

IC 33-25

ARTICLE 25. COURT OF APPEALS

IC 33-25-1

Chapter 1. Judges; Geographic Districts

IC 33-25-1-1

Court of appeals

Sec. 1. The court of appeals consists of fifteen (15) judges, who serve for the hearing and decision of causes in five (5) geographic districts described in section 2 of this chapter under Article 7, Section 5 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.4.

IC 33-25-1-2

Districts

Sec. 2. Indiana is divided into five (5) geographic districts, which shall be designated as the "court of appeals - First District; Second District; Third District; Fourth District; and Fifth District" as follows:

(1) First District: Bartholomew, Boone, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Fayette, Floyd, Fountain, Franklin, Gibson, Greene, Hancock, Harrison, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Randolph, Ripley, Rush, Scott, Shelby, Spencer, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Warrick, Washington, and Wayne.

(2) Second District: Adams, Blackford, Carroll, Cass, Clinton, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Marion, Miami, Tippecanoe, Tipton, Wabash, Wells, and White.

(3) Third District: Allen, Benton, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Warren, and Whitley.

(4) The entire state constitutes the Fourth District.

(5) The entire state constitutes the Fifth District.

As added by P.L.98-2004, SEC.4.

IC 33-25-1-3

Residency requirements for judges

Sec. 3. (a) Judges of the First, Second, and Third Districts of the court of appeals must have resided in their respective districts before appointment to the court. However, judges of the court of appeals appointed before July 1, 1993, must reside in the district from which they are appointed.

(b) The following requirements apply to judges of the Fourth and Fifth Districts of the court of appeals:

(1) One (1) judge must have resided in the First District before appointment to the court.

(2) One (1) judge must have resided in the Second District before appointment to the court.

(3) One (1) judge must have resided in the Third District before appointment to the court.

(c) When a vacancy is created in the court of appeals, the individual who is appointed by the governor to fill the vacancy must be a resident of the district in which the vacancy occurred.

As added by P.L.98-2004, SEC.4.

IC 33-25-1-4

Location for hearings

Sec. 4. All districts of the court of appeals shall sit for the hearing and decision of causes in:

(1) Indianapolis; or

(2) any other place that the chief judge of the court of appeals may designate.

As added by P.L.98-2004, SEC.4.

IC 33-25-1-5

Docketing of cases

Sec. 5. A case appealed to the court of appeals shall be placed upon the docket of the district from which the appeal is taken. If, at any time, the court of appeals believes there is an undue disparity in the number of cases pending on the dockets of the districts, the court of appeals may order the transfer of cases as it considers advisable from one (1) district to another.

As added by P.L.98-2004, SEC.4.

IC 33-25-1-6

Sitting as judge of circuit, superior, and criminal courts

Sec. 6. The judges of the court of appeals are competent to sit as judges of the circuit, superior, and criminal courts.

As added by P.L.98-2004, SEC.4.

IC 33-25-2

Chapter 2. Retention of Judges

IC 33-25-2-1

Approval or rejection of appeals court judges

Sec. 1. Judges of the court of appeals shall be approved or rejected by the electorate of Indiana under Article 7, Section 11 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.4.

IC 33-25-2-2

Filing of statement of retention with secretary of state

Sec. 2. A judge who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the judge is to be placed on the general election ballot, indicating that the judge wishes to have the question of the judge's retention placed on the ballot. The judge's statement must include a statement of the judge's name as:

- (1) the judge wants the judge's name to appear on the ballot; and
- (2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

As added by P.L.98-2004, SEC.4.

IC 33-25-2-3

Expiration of term of judge who does not file for retention

Sec. 3. This section applies to a judge:

- (1) who does not file a statement under section 2 of this chapter; and
- (2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the judge would have been placed on the general election ballot.

The term of a judge expires December 31 of the year in which the question of the judge's retention would have been placed on the ballot.

As added by P.L.98-2004, SEC.4.

IC 33-25-2-4

Expiration of term of rejected judge

Sec. 4. This section applies to a judge:

- (1) who files a statement under section 2 of this chapter; and
- (2) whose retention is rejected by the electorate.

The term of a judge ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the judge has been removed. However, if the judge has filed a petition for a recount under IC 3-12-11, the term of the judge does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the judge.

As added by P.L.98-2004, SEC.4.

IC 33-25-2-5**Wording of question of retention on ballot**

Sec. 5. The question of approval or rejection of a judge shall be placed on the general election ballot in the form prescribed by IC 3-11 and must state "Shall Judge (insert name (as permitted under IC 3-5-7) here) be retained in office?".

As added by P.L.98-2004, SEC.4. Amended by P.L.58-2005, SEC.30.

IC 33-25-2-6**Statement of retention; use by judge of same name on statement and voter registration record**

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the judge requests the name on the judge's voter registration record be the same as the name the judge uses on the statement. If there is a difference between the name on the judge's statement and the name on the judge's voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the judge's voter registration record to be the same as the name on the judge's statement.

