

## **IC 33-29**

### **ARTICLE 29. SUPERIOR COURTS**

#### **IC 33-29-1**

##### **Chapter 1. Provisions Concerning Standard Superior Courts**

#### **IC 33-29-1-1**

##### **Application**

Sec. 1. Except as otherwise provided in IC 33-33, this chapter applies to standard superior courts established in IC 33-33.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-1.5**

##### **Jurisdiction**

Sec. 1.5. All standard superior courts have:

- (1) original and concurrent jurisdiction in all civil cases and in all criminal cases;
- (2) de novo appellate jurisdiction of appeals from city and town courts; and
- (3) in Marion County, de novo appellate jurisdiction of appeals from township small claims courts established under IC 33-34.

*As added by P.L.201-2011, SEC.25.*

#### **IC 33-29-1-2**

##### **Seal**

Sec. 2. A standard superior court may have a seal containing the words " \_\_\_\_\_ (insert name of county in which the court is located) Superior Court \_\_\_\_\_ (insert court number for multiple courts), \_\_\_\_\_ (insert name of county) County, Indiana".

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-3**

##### **Judge; election; qualifications**

Sec. 3. (a) A standard superior court judge is elected at the general election every six (6) years in the county in which the court is located. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of a standard superior court, a person must be:

- (1) a resident of the county in which the court is located; and
- (2) admitted to practice law in Indiana.

*As added by P.L.98-2004, SEC.8. Amended by P.L.161-2011, SEC.1; P.L.201-2011, SEC.18.*

#### **IC 33-29-1-4**

##### **Judicial powers**

Sec. 4. The judge of a standard superior court:

- (1) has the same powers relating to the conduct of business of the court as the judge of the circuit court of the county in which the standard superior court is located; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-5**

##### **Bailiff and court reporter**

Sec. 5. (a) The judge of a standard superior court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

- (1) fixed in the same manner as the salaries of the bailiff and the official court reporter for the circuit court of the county in which the standard superior court is located; and
- (2) paid monthly:
  - (A) out of the treasury of the county in which the standard superior court is located; and
  - (B) as provided by law.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-6**

##### **Clerk; books and dockets**

Sec. 6. The clerk of a standard superior court, under the direction of the judge of the court, shall provide:

- (1) order books and fee books;
- (2) judgment dockets and execution dockets; and
- (3) other books for the court;

that must be kept separately from the books and papers of other courts.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-7**

##### **Courtroom; equipment; duty of county executive**

Sec. 7. (a) The county executive for the county in which the standard superior court is located shall provide and maintain:

- (1) a suitable courtroom;
- (2) furniture and equipment; and
- (3) other rooms and facilities;

necessary for the operation of the court.

(b) The county fiscal body shall appropriate sufficient funds for the provision and maintenance of the items described in subdivisions (1) through (3).

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-1-8**

##### **Juries**

Sec. 8. (a) A jury in the standard superior court shall be selected as provided in IC 33-28-5.

(b) A grand jury selected for the circuit court of the county in which the standard superior court is located shall serve as the grand jury for the standard superior court.

*As added by P.L.98-2004, SEC.8. Amended by P.L.118-2007, SEC.22.*

**IC 33-29-1-9**

**Transfer of cases**

Sec. 9. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, transfer any action or proceeding from the circuit court to the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the standard superior court to the circuit court of the county in which the standard superior court is located.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-1-10**

**Transfer of judges**

Sec. 10. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, sit as a judge of the standard superior court in any matter as if the circuit court judge were an elected judge of the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, sit as the judge of the circuit court of the county in which the standard superior court is located in any matter as if the judge of the standard superior court were the elected judge of the circuit court.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-1.5**

**Chapter 1.5. Jurisdiction of Nonstandard Superior Courts**

**IC 33-29-1.5-1**

**Application**

Sec. 1. This chapter applies to a superior court that is not a standard superior court described in IC 33-29-1.

*As added by P.L.201-2011, SEC.26.*

**IC 33-29-1.5-2**

**Jurisdiction**

Sec. 2. All superior courts have:

- (1) original and concurrent jurisdiction in all civil cases and in all criminal cases;
- (2) de novo appellate jurisdiction of appeals from city and town courts; and
- (3) in Marion County, de novo appellate jurisdiction of appeals from township small claims courts established under IC 33-34.

*As added by P.L.201-2011, SEC.26.*

## **IC 33-29-2**

### **Chapter 2. Provisions Governing Standard Small Claims and Misdemeanor Division**

#### **IC 33-29-2-1**

##### **Applicability**

Sec. 1. This chapter applies to each superior court that has a standard small claims and misdemeanor division.

