class "D" felony offenses shall be released on their own recognizance:

- Theft
- Operating a Vehicle as a Habitual Traffic Violator
- Possession of Marijuana

Bail shall be set in the amount of \$500 Cash for individuals booked in for a general class “D” felony or level 6 felony outright arrest.

- 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)

Bail shall be set in the amount of \$250 for all other individuals arrested on an outright arrest for a general d-felony or level 6 felony offense.

(e) Enhancements.

The bail schedule amounts shall double, up to a maximum of \$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.

(f) Misdemeanor, D-Felony, & Level 6 Felony Domestic Violence Cases

Class D Felony \$2,000 Cash

Level 6 Felony \$2,000 Cash

Class A Misdemeanor \$1,000 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 shall be set as if the domestic violence charge were the lead charge.

(g) Invasion of Privacy Cases

Class D Felony \$2,000 Cash

Level 6 Felony \$2,000 Cash

Class A Misdemeanor \$1,000 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 Initial Hearing Court Judicial Officer should set the bail as if the invasion of privacy charge were the lead charge.

4. 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:

1. Within five (5) days of the arrest of any defendant who has not yet made bail as set by the Initial Hearing Court Judicial Officer or pursuant to the Provisional Bail Schedule; or,
2. Within five (5) days upon receipt of motion of the State or the defendant pursuant to I.C. § 35-33-8-5.

5. MISCELLANEOUS PROVISIONS

(a) Prior to being released, individuals booked in for a violent crime with injury, the arrestee must sign a No Contact Order protecting the alleged victim if one exists, in accordance with I.C. § 35-33-8-3.6. If the person refuses to sign a No Contact Order, the Sheriff shall hold the person until they are brought to court.

(b) The Marion County Prosecutor's Office may file a Motion for a Greater Than Standard Bond. This may be done at any point once an individual is booked in to the Marion County Sheriff's custody. The Motion shall list the reasons the Marion County Prosecutor's Office believes would deem the individual a flight risk or a harm to the community. The filing shall be submitted directly to the Initial Hearing Court.

~~I. **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.~~

~~II. **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 are responsible for 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.~~

~~III. **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~~

~~C. **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.~~

~~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 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)~~

~~IV. 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 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 shall have the discretion to modify the bail within the ranges provided if deemed appropriate.~~

~~V. ——— 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 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 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. 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.~~

~~**E. 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 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.~~

~~**VIII REVIEW OF PROVISIONAL BAIL AMOUNT**~~

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

~~**A.** within 5 business days of the arrest of any defendant who has not yet made bail as set by the Arrestee Processing Center commissioner or pursuant to the Provisional Bail Schedule; or,~~

~~**B.** within 5 business days upon receipt of motion of the State or the defendant pursuant to I.C. § 35-33-8-5.~~