IC 33

TITLE 33. COURTS AND COURT OFFICERS

IC 33-1

ARTICLE 1. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-2

ARTICLE 2. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-2.1

ARTICLE 2.1. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-3

ARTICLE 3. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-4

ARTICLE 4. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-5

ARTICLE 5. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-5.1

ARTICLE 5.1. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-5.5

ARTICLE 5.5. REPEALED

(Repealed by Acts 1975, P.L.305, SEC.54.)

IC 33-6

ARTICLE 6. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-7

ARTICLE 7. REPEALED

(Repealed by P.L.1-1993, SEC.230.)

IC 33-8

ARTICLE 8. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-9

ARTICLE 9. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-10

ARTICLE 10. REPEALED

(Repealed by P.L.1-1993, SEC.230.)

IC 33-10.1

ARTICLE 10.1. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-10.5

ARTICLE 10.5. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-11

ARTICLE 11. REPEALED

(Repealed by Acts 1975, P.L.305, SEC.54.)

IC 33-11.6

ARTICLE 11.6. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-12

ARTICLE 12. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-13

ARTICLE 13. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-14

ARTICLE 14. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-15

ARTICLE 15. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-16

ARTICLE 16. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-17

ARTICLE 17. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-18

ARTICLE 18. REPEALED

(Repealed by P.L.305-1987, SEC.38.)

IC 33-19

ARTICLE 19. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-20

ARTICLE 20. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-21

ARTICLE 21. REPEALED

(Repealed by P.L.98-2004, SEC.164.)

IC 33-22

ARTICLE 22. EFFECT OF RECODIFICATION OF TITLE 33

IC 33-22-1

Chapter 1. Effect of Recodification by the Act of the 2004 Regular Session of the General Assembly

IC 33-22-1-1

"Prior law" defined

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning courts and court officers that are repealed or amended in the recodification act of the 2004 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2004 regular session of the general assembly.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-2

Purpose of recodification

Sec. 2. The purpose of the recodification act of the 2004 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2004 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2004 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2003 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-3

Statutory construction of recodification

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2004 regular session of the general assembly.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-4

Effect of recodification

Sec. 4. (a) The recodification act of the 2004 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;
(4) any proceedings begun;
(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
(6) any tax levies made or authorized;
(7) any funds established;
(8) any patents issued;
(9) the validity, continuation, or termination of any contracts, easements, or leases executed;
(10) the validity, continuation, scope, termination, suspension, or revocation of:
(A) permits;
(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority; or
(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2004 regular session of the general assembly does not:

(1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or
(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior law.

(c) The recodification act of the 2004 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-5
Recodification of prior law

Sec. 5. The recodification act of the 2004 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2004 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a

substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2004 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2004 regular session of the general assembly to the extent that the recodification act of the 2004 regular session of the general assembly is not substantively identical to the prior law.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-6

References to repealed statutes

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2004 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-7

References to citations

Sec. 7. A citation reference in the recodification act of the 2004 regular session of the general assembly to another provision of the recodification act of the 2004 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2004 regular session of the general assembly that is referred to by the citation reference.

As added by P.L.98-2004, SEC.1.

IC 33-22-1-8

References to prior rules

Sec. 8. (a) As used in the recodification act of the 2004 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2004 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 2004 regular session of the general assembly; or

(2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June

30, 2004, until the rules are amended, repealed, or suspended.
As added by P.L.98-2004, SEC.1.

IC 33-22-1-9
References to prior law

Sec. 9. (a) A reference in the recodification act of the 2004 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2004 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

(1) any rights or liabilities accrued;
(2) any penalties incurred;
(3) any violations committed;
(4) any proceedings begun;
(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
(6) any tax levies made;
(7) any funds established;
(8) any patents issued;
(9) the validity, continuation, or termination of contracts, easements, or leases executed;
(10) the validity, continuation, scope, termination, suspension, or revocation of:
    (A) permits;
    (B) licenses;
    (C) certificates of registration;
    (D) grants of authority; or
    (E) limitations of authority; or
(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2004 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly

in a manner that does not result in a substantive change in the law.
As added by P.L.98-2004, SEC.1.

IC 33-23

ARTICLE 23. GENERAL PROVISIONS

IC 33-23-1

Chapter 1. Definitions

IC 33-23-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this title.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-2

Chairperson

Sec. 2. "Chairperson" includes an acting chairperson.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-3

Commission on judicial qualifications

Sec. 3. "Commission on judicial qualifications", except as used in IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-4

Crime

Sec. 4. "Crime" means a felony or a misdemeanor.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-5

Felony

Sec. 5. "Felony" means a violation of a statute for which a person may be imprisoned for more than one (1) year.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-6

Infraction

Sec. 6. "Infraction" means a violation of a statute for which a person may be fined but not imprisoned.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-7

Judicial nominating commission

Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2, IC 33-33-45, and IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-1-8

Judicial office

Sec. 8. "Judicial office" means the office held by a judge or justice.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-9
Misdemeanor
Sec. 9. "Misdemeanor" means a violation of a statute for which a person may be imprisoned for not more than one (1) year.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-9.5
"NICS"
Sec. 9.5. "NICS" has the meaning set forth in IC 35-47-2.5-2.5.
As added by P.L.110-2009, SEC.10.

IC 33-23-1-10
Offense
Sec. 10. "Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance.
As added by P.L.98-2004, SEC.2.

IC 33-23-1-11
Vacancy
Sec. 11. "Vacancy" means an opening in a judicial office or an opening on the judicial nominating commission that occurs by reason of death, retirement, resignation, or removal.
As added by P.L.98-2004, SEC.2.

IC 33-23-2

Chapter 2. Court Terms and Schedules

IC 33-23-2-1

Calendar year term

Sec. 1. The term of court for all courts is the calendar year and the judges of a court may act in all matters and proceedings through the entire calendar year.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-2

Continuance of trial; attendance of jury and witnesses

Sec. 2. If, at the expiration of the time fixed by law for the continuance of the term of a court, the trial of a case is progressing, the court may:

(1) continue sitting beyond the time;

(2) require the attendance of the jury and witnesses; and

(3) do, transact, and enforce all other matters necessary for the determination of the case.

The term of the court may not be considered to be ended until the case has been fully disposed of by the court.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-3

Judge's time and attendance; judicial circuit of two or more courts

Sec. 3. If a judicial circuit consists of two (2) or more courts, the judge of the circuit shall divide the judge's time and the attendance in each court as the business of the courts requires.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-4

Power and control over judgments; retaining after rendering

Sec. 4. All courts retain power and control over their judgments for ninety (90) days after rendering the judgments in the same manner and under the same conditions as they retained power and control during the term of court in which the judgments were rendered.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-5

Term of court describing or fixing period of time

Sec. 5. If in any statute, rule, or order, a period is described or fixed by a term of court, a period of sixty (60) days for the purposes of time limitation only shall be substituted for the term of court.