*As added by P.L.98-2004, SEC.8. Amended by P.L.201-2011, SEC.27.*

#### **IC 33-29-2-2**

##### **Dockets**

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

- (1) A small claims docket.
- (2) A minor offenses and violations docket.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-2-3**

##### **Repealed**

*(Repealed by P.L.1-2007, SEC.248.)*

#### **IC 33-29-2-4**

##### **Jurisdiction**

Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.
- (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).
- (3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-2-5**

##### **Exceptions to formal practice and procedure; answer and appearance; continuance; informality**

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

*As added by P.L.98-2004, SEC.8.*

### **IC 33-29-2-6**

#### **Change of venue**

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.

*As added by P.L.98-2004, SEC.8.*

### **IC 33-29-2-7**

#### **Jury trial; transfer to plenary docket**

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, shall be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars (\$70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

*As added by P.L.98-2004, SEC.8.*

### **IC 33-29-2-8**

#### **Minor offenses and violations docket**

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Level 6 felony cases.

(2) All misdemeanor cases.

(3) All infraction cases.

(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-13.

*As added by P.L.98-2004, SEC.8. Amended by P.L.158-2013, SEC.338.*

#### **IC 33-29-2-9**

##### **Evening sessions; additional sessions**

Sec. 9. (a) The court shall provide by rule for an evening session to be held one (1) time each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-2-10**

##### **Requests by executive director of state court administration**

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

*As added by P.L.98-2004, SEC.8.*

## **IC 33-29-3**

### **Chapter 3. Small Claims Referees**

#### **IC 33-29-3-1**

##### **Application**

Sec. 1. This chapter applies to each superior court having a standard small claims and misdemeanor division for which a judge of the superior court is authorized under IC 33-33 to appoint a small claims referee.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-3-2**

##### **Times of service; qualifications**

Sec. 2. (a) A small claims referee shall serve at those times the court requires.

(b) A small claims referee:

- (1) must be admitted to the practice of law in Indiana;
- (2) is not required to be a resident of the county; and
- (3) continues in office until removed by the judge of the court.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-3-3**

##### **Appointment; practice of law**

Sec. 3. The appointment of the small claims referee:

- (1) must be in writing; and
- (2) does not prohibit the private practice of law by the appointee.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-3-4**

##### **Powers**

Sec. 4. A small claims referee may:

- (1) administer all oaths and affirmations;
- (2) take and certify affidavits and depositions;
- (3) issue subpoenas for witnesses;
- (4) compel the attendance of witnesses; and
- (5) punish contempts;

for matters within the small claims jurisdiction of the court.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-3-5**

##### **Duties**

Sec. 5. The small claims referee shall:

- (1) conduct trials of small claims cases;
- (2) for cases disposed of by trial, submit written findings of fact, conclusions of law, and recommendations for final judgments to the judge of the court; and
- (3) for cases disposed of without trial, submit a written disposition report to the judge of the court.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-3-6**

**Limiting power of court**

Sec. 6. The judge of the court may:

(1) limit any of the rights or powers of the small claims referee;  
and

(2) specifically determine the duties of the small claims referee  
within the limits established in this chapter.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-4**

**Chapter 4. Division of Rooms in Superior Courts**

**IC 33-29-4-1**

**Superior court divided into rooms**

Sec. 1. In a county that has a superior court consisting of two (2) or more judges, the court shall be divided into rooms.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-4-2**

**Room numbering**

Sec. 2. The rooms described in section 1 of this chapter shall be numbered consecutively, beginning with No. 1. The judges of the courts shall be nominated and elected by rooms. However, any one (1) judge may sit as judge in the other rooms of the court.

*As added by P.L.98-2004, SEC.8.*

## **IC 33-29-5**

### **Chapter 5. Terms and Powers of Superior Courts**

#### **IC 33-29-5-1**

##### **Application**

Sec. 1. (a) Except as provided in subsection (b), terms and powers described in this chapter apply to superior courts except as otherwise provided in the particular statute creating the superior court for a particular county.

(b) Section 7 of this chapter applies to all superior courts.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-2**

##### **Terms of court**

Sec. 2. (a) If a superior court consists of more than one (1) judge, the court shall hold general and special terms.

(b) A general term of the superior court may be held by a majority of the judges and a special term by any one (1) or more of the judges. General and special terms may be held at the same time, as the judges of the court may direct. If a general or special term is held, the terms shall be taken and considered to have been held by the authority and direction of the judges.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-3**

##### **General powers**

Sec. 3. (a) The superior court, at general or special term, may do the following:

(1) Issue and direct all process to courts of inferior jurisdiction, and to corporations and individuals, which shall be necessary in exercising its jurisdiction, and for the regular execution of the law.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions.

