



# Resolution

The Ohio Judicial Conference, an independent statutory entity in the judicial branch of government, is the voice of Ohio judges on matters pertaining to the administration of justice.

## Resolution to Support an Amendment to Rule 36 of the Rules of Superintendence of the Supreme Court of Ohio

*Prepared by*

Ohio Judicial Conference Specialized Courts Committee

*Approved by*

Ohio Judicial Conference Executive Committee

February 24, 2006

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The Executive Committee establishes Judicial Conference policy and adopts resolutions that express judicial consensus.

In addition to the Judicial Conference Officers and Executive Director, the Executive Committee is composed of

- the chairs of all Judicial Conference committees;
- the presiding officers and presiding officers elect of Ohio's judicial associations;
- the Administrative Director of the Ohio Supreme Court.

*The Executive Committee supported the following request:*

The Specialized Courts Committee of the Ohio Judicial Conference is requesting support from the Ohio Judicial Conference Executive Committee to amend Rule 36 of the Rules of Superintendence of the Supreme Court of Ohio. Superintendence Rule 36 (Sup R 36) addresses the Designation of Trial Attorney and the assignment system of cases. This request deals only with the assignment of cases, which falls under division B and C of Sup R 36, so this memo will be limited to those two sections.

Currently, Sup R 36 (B) (1) Individual Assignment System provides that:

*“As used in these rules, “individual assignment system” means the system in which, upon filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of the division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case is assigned or, if the judge is unavailable, to the administrative judge....”*

In addition, Sup R 36 (B) (2) states that:

*“Each multi-judge general, domestic relations, and juvenile division of the court of common pleas shall adopt the individual assignment system for the assignment of all cases to the judges of that court, except as otherwise provided in division (C) of this rule. Modifications to the individual assignment system may be adopted to provide for the redistribution of cases involving the same criminal defendant, parties, family members, or subject matter....”*

Sup R 36 (C) currently states that:

*“In each multi-judge municipal or county court, cases may be assigned to an individual judge or*

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*to a particular session of court pursuant to the following system:*

*(1) A particular session of court is one in which cases are assigned by subject category rather than by the individual assignment system. The following subject categories shall be disposed of by particular session:*

*(a) Civil cases in which a motion for default judgment is made;*

*(b) Criminal cases in which a plea of guilty or no contest is entered;*

*(c) Initial appearance in criminal cases;*

*(d) Preliminary hearings in criminal cases;*

*(e) Criminal cases in which an immediate trial is conducted upon initial appearance;*

*(f) Small claims cases;*

*(g) Forcible entry and detainer cases in which the right to trial by jury is waived or not demanded.”*

The Specialized Courts Committee is requesting that a new subsection (h) be added under Sup R 36 (C) (1), which would state:

**(h) Cases where a party has made application to, or has been accepted into, a specialized court or docket.**

**To guarantee a fair and equal distribution of cases, a judge who is assigned a case by subject matter pursuant to Sup R 36 (B)(2), or by virtue of a specialized court or docket pursuant to Sup R 36 (C)(1)(h), may request the administrative judge to reassign a similar case by lot to another judge in that multi-judge common pleas, municipal, or county court.**

This request is being made for two primary reasons. First, the addition of subsection (h) would permit a judge in a multi-judge municipal or county court to do what a judge in a multi-judge general, domestic relations or juvenile division of the court of common pleas can already do under (C), specifically, to redistribute cases based on subject matter.

Secondly, a number of judges have expressed a desire to establish a specialized court in their jurisdiction, but are unwilling to do so without this rule change. This reluctance is based primarily on the fact that there is no statute or rule in Ohio permitting the creation or operation of a drug or mental health court. Although this has not prevented many judges from starting or presiding over a specialized court, there are nonetheless some judges who are unwilling to begin or preside over a specialized court without this rule change.

Although some consideration was initially given to approaching the legislature to statutorily create a specialized court, this committee ultimately decided that given the State of Ohio's current financial picture, this effort, even if successful, would be nothing more than an unfunded mandate.

Finally, the judges who have expressed concerns over operating a specialized court without a statute or rule have indicated that they would be willing to establish and/or preside over a drug or mental health court if this change to Sup R 36 (C) (1) is implemented.