As added by P.L.98-2004, SEC.2.

IC 33-23-2-6

Setting for trial of cases at issue; discharge of rules upon which time has run

Sec. 6. In setting for trial a case at issue and in discharging rules

upon which time has run, a judge shall:

(1) fix regular periods for setting cases not exceeding one hundred twenty (120) days between the periods; or

(2) set each case by a docket sheet entry, on a day certain, with notice, either in person or by mail, of the date set to attorneys of record.

As added by P.L.98-2004, SEC.2.

IC 33-23-3

Chapter 3. Senior Judges

IC 33-23-3-1

Application for senior judge appointment

Sec. 1. (a) A circuit court, a superior court, a probate court, the tax court, or the court of appeals may apply to the supreme court for the appointment of a senior judge to serve the court.

(b) The application submitted under this section must include the following:

(1) Reasons for the request.

(2) Estimated duration of the need for a senior judge.

As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.1; P.L.201-2011, SEC.14.

IC 33-23-3-2

Approval of application; appointment

Sec. 2. Upon approving the request by a circuit court, a superior court, a probate court, the tax court, or the court of appeals for a senior judge, the supreme court may appoint a senior judge to serve that court for the duration specified in the application submitted under section 1 of this chapter.

As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.2; P.L.201-2011, SEC.15.

IC 33-23-3-3

Service of senior judge

Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) may serve as a domestic relations mediator, subject to the code of judicial conduct;

(3) serves at the pleasure of the supreme court; and

(4) serves in accordance with rules adopted by the supreme court under IC 33-24-3-7.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under section 5 of this chapter. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-23-6 in accordance with the county domestic relations alternative dispute resolution plan.

As added by P.L.98-2004, SEC.2.

IC 33-23-3-4

Assignment to serve; acceptance; rejection

Sec. 4. The supreme court may not require a senior judge to accept an assignment to serve a circuit court, a superior court, a probate court, the tax court, or the court of appeals. If a senior judge declines an assignment to serve, the supreme court may offer the senior judge subsequent assignments to serve a circuit court, a

superior court, a probate court, the tax court, or the court of appeals.
As added by P.L.98-2004, SEC.2. Amended by P.L.32-2005, SEC.3; P.L.201-2011, SEC.16.

IC 33-23-3-5
Compensation

Sec. 5. (a) A senior judge is entitled to the following compensation:

(1) For each of the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars ($100).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of two hundred fifty dollars ($250).

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) total calendar days during a calendar year.

As added by P.L.98-2004, SEC.2. Amended by P.L.246-2005, SEC.220; P.L.119-2007, SEC.1.

IC 33-23-4

Chapter 4. Court Administrators

IC 33-23-4-1

Application of chapter

Sec. 1. This chapter does not apply to a county having a court administrator under Indiana law before July 29, 1975.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-2

Creation of position

Sec. 2. The position of court administrator may be created by a majority vote of the judges in section 3 of this chapter in every county having a population according to the last United States decennial census of more than one hundred thousand (100,000) persons.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-3

Appointment

Sec. 3. The court administrator shall be appointed by and serve at the pleasure of the majority of the judges of the following courts of the county sitting in committee:

(1) Circuit court.
(2) Superior court.
(3) Juvenile court.
(4) Probate court.
(5) Criminal court.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-4

Full-time position

Sec. 4. The court administrator:

(1) shall devote full time to the court administrator's official duties; and
(2) may not engage in any other profession for profit.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-5

Duties; salary

Sec. 5. (a) Sitting in committee, the judges of the courts listed in section 3 of this chapter in each county shall determine the duties of the court administrator; and the court administrator shall perform the administrative duties the judges determine.

(b) The salary of the court administrator shall be determined by a majority of the judges listed in section 3 of this chapter in each county, sitting in committee. The court administrator's salary shall be paid by the county upon the order of the majority of the committee of judges.

As added by P.L.98-2004, SEC.2.

IC 33-23-4-6
Additional personnel; salaries

Sec. 6. (a) To implement this chapter, the judges of the courts, sitting in committee, may appoint additional personnel in sufficient number so that the courts are adequately served by the court administrator.

(b) The salaries of the additional personnel shall be paid by the county upon the order of the committee of judges.

As added by P.L.98-2004, SEC.2.

IC 33-23-5

Chapter 5. Magistrates

IC 33-23-5-1

Application of chapter

Sec. 1. This chapter applies to a court expressly authorized by statute to appoint a full-time magistrate.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-2

Qualifications

Sec. 2. A magistrate must be admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-3

Restriction on practice of law

Sec. 3. A magistrate may not engage in the practice of law while holding the office of magistrate.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-4

Confidentiality of applicant files

Sec. 4. The files of applicants for appointment as a magistrate, including the names of applicants, are confidential as provided in IC 5-14-3-4(b)(8).

As added by P.L.98-2004, SEC.2.

IC 33-23-5-5

Powers of magistrate

Sec. 5. A magistrate may do any of the following:

(1) Administer an oath or affirmation required by law.

(2) Solemnize a marriage.

(3) Take and certify an affidavit or deposition.

(4) Order that a subpoena be issued in a matter pending before the court.

(5) Compel the attendance of a witness.

(6) Punish contempt.

(7) Issue a warrant.

(8) Set bail.

(9) Enforce court rules.

(10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.

(11) Conduct an evidentiary hearing or trial.

(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.3.

IC 33-23-5-6
Service as judge pro tempore or special judge

Sec. 6. A magistrate may serve as a judge pro tempore or as a special judge of the court. A magistrate is not entitled to additional compensation for service under this section.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-7
Administrative duties

Sec. 7. The court may assign a magistrate administrative duties that are consistent with this chapter.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-8
Judicial mandate; final appealable order

Sec. 8. Except as provided under sections 5(14) and 9(b) of this chapter, a magistrate:

(1) does not have the power of judicial mandate; and

(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.4.

IC 33-23-5-9
Findings; final orders; sentencing hearing; sentencing

Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial, the magistrate may do the following:

(1) Enter a final order.

(2) Conduct a sentencing hearing.

(3) Impose a sentence on a person convicted of a criminal offense.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-10
Salary

Sec. 10. A magistrate is entitled to an annual salary equal to eighty percent (80%) of the salary of a judge under IC 33-38-5-6.

As added by P.L.98-2004, SEC.2.