(3) Issue all process and executions.

(4) Do other acts necessary to carry into effect subdivisions (1) through (3) in conformity with the Constitution of the State of Indiana and laws of Indiana.

(b) The court shall, at times as the business of the court may require, meet in general term, and may, at any time, make a distribution and redistribution of the business of the court to special term, as it considers proper.

(c) Each judge holding court at special term shall transact the business assigned to the judge. However, the judge may call one (1) or more of the other judges of the court to sit with the judge in special term to consider any matter pending before the judge.

(d) The court, at special term, may hear and dispose of business distributed to it by the general term. The court may, at special or general term:

(1) vacate or modify its own judgments or orders, rendered at

either special or general term; and  
(2) enter judgments by confession, as is vested by law in circuit courts.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-4**

##### **Special powers**

Sec. 4. The judges of the superior court, individually or collectively, may do the following:

- (1) Grant restraining orders and injunctions.
- (2) Issue writs of habeas corpus, and of mandate and prohibition.
- (3) Appoint receivers, master commissioners, and commissioners to convey real property.
- (4) Grant commissions for the examination of witnesses.
- (5) Appoint other officers necessary to facilitate and transact the business of the court as is conferred on judges of circuit courts.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-5**

##### **Change of venue; transfers to circuit court**

Sec. 5. When any reason for a change of venue is shown to exist from any of the judges, the remaining judge or judges alone shall act. However, when all the judges are incompetent to act, the case shall be transferred to the circuit court of the county.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-6**

##### **Direct appeals to supreme court or court of appeals**

Sec. 6. (a) In all cases where a person has the right of appeal from the circuit to the supreme court or court of appeals, an appeal may be taken directly to the supreme court or court of appeals from any order or judgment of the superior court.

(b) Appeals described in subsection (a) are governed by the law regulating appeals from the circuit court to the supreme court or court of appeals.

(c) Appeals from the special to the general term are abolished.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-5-7**

##### **Superior court judges; eligibility**

Sec. 7. To be eligible to hold office as a judge of a superior court, a person must be a resident of the judicial circuit that the judge serves.

*As added by P.L.98-2004, SEC.8.*

## **IC 33-29-6**

### **Chapter 6. Transfer of Action to Circuit Court**

#### **IC 33-29-6-1**

##### **Superior court judge transfer motion**

Sec. 1. In all counties that contain circuit and superior courts, the judge of the superior court may, upon the judge's own motion, transfer any case filed and docketed in the superior court to the circuit court to be redocketed and disposed of as if originally filed with the circuit court if:

- (1) any reason for change of venue from the judge of the superior court is shown to exist as provided by law;
- (2) more cases are filed in the superior court during any term of the superior court than can be disposed of with expedition; and
- (3) in the opinion of the superior court, an early disposition of the case is required.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-6-2**

##### **Transfers from circuit court to superior court; grounds**

Sec. 2. In all counties with circuit and superior courts, the judge of the circuit court may, with the consent of the judge of the superior court, transfer any action, cause, or proceedings filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court, provided the action, cause, or proceeding could have been originally filed and docketed in the superior court, in any of the following instances:

- (1) Whenever more cases are filed in the circuit court during any year than can be disposed of with expedition.
- (2) In all other cases where, in the opinion of the circuit court judge, an early disposition of the case is required.

*As added by P.L.98-2004, SEC.8.*

#### **IC 33-29-6-3**

##### **Transfers from superior court to circuit court; grounds**

Sec. 3. In all counties with circuit and superior courts, the judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceedings filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court, in any of the following instances:

- (1) Whenever more cases are filed in the superior court during any year than can be disposed of with expedition.
- (2) In all other cases where, in the opinion of the superior court judge, an early disposition of the case is required.

*As added by P.L.98-2004, SEC.8.*

**IC 33-29-6-4****Transfers to special judge**

Sec. 4. Whenever a special judge has been designated in any action, cause, or proceeding, and the special judge is the elected qualified and acting judge of a circuit, superior, or probate court in the county having jurisdiction of the subject matter of the action, cause, or proceeding, the regular judge of the court in which the action, cause, or proceeding is pending may, after the designation of a special judge, with the consent of the special judge, transfer the action, cause, or proceeding to the court presided over by the special judge by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript to be redocketed and disposed of as if originally filed with the court to which the action, cause, or proceeding is transferred.

*As added by P.L.98-2004, SEC.8.*