

**(D) Sitting of the Judges**

The judge of the Wells Circuit Court may sit as judge of the Wells Superior Court in all criminal matters when the judge of the Wells Superior Court is unavailable without further request or consent. The judge of the Wells Superior Court may sit as judge of the Wells Circuit Court in all criminal matters when the judge of the Wells Circuit Court is unavailable without further request or consent.

**(E) Supreme Court Appointment**

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall then be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes the unique circumstance presented in such proceeding requires appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.

*(As amended effective July 1, 2014; and further amended effective January 1, 2018)*

**LR90-CR00-01 Bail in Domestic Violence Cases Filed In Wells Superior Court**

Inasmuch as Article I, Section 17 of the Indiana Constitution provides that all criminal offenses other than murder or treason shall be bailable, the Wells Superior Court now establishes the following procedures and bond schedule for Domestic Violence Offenses filed in Wells Superior Court:

1. All prior orders of Wells Superior Court establishing bonds are hereby set aside insofar as they may be in conflict with this Rule.
2. For purposes of this Rule, Domestic Violence Offenses shall include the following:
  - a. Domestic Battery, as a Class D Felony or Class A Misdemeanor.
  - b. Battery of a spouse, intimate partner (as defined by 18 U.S. Code, sec. 2266) or a child as a Class D Felony or a Class A Misdemeanor.
  - c. Invasion of Privacy involving a spouse or intimate partner.
  - d. Stalking.
  - e. Telephone Harassment involving a spouse or intimate partner.
  - f. Residential Entry of a spouse's or intimate partner's residence.
3. The initial bond for the above listed Domestic Violence Offenses shall be \$25,000 and shall be posted by a surety or 100% cash. No ten percent cash bond shall be posted.
4. Unless, at the initial hearing of the Defendant or at a subsequent bond reduction hearing if one is held, the alleged victim of the offense is present or there is proof that the alleged victim has been notified of the hearing and unless the State provided at such hearing clear and convincing evidence that the Defendant poses a risk to the physical safety of another person or the community

(I.C. 3 5-33-8-5) the Court shall, upon request of the Defendant, reduce the Defendant's bond to the amount the Court's standard bond schedule requires for the class of offense had it not been a Domestic Violence Offense. The Court may also add additional conditions of release to the bond, including, but not limited to:

- a. Anger management counseling.
- b. Substance abuse counseling.
- c. Electronic monitoring.
- d. GPS tracking.
- e. Juris monitors.
- f. No contact or no violent contact protective order.
- g. Prohibition of possession of firearms.
- h. Periodic reporting to a probation officer

5. In determining whether, or to what extent, the Defendant's bond should be reduced; the Court may consider one or more of the following factors:

- a. Any history of domestic violence as documented by police reports and/or convictions.
- b. Whether the frequency or severity of violence appears to be escalating.
- c. Threats of retaliation either directly toward the victim or indirectly toward the children.
- d. Use or threatened use of a weapon.
- e. Defendant's prior criminal history.
- f. Danger posed to the public, including threats to victim's family or co-workers.
- g. Defendant's alleged use or possession of alcohol or a controlled substance.
- h. Defendant's access to the victim.
- i. Defendant's mental and physical health.
- j. Defendant's threats of suicide

**LR90-CR00-02**

**Bail Bond Schedule for Wells Superior Court**

(A) In all criminal cases filed in Wells Superior Court except Domestic Violence Offenses as defined in LR90-CR00-01, a defendant who has not failed to appear in the past may execute a bail bond by depositing cash in an amount equal to ten percent (10%) of the aggregate bond. In such case, the following conditions shall apply to said bond:

1. An administrative fee of ten percent (10%) or fifty dollars (\$50), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana;
2. The bond must be posted in the name of the defendant;
3. The bond is considered a personal asset of the defendant; and
4. Upon conviction, the bond shall be available for payment of court costs, restitution, fine, court-ordered fees, and reimbursement of public defender fees to the county, in the above order of priority. Any balance remaining shall be refunded to the defendant.

(B) Except as provided in LR 90-CR00-02, in all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or prior to June 30, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Habitual Offender	\$50,000.00
Class A Felony	\$30,000.00
Class B Felony	\$20,000.00
Habitual D Felony Offender	\$15,000.00
Class C Felony	\$10,000.00
Class D Felony	\$5000.00
Class A Misdemeanor	\$1500.00
Class B Misdemeanor	\$1000.00
Class C Misdemeanor	\$500.00

In all criminal cases filed in Wells Superior Court in which the crime is alleged to have been committed on or after July 1, 2014 bail is now fixed as follows:

Murder	only by leave of Court
Level 1 Felony	\$30,000.00
Level 2 or 3 Felony	\$20,000.00
Level 4 or 5 Felony	\$10,000.00
Level 6 Felony	\$5,000.00
Class A Misdemeanor	\$1,500.00
Class B Misdemeanor	\$1,000.00
Class C Misdemeanor	\$500.00

(C) Anyone who is intoxicated at the time of incarceration should not be released until sober.