IC 33-23-5-11
Source of salary

Sec. 11. Except as provided in section 12 of this chapter, the state

shall pay the salary of a magistrate. A county located in the circuit that the magistrate serves may supplement the magistrate's salary.
As added by P.L.98-2004, SEC.2.

IC 33-23-5-12
Juvenile court magistrate salary

Sec. 12. The salary of a magistrate appointed under IC 31-31-3-2 shall be paid in accordance with IC 33-38-5-7.
As added by P.L.98-2004, SEC.2.

IC 33-23-5-13
Participation in retirement systems

Sec. 13. (a) Except as provided in subsection (b), a magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

(b) A person who:

(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or

(2) begins serving as a full-time magistrate after July 1, 2010;

shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.
As added by P.L.98-2004, SEC.2. Amended by P.L.122-2008, SEC.1.

IC 33-23-6

Chapter 6. Circuit Court and Superior Court Domestic Relations Alternative Dispute Resolution

IC 33-23-6-1

Alternative dispute resolution fee

Sec. 1. (a) In addition to the fees required under IC 33-37-4-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars ($20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

As added by P.L.98-2004, SEC.2.

IC 33-23-6-2

Alternative dispute resolution fund; copayment for services; prohibition on mediation

Sec. 2. (a) In each county participating in the program under this chapter, there is established an alternative dispute resolution fund for each of the following:

(1) The circuit court.

(2) The superior court.

(3) The probate court established by IC 33-31-1.

(b) Notwithstanding subsection (a), if more than one (1) court exercises jurisdiction over domestic relations and paternity cases in a county, one (1) alternative dispute resolution fund may be established to be used by all the courts to implement this chapter if:

(1) the:

(A) county auditor; and

(B) judge of each court that exercises jurisdiction over domestic relations and paternity cases in the county;

agree to establish one (1) fund; and

(2) the agreement to establish the fund is included in the plan adopted by the county under section 3 of this chapter.

(c) The sources of money for each fund established under subsection (a) or (b) are:

(1) the alternative dispute resolution fee collected under section 1 of this chapter for the circuit court, superior court, or probate court, respectively; and

(2) copayments collected under subsection (d) if:

(A) a county chooses to deposit the copayments into the fund; and

(B) the county specifies in the plan adopted by the county under section 3 of this chapter that the copayments will be deposited in the fund.

(d) The funds shall be used to foster domestic relations alternative

dispute resolution, including:

(1) mediation;

(2) reconciliation;

(3) nonbinding arbitration; and

(4) parental counseling.

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit, superior, or probate court that exercises jurisdiction over domestic relations and paternity cases in the county. A fund used by multiple courts under subsection (b) shall be administered jointly by all the courts using the fund. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(e) Each circuit, superior, or probate court that administers an alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(f) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

As added by P.L.98-2004, SEC.2. Amended by P.L.55-2005, SEC.1.

IC 33-23-6-3

Plan; judicial approval

Sec. 3. (a) A county desiring to participate in the program under this chapter must:

(1) develop a plan to carry out the purposes of section 2 of this chapter that is approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and

(2) submit the plan to the judicial conference of Indiana.

(b) The plan under subsection (a) must include:

(1) information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this chapter; and

(2) a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay.

The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

As added by P.L.98-2004, SEC.2.

IC 33-23-6-4

Annual report

Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year summarizing the results of the program.

As added by P.L.98-2004, SEC.2.

IC 33-23-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-23-8

Chapter 8. Notice to Licensing Body of Insurance Fraud Conviction

IC 33-23-8-1

"Governmental body" defined

Sec. 1. As used in this chapter, "governmental body" means an agency, a board, or a commission of the legislative, executive, or judicial branch of state government.

As added by P.L.98-2004, SEC.2.

IC 33-23-8-2

"License" defined

Sec. 2. As used in this chapter, "license" means an occupational or a professional license, registration, permit, or certificate issued by a governmental body.

As added by P.L.98-2004, SEC.2.

IC 33-23-8-3

"Practitioner" defined

Sec. 3. As used in this section, "practitioner" means a person who holds a license. The term includes the following:

(1) An attorney.

(2) A person practicing an occupation or a profession that is licensed under IC 27 or by a board referred to in IC 25-1-2-6(b).

As added by P.L.98-2004, SEC.2.

IC 33-23-8-4

Insurance fraud conviction notice

Sec. 4. If a practitioner is convicted under IC 35-43-5-4.5 of:

(1) insurance fraud;

(2) an attempt to commit insurance fraud; or

(3) conspiracy to commit insurance fraud;

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

As added by P.L.98-2004, SEC.2. Amended by P.L.181-2005, SEC.3.

IC 33-23-9

Chapter 9. Protection of Indiana National Guard Members on Active Duty

IC 33-23-9-1

Guarantors of Indiana national guard members

Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in Section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or a liability of an Indiana national guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

As added by P.L.98-2004, SEC.2.

IC 33-23-10
Chapter 10. Commission on Courts

IC 33-23-10-1
Establishment
Sec. 1. The commission on courts is established.
As added by P.L.98-2004, SEC.2.

IC 33-23-10-2
Members
Sec. 2. The commission on courts is composed of the following thirteen (13) members:
(1) The chief justice of the supreme court or a representative designated by the chief justice.
(2) Four (4) members from the house of representatives, appointed by the speaker of the house of representatives, not more than two (2) of whom are from the same political party.
(3) Four (4) members from the senate, appointed by the president pro tempore of the senate, not more than two (2) of whom are from the same political party.
(4) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the president pro tempore of the senate as follows:
(A) One (1) member must be a sitting judge.
(B) One (1) member must be a county commissioner.
(5) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the speaker of the house of representatives as follows:
(A) One (1) member must be a member of a county council.
(B) One (1) member must be a circuit court clerk.
As added by P.L.98-2004, SEC.2.

IC 33-23-10-3
Term of members
Sec. 3. Each appointed member of the commission on courts serves for a term of four (4) years.
As added by P.L.98-2004, SEC.2.

IC 33-23-10-4
Chairperson and vice chairperson
Sec. 4. The chairman of the legislative council shall appoint the chairperson and vice chairperson of the commission on courts from among the legislative members of the commission. The chairperson and vice chairperson:
(1) may not be members of the same political party;
(2) may not be from the same house of the general assembly; and
(3) must be appointed from a different house of the general assembly each year.
As added by P.L.98-2004, SEC.2.

IC 33-23-10-5
Compensation; expenses

Sec. 5. (a) Each member of the commission on courts who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

As added by P.L.98-2004, SEC.2.

IC 33-23-10-6
Staff; administrative duties and functions

Sec. 6. (a) The legislative services agency shall employ necessary staff to carry out the administrative duties and functions of the commission on courts, including the following:

(1) Giving notices of commission meetings and other communication services.