As added by P.L.98-2004, SEC.4.

IC 33-25-3

Chapter 3. Rules and Procedures

IC 33-25-3-1

Chief judge; presiding judges

Sec. 1. (a) The judges of the court of appeals shall select one (1) of their members as chief judge of the court. The member selected retains that office for three (3) years after the effective date of the member's appointment, subject to reappointment in the same manner. However, a member of the court may resign the office of chief judge without resigning from the court. When a vacancy in the office of chief judge occurs due to absence, illness, incapacity, or resignation, the powers and duties of the chief judge devolve upon the judge of the court of appeals who is senior in length of service. However, if two (2) or more judges are equal in length of service and senior in length of service, the determination of chief judge shall be by lot until the cause of vacancy is terminated or the vacancy is filled.

(b) The members of each district, other than the district from which the chief judge was chosen, shall select one (1) of their members as presiding judge of the district.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-2

Disqualification of judge

Sec. 2. If a judge of the court of appeals:

- (1) is related to a party;
- (2) is interested in a case;
- (3) was a counsel in a case; or
- (4) was the judge who rendered the decision in a lower court that has been appealed to the court of appeals;

the judge shall disqualify himself or herself and not sit to hear the case.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-3

Replacement of disqualified or absent judge

Sec. 3. When a judge disqualifies himself or herself or is otherwise unable to sit for the hearing or decision of a case in the judge's district, the chief judge shall assign a court of appeals judge to the disqualified or absent judge's district for the hearing and decision of the case.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-4

Appeals; amount in controversy

Sec. 4. Except as provided in IC 34-56-1, an appeal may not be taken to the court of appeals in any civil case where the amount in controversy, exclusive of interest and costs, does not exceed fifty dollars (\$50).

As added by P.L.98-2004, SEC.4.

IC 33-25-3-5**Hearing and argument of cases**

Sec. 5. The hearing and argument of cases in the court of appeals shall be in accordance with:

- (1) the rules of the supreme court as to hearing and argument; or
- (2) any rules the court of appeals adopts.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-6**Opinions; reports; publication and distribution**

Sec. 6. The judicial opinion or decision in each case determined by the court of appeals shall be reduced to writing. Reports of these opinions and decisions may be published and distributed in the manner prescribed by the supreme court.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-7**Opinion and judgment; certification to lower court**

Sec. 7. (a) In every case reversed by a division of the court of appeals:

- (1) an opinion shall be given on the material questions in the case in writing; and
- (2) the appropriate judgment shall be entered, with directions to the lower court.

(b) In all cases, the opinion and judgment shall be certified to the lower court thirty (30) days after the date allowed by law for the filing of a petition for a rehearing, unless:

- (1) an earlier date has been ordered by the division;
- (2) a petition for a rehearing is filed; or
- (3) the case is transferred or appealed to the supreme court.

If a case is transferred or appealed to the supreme court, or a rehearing is granted, the judgment of the division of the court of appeals is vacated. If a rehearing is denied, the opinion and judgment shall, thirty (30) days after the date of the ruling, be certified to the lower court, unless the case is transferred or appealed to the supreme court.

(c) If the losing party files a waiver of the party's right to file a petition for a rehearing, the opinion shall be immediately certified to the lower court.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-8**Process, rules, and orders; execution and service**

Sec. 8. All process, rules, and orders of the court of appeals shall be executed and served by the sheriff of the county in which a process, a rule, or an order has been directed. The sheriff is entitled to collect the fees allowed by law for similar service of process, rules, or orders issued by the supreme court.

As added by P.L.98-2004, SEC.4.

IC 33-25-3-9

Seal of court

Sec. 9. The court of appeals shall have a seal:

(1) designed and provided by the secretary of state at the expense of the state; and

(2) that contains the title of the court on the face of the seal.

As added by P.L.98-2004, SEC.4.

IC 33-25-4

Chapter 4. Personnel and Facilities

IC 33-25-4-1

Clerk and sheriff

Sec. 1. The clerk and sheriff of the supreme court shall be clerk and sheriff of the court of appeals.

As added by P.L.98-2004, SEC.4.

IC 33-25-4-2

Personnel

Sec. 2. (a) The court of appeals may appoint personnel as the court determines necessary.

(b) The judges of each geographic district may appoint law clerks, secretaries, and other personnel necessary for the holding of court and the administration of the court's duties.

As added by P.L.98-2004, SEC.4.

IC 33-25-4-3

Rooms, furniture, and stationery; supreme court library

Sec. 3. The commissioner of the Indiana department of administration shall provide rooms for the use of the judges and the court of appeals in Indianapolis. The court of appeals:

(1) may:

(A) provide the necessary furniture and stationery and other things necessary for the transaction of the court's business, at the expense of the state; and

(B) make allowances for the items described in clause (A) to be audited and paid out of the state treasury upon presentation of the order of allowance; and

(2) is entitled to access and use the law library of the supreme court equally with the justices of the supreme court.

As added by P.L.98-2004, SEC.4.