(D) In any case where cash bond is deposited, the receiving officer shall advise the person posting such bond of the above-stated conditions; however, failure to advise any such person of these conditions shall not constitute a waiver of said conditions.

(E) Upon issuance of a criminal bench warrant, the amount of bail specified in this rule shall be endorsed on the warrant.

(F) The Court may increase or diminish the amount of bond specified under this rule or permit the posting of a cash bond in lieu of accepting any property or surety bond as required by this rule in any justifiable case.

(G) Any person charged with a violent crime resulting in bodily injury shall be prohibited from any direct or indirect contact with the alleged victim for ten (10) days from the date bail is posted or until the initial hearing, whichever occurs first. (I.C. 35-33-8-3.6).

*(As amended effective July 1, 2014)*

**LR90-CR00-03****Bail Bond Schedule for Wells Circuit Court**

This bond schedule applies to all cases filed in the Circuit Court of Wells County, Indiana to the setting of bond on warrants issued on all criminal informations or indictments, unless otherwise specified by court order or on the warrant. On all warrantless arrests, bail will be determined at the initial hearing or upon a determination of probable cause.

<b>OFFENSE CLASS</b>	<b>BAIL AMOUNT</b>	<b>BOND AMOUNT &amp; METHOD</b>
Murder	No Bond	No Bond
Habitual Offender & Habitual Substance Offender	\$50,000	\$50,000 Cash or Surety
Class A or Level 1 Felony	\$30,000	\$10,000 Cash Bond & \$20,000 Surety
Class B or Level 2 or 3 Felony	\$20,000	\$10,000 Cash Bond & \$10,000 Surety
Class C or Level 4 or 5 Felony	\$10,000	\$5,000 Cash Bond & \$5000 Surety
Class D or Level 6 Felony	\$5,000	\$5,000 Cash Bond
Sex Offenses: · IC 35-42-4 et seq.	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 hours of arrest.
Crime of Domestic Violence · See exceptions below	No Bond until hearing within 48 of arrest.	No Bond until hearing within 48 of arrest.
Class A Misdemeanor	\$1,500	\$1,500 Cash Bond
Class B Misdemeanor	\$1,000	\$1,000 Cash Bond
Class C Misdemeanor	\$500	\$500 Cash Bond

**Bonds are Cumulative:** If multiple charges are filed, the bond applied shall be the total amount required for all charges.

**Impaired Persons:** No person shall be released with a breath alcohol level of .08% or higher or who appears to be under the influence of alcohol or drugs or a combination of both. The Sheriff's Department shall use the chart set forth at I.C. 35-33-1-6 to determine the minimum number of hours an impaired person should be detained prior to release.

**Exceptions to bond schedule:** The bond schedule shall not be used for, nor be applicable to the following charges:

- 1) Sex offenses
  - a. An individual charged with a sex offense (IC 35-42-2) shall not be admitted to bail until the Court has conducted a bail hearing.

- 2) Domestic violence offenses:
  - a. An individual charged with a crime of domestic violence shall not be admitted to bail until the Court has conducted a bail hearing.
  - b. IC 35-33-1-1.7 defines a crime of domestic violence as:
    - i. Having as an element either the use of physical force or the threatened use of a deadly weapon, and
    - ii. Was committed against:
      1. Defendant's current or former spouse, parent or guardian;
      2. a person with whom the Defendant shared a child in common;
      3. a person who was cohabitating with or had cohabitated with as if a spouse, parent or guardian; or
      4. a person who was or had been similarly situated to a spouse, parent, or guardian of the Defendant.

**Methods of posting bail:** Depending on the type and level of the crime(s) charged, a defendant may post bail in one of the four following ways.

1. Cash Bond: The defendant may execute a bail bond by depositing with the Clerk of the Court (Through the Sheriff of Wells County) cash in an amount not less than ten percent (10%) of the cash bail.
  - a. Whenever a cash bond is deposited, the receiving officer or the Clerk of the Court shall advise the defendant and the person depositing the cash on the defendant's behalf of the following:
    - i. The deposit is considered to be a personal asset of the defendant
    - ii. Upon conviction, the bond shall be available for the payment of court costs, fines, restitution, public defender fees and may also be applied to attorney fees. Any remaining balance shall be returned to the defendant.
    - iii. An administrative fee of ten percent (10%) or fifty dollars (\$50.00), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana.
    - iv. That should the Defendant fail to appear the Court may enter a judgment for the full bail amount after notice and hearing.
2. Surety Bond: The defendant may execute a bail bond with sufficient solvent sureties in an amount equal to the surety bond amount.
3. Cash: The defendant may post with the Clerk the full bail amount.
4. Real Estate Bond: All Real Estate bonds shall be granted only after notice is sent to the prosecuting attorney by the defendant or his counsel and a hearing is conducted to determine whether the value of the real estate is of sufficient value to satisfy the full bail amount.

**Adjustment of Bond:** All bonds are subject to being adjusted by the Court at a hearing pursuant to statute and application by counsel of record.

*(As amended effective July 1, 2014)*