(2) Keeping records related to commission meetings, proceedings, and actions.

(3) Preparing the report required under section 7 of this chapter.

(4) Providing the detailed investigation necessary for the commission to fulfill the duties imposed under section 7 of this chapter.

(5) Preparing draft proposals required under section 7 of this chapter.

(b) The legislative services agency shall not expend more than forty-eight thousand dollars ($48,000) per year to employ the staff required under subsection (a).

As added by P.L.98-2004, SEC.2.

IC 33-23-10-7
Duties of commission

Sec. 7. The commission on courts shall do the following:

(1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members

agrees to consider the request.

(2) Conduct research concerning requests for new courts or changes in jurisdiction of existing courts. The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report in an electronic format under IC 5-14-6 before November 1 of each year to the general assembly. The report must include the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

(i) A draft of legislation implementing the changes.

(ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.

(iii) Summaries of any research supporting the recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

As added by P.L.98-2004, SEC.2.

IC 33-23-10-8

Expiration of chapter

Sec. 8. This chapter expires June 30, 2015.

As added by P.L.98-2004, SEC.2. Amended by P.L.5-2007, SEC.1; P.L.201-2011, SEC.17.

IC 33-23-11
Chapter 11. Ethics

IC 33-23-11-1
"Cause" defined

Sec. 1. As used in this chapter, "cause" means a trial, a hearing, an arraignment, a controversy, an appeal, a case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-2
"Close relative" defined

Sec. 2. As used in this chapter, "close relative" means a person related to:

(1) another person filing a statement of economic interest; or
(2) the other person's spouse as a son, a daughter, a grandson, a granddaughter, a great-grandson, a great-granddaughter, a father, a mother, a grandfather, a grandmother, a great-grandfather, a great-grandmother, a brother, a sister, a nephew, a niece, an uncle, or an aunt.

For purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-3
"Compensation" defined

Sec. 3. As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-4
"Economic interest" defined

Sec. 4. As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-5
"Employer" defined

Sec. 5. As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or the spouse of the judge, justice, or prosecuting attorney receives any nonstate income.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-6
"Information of a confidential nature" defined

Sec. 6. As used in this chapter, "information of a confidential nature" means information that:

(1) is obtained by reason of the position or office held; and

(2) has not been or will not be communicated to the general public.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-7
"Judge" defined

Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, or a circuit, superior, county, small claims, or probate court.

(b) The term includes a judge pro tempore, commissioner, or hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-8
"Person" defined

Sec. 8. As used in this chapter, "person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-9
Participation in cause; economic interest

Sec. 9. A justice, judge, or prosecuting attorney may not participate in a cause that involves a matter in which the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney has an economic interest.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-10
Influence upon actions involving legislator

Sec. 10. The actions of a justice, judge, or prosecuting attorney in a cause that involves a legislator or a member of a legislator's family may not be influenced by any matters previously considered or to be considered by the legislator in the general assembly.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-11
Disclosure of economic interest

Sec. 11. A justice, judge, or prosecuting attorney shall promptly and fully disclose any economic interest or other personal stake the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney may have in a cause in

which the justice, judge, or prosecuting attorney is a participant.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-12
Compensation resulting from material information

Sec. 12. A justice, judge, or prosecuting attorney may not accept any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-13
Excessive compensation for sale, lease, or service

Sec. 13. A justice, judge, or prosecuting attorney may not accept compensation for the sale or lease of any property or service that exceeds the amount that the justice, judge, or prosecuting attorney would charge in the ordinary course of business from any person or entity whom the justice, judge, or prosecuting attorney knows, or has reason to know, has an economic interest in the outcome of a current or future cause in which the justice, judge, or prosecuting attorney is or may be a participant.
As added by P.L.98-2004, SEC.2.

IC 33-23-11-14
Annual statement of economic interests

Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, and prosecuting attorneys.

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.
As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.5.

IC 33-23-11-15
Filing of statement

Sec. 15. (a) The statement of economic interests must be filed with the commission on judicial qualifications:

(1) not later than February 1 if the individual is required to file the statement as an officeholder; or

(2) if a candidate for office, before the individual (or a political party officer acting on behalf of the individual) files:

(A) a declaration of candidacy, if required under IC 3-8-2 or IC 3-8-4-11;

(B) a certified petition of nomination with the Indiana election division under IC 3-8-6;

(C) a certificate of nomination under IC 3-8-7-8;

(D) a certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or

(E) a declaration of intent to be a write-in candidate, if required under IC 3-8-2.

(b) In a county where judges are selected by a county commission on judicial qualifications, a candidate must file a statement with the county commission on judicial qualifications and with the commission on judicial qualifications.

As added by P.L.98-2004, SEC.2.

IC 33-23-11-16

Contents of statement of economic interests

Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative from whom the justice, judge, or prosecuting attorney received a gift or gifts having a total fair market value of more than one hundred dollars ($100).

(2) The name of the employer of the justice, judge, or prosecuting attorney and the employer of the spouse of the justice, judge, or prosecuting attorney.

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, and the nature of the business.

(5) The name of any partnership of which the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, or prosecuting attorney, or the spouse of the justice, judge, or prosecuting attorney, is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, or prosecuting attorney, or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, or prosecuting attorney, owns stock or stock options having a fair market value of more than ten thousand dollars ($10,000).

As added by P.L.98-2004, SEC.2. Amended by P.L.127-2008, SEC.6.

IC 33-23-11-17

Supreme court or court of appeals; prohibited activities of judges

Sec. 17. A justice of the supreme court or judge of the court of appeals may not:

(1) engage in the practice of law;

(2) run for elected office other than a judicial office;

(3) directly or indirectly make any contribution to, or hold any office in, a political party or organization; or

(4) take part in any political campaign;

as provided in Article 7, Section 11 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.2.

IC 33-23-12

Chapter 12. Political Activity of Court Employees

IC 33-23-12-1

Legislative findings

Sec. 1. The general assembly finds that:

(1) the right of every citizen to freely participate in political activity is inherent in the guarantee of free speech contained in Article 1, Section 9 of the Constitution of the State of Indiana and in Amendment I to the Constitution of the United States;

(2) the right to freely participate in political activity is guaranteed to state employees under IC 4-15-10-2;

(3) the judiciary is not less subject to constitutional strictures against governmental interference with the free exercise of speech than are the executive and legislative branches of government; and

(4) employees in the judicial branch of state government have the same rights guaranteed to all Indiana citizens.

As added by P.L.98-2004, SEC.2.

IC 33-23-12-2

"Court employee"

Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

(1) The supreme court.

(2) The court of appeals.

(3) The tax court.

(4) A circuit court.

(5) A superior court.

(6) A juvenile court.

(7) A probate court.

(8) A municipal court.

(9) A city or town court.

(10) A small claims court.

(b) The term does not include a judge of any of the courts listed in subsection (a)(1) through (a)(10).

As added by P.L.98-2004, SEC.2. Amended by P.L.201-2011, SEC.20.

IC 33-23-12-3

Right to participate in or abstain from political activity

Sec. 3. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a court employee may not be:

(1) discouraged from engaging in political activity; or

(2) denied the right to choose to refrain from engaging in political activity.

As added by P.L.98-2004, SEC.2.

IC 33-23-13

Chapter 13. Defense of Judges and Prosecuting Attorneys

IC 33-23-13-1

"Judge" defined

Sec. 1. As used in this chapter, "judge" has the meaning set forth in IC 33-38-12-3.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-2

"Prosecuting attorney" defined

Sec. 2. As used in this chapter, "prosecuting attorney" includes a senior prosecuting attorney appointed under IC 33-39-1.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-3

Defense by attorney general or private counsel

Sec. 3. If a judge or prosecuting attorney is sued for civil damages or equitable relief and the suit would be construed, under notice pleading, as arising out of an act performed within the scope of the duties of the judge or prosecuting attorney, the attorney general shall:

(1) defend the judge or prosecuting attorney in the suit; or

(2) authorize the executive director of the division of state court administration to hire private counsel to provide the defense.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-4

Criminal or disciplinary proceedings

Sec. 4. This chapter does not permit the appointment of counsel for the defense of a judge or prosecuting attorney in criminal or disciplinary proceedings.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-5

Right to select defense counsel; responsibility for civil damages

Sec. 5. This chapter does not:

(1) deprive a judge or prosecuting attorney of the judge's or prosecuting attorney's right to select defense counsel of the judge's or prosecuting attorney's own choice at the judge's or prosecuting attorney's own expense; or

(2) relieve a prosecuting attorney from responsibility for civil damages.

As added by P.L.98-2004, SEC.2.

IC 33-23-13-6

Attorney general employment of legal and other professional services

Sec. 6. The attorney general may employ legal and other professional services necessary to adequately and fully perform the duties required by this chapter.

As added by P.L.98-2004, SEC.2.

IC 33-23-14
Repealed

(Repealed by P.L.108-2010, SEC.10.)

IC 33-23-15
Chapter 15. NICS Appeals

IC 33-23-15-1
Application of chapter

Sec. 1. This chapter applies to the following:

(1) A person civilly committed under IC 12-26-6-8.

(2) A person found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5.

(3) A person found guilty but mentally ill under IC 35-36-2-5.

(4) A person found not responsible by reason of insanity under IC 35-36-2-4.

(5) A person found incompetent to stand trial under IC 35-36-3-1.

(6) A confined offender who is determined to be mentally ill and has been involuntarily transferred to and accepted by the division of mental health and addiction under IC 11-10-4-3.

As added by P.L.110-2009, SEC.11.

IC 33-23-15-2
Petition for review; evidence; findings by court or department of correction

Sec. 2. (a) If a person described in section 1 of this chapter:

(1) has been released from commitment; or

(2) successfully completes a treatment or rehabilitation program;

the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine whether the person is prohibited from possessing a firearm because the person is not a proper person under IC 35-47-1-7(11) through IC 35-47-1-7(13).

(b) In determining whether the person is prohibited from possessing a firearm because the person is not a proper person under IC 35-47-1-7(11) through IC 35-47-1-7(13), the court or department of correction shall consider the following evidence:

(1) The facts and circumstances leading to the person being included in the category of persons to whom this chapter applies.

(2) The person's mental health and criminal history records.

(3) Evidence concerning the person's reputation, including the testimony of character witnesses.

(4) A recent mental health evaluation by a psychiatrist or psychologist licensed to practice in Indiana.

(c) If the court or the department of correction, after considering the evidence described in subsection (b), finds by clear and convincing evidence that:

(1) the person is not a danger to the person or to others;

(2) the person is not likely to act in a manner dangerous to public safety; and

(3) the requested relief would not be contrary to public interest;

the court or department of correction shall transmit its findings to the department of state court administration, and any other information required by the division of state court administration, for transmission to the NICS in accordance with IC 33-24-6-3.

(d) A determination under this section may be appealed only in accordance with section 3 of this chapter.

As added by P.L.110-2009, SEC.11. Amended by P.L.127-2011, SEC.2.

IC 33-23-15-3

Judicial review of decision

Sec. 3. (a) A person who receives an adverse decision under section 2 of this chapter may seek review of the decision by filing, not later than thirty (30) days after receiving the adverse decision, an action for review:

(1) in the court of conviction, if the adverse decision was made by the department of correction; or

(2) in a circuit or superior court in a county adjacent to the county in which the court rendered the adverse decision, if the adverse decision was made by a court.

(b) The court hearing an action for review filed under this section shall conduct the review hearing de novo. The hearing shall be conducted in accordance with section 2 of this chapter.

(c) The determination of a court under this section is a final appealable order.

As added by P.L.110-2009, SEC.11. Amended by P.L.1-2010, SEC.131.

IC 33-23-16
Chapter 16. Problem Solving Courts

IC 33-23-16-1
"Board"
Sec. 1. As used in this chapter, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-4.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-2
"Chemical test"
Sec. 2. As used in this chapter, "chemical test" means an analysis of an individual's:
(1) blood;
(2) breath;
(3) hair;
(4) sweat;
(5) saliva;
(6) urine; or
(7) other bodily substance;
to determine the presence of alcohol, a drug, or a controlled substance (as defined in IC 35-48-1-9).
As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.3.

IC 33-23-16-3
"Community court"
Sec. 3. As used in this chapter, "community court" means a problem solving court focused on addressing specific neighborhood or local criminal problems by:
(1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring; and
(2) linking eligible defendants or juveniles to individually tailored programs or services.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-4
"Domestic violence court"
Sec. 4. As used in this chapter, "domestic violence court" means a problem solving court focused on the safety of the victim and the defendant's accountability by:
(1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring;
(2) linking victims to programs and services; and
(3) linking eligible defendants and juveniles to programs and services.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-5
"Drug court"

Sec. 5. (a) As used in this chapter, "drug court" means a problem solving court focused on addressing the substance abuse issues of defendants or juveniles in the criminal justice system by:

(1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible defendants or juveniles to individually tailored programs or services.

(b) The term does not include an alcohol abuse deterrent program established under IC 9-30-9.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-6
"Family dependency drug court"

Sec. 6. As used in this chapter, "family dependency drug court" means a problem solving court focused on supporting families that include a child who has been adjudicated a child in need of services and a parent, guardian, or other household member who has substance abuse problems by:

(1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible parents, guardians, other household members, and juveniles to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-7
"Mental health court"

Sec. 7. As used in this chapter, "mental health court" means a problem solving court focused on addressing the mental health needs of individuals in the court system by:

(1) bringing together mental health professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible individuals to individually tailored programs or services.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-8
"Problem solving court"

Sec. 8. As used in this chapter, "problem solving court" means a court providing a process for immediate and highly structured judicial intervention for eligible individuals that incorporates the following problem solving concepts:

(1) Enhanced information to improve decision making.

(2) Engaging the community to assist with problem solving.

(3) Collaboration with social service providers and other stakeholders.

(4) Linking participants with community services based on risk and needs.

(5) Participant accountability.
(6) Evaluating the effectiveness of operations continuously.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-9
"Reentry court"
Sec. 9. As used in this chapter, "reentry court" means a problem solving court that is focused on the needs of individuals who reenter the community after a period of incarceration and that may provide a range of necessary reintegration services for eligible individuals, including the following:
(1) Supervision.
(2) Offender assessment.
(3) Judicial involvement.
(4) Case management and services.
(5) Program evaluation.
(6) Counseling.
(7) Rehabilitative care.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-9.1
"Rehabilitative service"
Sec. 9.1. As used in this chapter, "rehabilitative service" means a class, program, or service provided:
(1) to an individual participating in a problem solving court program; and
(2) by:
(A) the problem solving court; or
(B) another entity to which the individual has been referred by the problem solving court;
to address the rehabilitative needs of the individual, including classes, programs, or services concerning education, criminal thinking and behavior, employment, and parenting and family support.
As added by P.L.95-2013, SEC.1.

IC 33-23-16-10
"Veterans' court"
Sec. 10. As used in this chapter, "veterans' court" means a problem solving court focused on addressing the needs of veterans in the court system by:
(1) bringing together substance abuse rehabilitation professionals, mental health professionals, local social programs, and intensive judicial monitoring; and
(2) linking eligible veterans to individually tailored programs or services.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-11
Establishment of a problem solving court

Sec. 11. A city court or county court may establish a problem solving court. A problem solving court established under this section may be a:

(1) drug court;
(2) mental health court;
(3) family dependency drug court;
(4) community court;
(5) reentry court;
(6) domestic violence court;
(7) veteran's court; or
(8) any other court certified as a problem solving court by the Indiana judicial center under section 17 of this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-12
Jurisdiction and eligibility requirements for problem solving courts

Sec. 12. (a) A problem solving court and accompanying services of the problem solving court are available only to individuals over whom the court that established the problem solving court has jurisdiction.

(b) A problem solving court with criminal jurisdiction that does not have felony jurisdiction may assume jurisdiction over an individual convicted of a felony from another court within the county if the problem solving court returns the case to the referring court for additional proceedings when:

(1) the individual has successfully completed the problem solving court's program; or
(2) the individual's participation in the problem solving court program is terminated by the problem solving court.

(c) The board shall adopt rules prescribing minimum eligibility criteria for an individual to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-13
Individual eligibility requirements

Sec. 13. An individual is eligible to participate in a problem solving court program only if:

(1) the individual meets all of the eligibility criteria established by the board under section 12 of this chapter;
(2) the judge of the problem solving court approves the admission of the individual to the problem solving court program; and
(3) the individual is referred to the problem solving court as a result of at least one (1) of the following:
    (A) A condition of a pretrial diversion program authorized by statute or authorized by the judge of the problem solving court and the prosecuting attorney.
    (B) The procedure described in section 14 of this chapter.

(C) The procedure described in section 15 of this chapter.
(D) A condition of probation.
(E) A condition of participation in a community corrections program under IC 11-12-1.
(F) A condition of participation in a forensic diversion program under IC 11-12-3.7.
(G) A condition of a community transition program under IC 11-10-11.5.
(H) A condition of parole.
(I) An order in a dispositional decree under IC 31-34-20 to participate in a family dependency drug court if the individual is a parent, guardian, or another household member of a child adjudicated a child in need of services.
(J) A condition of an informal adjustment program under IC 31-37-9.
(K) Involvement in:
(i) a child support proceeding;
(ii) a mental health commitment; or
(iii) a civil protection proceeding.
(L) A condition of an informal adjustment program under IC 31-34-8.
(M) A condition of a misdemeanor sentence.
(N) A condition of a program authorized by the:
(i) judge of a problem solving court; and
(ii) department of correction or the county sheriff.

As added by P.L.108-2010, SEC.4. Amended by P.L.136-2012, SEC.7; P.L.95-2013, SEC.2.

IC 33-23-16-14
Deferred prosecution

Sec. 14. (a) A court, without entering a judgment of conviction, may defer proceedings against an individual and place the individual in a problem solving court program under this section only if:
(1) the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter;
(2) the individual pleads guilty and consents to the referral; and
(3) the judge of the problem solving court, the prosecuting attorney, and the individual all agree upon certain conditions for the individual's participation in the problem solving court program and on the duration of those conditions.

(b) When an individual's participation in a problem solving court program under this section has been terminated as provided under section 14.5 of this chapter, the problem solving court shall:
(1) enter a judgment of conviction against the individual;
(2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to enter a judgment of conviction against the individual; or
(3) otherwise dispose of the case.

(c) If an individual fulfills the conditions established by a problem solving court under subsection (a), the problem solving court shall:

(1) dismiss the charges against the individual;
(2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to dismiss the charges against the individual; or
(3) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.4.

IC 33-23-16-14.5
Termination of participation

Sec. 14.5. (a) A problem solving court may terminate an individual's participation in a problem solving court program if the individual has violated at least one (1) of the conditions of the individual's:
(1) participation agreement; or
(2) case management plan.

(b) If it is alleged that an individual has violated at least one (1) condition of a problem solving court program, the problem solving court may:
(1) remand the individual into custody;
(2) order a summons to be issued to the individual to appear; or
(3) order a warrant for the individual's arrest if there is a risk that the individual may:
(A) flee the jurisdiction; or
(B) cause harm to the individual or another individual.

(c) The problem solving court judge or other hearing officer shall conduct a hearing concerning an alleged violation of a condition of a problem solving court program as follows:
(1) The state must prove the violation by a preponderance of the evidence.
(2) The evidence must be presented in open court.
(3) The individual who is alleged to have committed the violation is entitled to:
(A) receive written notice of the alleged violation;
(B) obtain the disclosure of evidence against the individual;
(C) confront and cross-examine witnesses; and
(D) be represented by counsel.

(d) An individual participating in a problem solving court program may not be terminated from the problem solving court program for failure to pay a:
(1) problem solving court program service fee; or
(2) chemical testing fee;
assessed against the individual by the problem solving court unless the individual recklessly fails or willfully refuses to pay the assessed fee.

(e) Except as provided in sections 14 and 15 of this chapter, if the problem solving court judge or hearing officer finds that an individual participating in a problem solving court program has violated a condition of the program, the problem solving court judge or hearing officer may:

(1) continue the individual's participation in the problem solving court program with or without modifying or expanding the individual's conditions for participating in the problem solving court program; or

(2) terminate the individual's participation in the problem solving court program.

As added by P.L.187-2011, SEC.5.

IC 33-23-16-15

Individuals with nonsuspendible sentences

Sec. 15. (a) A problem solving court may place an individual in a problem solving court program under this section if the individual is convicted of an offense that is nonsuspendible and the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter.

(b) If the requirements of subsection (a) are met, the court may:

(1) order the execution of the individual's nonsuspendible sentence and stay execution of all or part of the nonsuspendible part of the individual's sentence pending the individual's successful completion of a problem solving court program; and

(2) suspend all or part of the suspendible part of the individual's nonsuspendible sentence, place the individual on probation for the suspended part of the sentence, and require as a condition of probation that the person successfully complete a problem solving court program.

(c) If an individual has been terminated from a problem solving court program under this section as provided in section 14.5 of this chapter, the court may:

(1) if the person is serving the nonsuspendible part of the person's sentence:

(A) lift the stay of execution of the nonsuspendible part of the individual's sentence and order the individual to serve all or a part of the nonsuspendible sentence; or

(B) otherwise dispose of the case; or

(2) if the individual is serving the suspendible part of the individual's sentence:

(A) order all or a part of the individual's suspendible sentence to be executed; or

(B) otherwise dispose of the case.

(d) If an individual successfully completes a problem solving court program under this section, the court may:

(1) waive execution of the nonsuspendible part of the individual's sentence; or

(2) otherwise dispose of the case.

As added by P.L.108-2010, SEC.4. Amended by P.L.187-2011, SEC.6; P.L.136-2012, SEC.8.

IC 33-23-16-16

Certification of problem solving courts; personnel certification

Sec. 16. (a) As used in this section, "effective date" means the

date established by the board after which minimum employment qualifications are required for persons employed by a problem solving court program.

(b) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established under IC 33-38-9.

(c) The board:

(1) shall adopt rules establishing requirements and procedures for:

(A) initial certification;

(B) recertification; and

(C) decertification;

of problem solving courts; and

(2) may adopt rules concerning educational and occupational qualifications for problem solving court employees.

(d) If the board adopts qualifications for the employees of problem solving courts under subsection (c)(2):

(1) the board shall establish an effective date after which a person employed by a problem solving court must meet the qualifications; and

(2) the qualifications do not apply to a person who is employed:

(A) by a certified problem solving court before the effective date; or

(B) as administrative personnel.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-17

Duties of the Indiana judicial center

Sec. 17. The Indiana judicial center shall:

(1) ensure that problem solving courts comply with the rules adopted under this chapter and applicable federal regulations;

(2) certify problem solving courts according to the requirements and procedures established under section 16(c)(1) of this chapter; and

(3) require, as a condition of operation, that each problem solving court created or funded under this chapter be certified according to the rules adopted by the board.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-18

Authority of the Indiana judicial center to revoke the certification of a problem solving court; implementation authority

Sec. 18. The Indiana judicial center may:

(1) revoke the certification of a problem solving court if the Indiana judicial center determines that the problem solving court does not comply with rules adopted under this chapter and applicable federal regulations; and

(2) enter into agreements or contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;
(D) a state educational institution or private postsecondary educational institution; or
(E) a public or private agency;
to implement this chapter.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-19
Petition to establish a problem solving court

Sec. 19. (a) A court shall notify the Indiana judicial center of the court's intention to establish a problem solving court during the planning for the establishment of the problem solving court.

(b) A court seeking to establish a problem solving court must submit a petition for approval to the Indiana judicial center in accordance with rules adopted by the board.

(c) A problem solving court may not:
(1) assess fees; or
(2) collect fees;
until the problem solving court is certified by the Indiana judicial center.
As added by P.L.108-2010, SEC.4.

IC 33-23-16-20
Services provided by a problem solving court

Sec. 20. (a) A problem solving court may provide the following services to individuals participating in problem solving court programs:
(1) Screening for eligibility and other appropriate services.
(2) Assessment.
(3) Education.
(4) Referral.
(5) Service coordination and case management.
(6) Supervision.
(7) Judicial involvement.
(8) Program evaluation.
(9) Rehabilitative services.

(b) A problem solving court may not provide direct treatment services unless:
(1) the problem solving court is certified by the division of mental health and addiction under IC 12-23-1-6;
(2) the problem solving court uses licensed medical professionals who provide mental health treatment to individuals with psychiatric disorders; and
(3) the court that establishes the problem solving court determines that existing community resources are inadequate to respond satisfactorily to the demand for services from the court.
As added by P.L.108-2010, SEC.4. Amended by P.L.95-2013, SEC.3.

IC 33-23-16-21
Powers of a problem solving court

Sec. 21. A court may take steps necessary to carry out the functions of the problem solving court, including the following:

(1) Hiring employees as needed to perform the required functions of the problem solving court.

(2) Establishing policies and procedures for the problem solving court.

(3) Adopting local court rules as necessary for the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-22

Funding of problem solving courts

Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) A problem solving court may apply for and receive the following:

(1) Gifts, bequests, and donations from private sources.

(2) Grants and contract money from governmental sources.

(3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-23

Fees

Sec. 23. (a) The board shall adopt rules establishing a range of fees that may be assessed to an eligible individual to receive problem solving court services under this chapter.

(b) A court that has established a problem solving court under this chapter may require eligible individuals to pay a fee for problem solving court services.

(c) If a fee is required under subsection (b), the court shall adopt by local court rule a schedule of fees, consistent with the rules adopted by the board under subsection (a), to be assessed for problem solving court services.

(d) The problem solving court or the clerk of the court shall collect fees under this section. The fees must be transferred within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

(e) Fees collected under this section must be used only to fund problem solving court services under this chapter.

As added by P.L.108-2010, SEC.4. Amended by P.L.136-2012, SEC.10; P.L.95-2013, SEC.4.

IC 33-23-16-23.5

Parents and guardians; financial responsibility for fees and expenses assessed against a child

Sec. 23.5. (a) A parent or guardian of a child:

(1) who is:

(A) adjudicated a delinquent child; or

(B) in a program of informal adjustment approved by a juvenile court under IC 31-37-9; and

(2) who is accepted into a problem solving court program;

is financially responsible for the problem solving court services fee and chemical testing expenses assessed against the child by the problem solving court under this chapter.

(b) A parent or guardian of a child described in subsection (a) shall, before a hearing under subsection (c) concerning payment of fees and expenses assessed against the child, provide financial information to the problem solving court as ordered by the problem solving court.

(c) The problem solving court shall hold a hearing and may order the parent or guardian to pay fees and expenses assessed against a child described in subsection (a) unless the problem solving court makes a specific finding that:

(1) the parent or guardian is unable to pay the fees or expenses; or

(2) justice would not be served by ordering the parent or guardian to pay the fees or expenses.

(d) If a parent or guardian is ordered to pay fees or expenses under this section, the parent or guardian shall pay the fees or expenses to the problem solving court or the clerk of the court. The problem solving court shall keep a record of all payments made under this section by each parent or guardian. When a child is discharged from a problem solving court program, the problem solving court shall determine the amount of any unpaid fees or expenses a parent or guardian owes under this section. The problem solving court may reduce the unpaid balance to a final judgment that may be enforced in any court that has appropriate jurisdiction.

As added by P.L.187-2011, SEC.7. Amended by P.L.136-2012, SEC.11.

IC 33-23-16-24

Chemical testing; expenses

Sec. 24. (a) A problem solving court may require an individual participating in a problem solving court program to undergo chemical testing.

(b) An individual may be liable for the cost of any or all chemical tests required by the problem solving court under subsection (a), including:

(1) laboratory expenses; and

(2) problem solving court expenses.

(c) A laboratory that performs a chemical test as ordered by a problem solving court under subsection (a) shall report the results to the problem solving court.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-25
Problem solving court fund

Sec. 25. (a) The Indiana judicial center problem solving court fund is established for the purpose of administering, certifying, and supporting problem solving court programs under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-26
No right to participate in a problem solving court program

Sec. 26. An individual does not have a right to participate in a problem solving court program under this chapter.

As added by P.L.108-2010, SEC.4.

IC 33-23-16-27
Staff immunity

Sec. 27. The coordinator and members of the professional and administrative staff of a problem solving court who perform duties in good faith under this chapter are immune from civil liability for:

(1) acts or omissions in providing services under this chapter; and

(2) the reasonable exercise of discretion in determining eligibility to participate in a problem solving court program.

As added by P.L.108-2010, SEC.4.

IC 33-23-17

Chapter 17. Judicial Technology Oversight Committee

IC 33-23-17-1

"Committee"

Sec. 1. As used in this chapter, "committee" refers to the judicial technology oversight committee established by section 2 of this chapter.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-2

Judicial technology oversight committee; establishment; members and terms

Sec. 2. (a) The judicial technology oversight committee is established.

(b) The committee consists of the following eleven (11) members:

(1) The chief justice of the supreme court or the chief justice's designee.

(2) The chief information officer of the office of technology appointed under IC 4-13.1-2-3 or the chief information officer's designee.

(3) Two (2) members of the senate appointed by the president pro tempore of the senate, not more than one (1) of whom may be affiliated with the same political party.

(4) Two (2) members of the house of representatives appointed by the speaker of the house of representatives, not more than one (1) of whom may be affiliated with the same political party.

(5) One (1) trial court judge appointed by the president of the Indiana Judges Association.

(6) Two (2) circuit court clerks appointed by the president of the Association of Clerks of Circuit Courts of Indiana. One (1) must be a clerk for a county that does not operate under the state's automated judicial system and one (1) must be a clerk for a county that operates under the state's automated judicial system.

(7) One (1) attorney in good standing admitted to the practice of law in Indiana appointed by the president of the Indiana State Bar Association.

(8) One (1) individual affiliated with a taxpayer organization, appointed by the governor.

(c) The following appointed members of the committee shall serve the following initial terms:

(1) One (1) member of the senate shall be appointed for an initial term of one (1) year, and one (1) member of the senate shall be appointed for an initial term of two (2) years, as determined by the president pro tempore of the senate.

(2) One (1) member of the house of representatives shall be appointed for an initial term of one (1) year, and one (1) member of the house of representatives shall be appointed for an initial term of two (2) years, as determined by the speaker of

the house of representatives.

(3) The initial term of the circuit court clerk appointed by the president of the Association of Clerks of Circuit Courts of Indiana is one (1) year.

(4) The initial term of the clerk of the circuit court for a county that does not operate under the state's automated judicial system is two (2) years.

As the initial terms expire, successors shall be appointed for a full three (3) year term.

(d) Except as provided in subsection (c) concerning the initial terms of certain appointed members, the term of each appointed member of the committee is three (3) years. A member appointed to fill the unexpired term of a member serves until the end of the unexpired term. A member may be reappointed.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-3

Chairperson; required meetings

Sec. 3. (a) The chief justice or the chief justice's designee shall serve as the chairperson of the committee.

(b) The committee shall meet:

(1) at least once each calendar quarter during July 2013, through June 30, 2014, and twice each state fiscal year after June 30, 2014; and

(2) at the call of the chairperson.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-4

Committee duties

Sec. 4. (a) The committee shall do the following:

(1) Conduct a continuous study of information technology applications for Indiana's judicial system, including an analysis of appropriate and equitable funding, automated recordkeeping fees and record perpetuation costs, and their allocation between state and local governmental entities.

(2) Develop a long range strategy for technology and automation in Indiana's judicial system, including:

(A) establishing plans for funding and implementing technology and automation;

(B) making recommendations to the division of state court administration for the establishment of a pilot program concerning electronic filing;

(C) allowing public court records to be available on the Internet;

(D) studying the appropriate use of private sector vendors that offer similar interfacing or complementary systems; and

(E) studying any other issues the committee considers appropriate.

(3) Make recommendations to the supreme court concerning the implementation of policies, standards, and rules that promote

the effective use of technology and automation in Indiana courts.

(b) The committee may employ an independent consultant to assist with its study.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-5

Division of state court administration; committee staff

Sec. 5. The division of state court administration shall staff the committee.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-6

Per diem, mileage, and travel allowances; source of payments

Sec. 6. (a) Except as provided in subsection (b), per diem, mileage, travel allowances, and other expenses paid to committee members shall be paid from appropriations made to the supreme court.

(b) Per diem, mileage, and travel allowances paid to committee members who are members of the general assembly shall be paid from appropriations made to the legislative council or the legislative services agency.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-7

Members who are not state employees; per diem, travel and other expenses

Sec. 7. Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-8

Members who are state employees; traveling and other expenses

Sec. 8. Each member of the committee who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.284-2013, SEC.1.

IC 33-23-17-9

Legislative members; per diem, mileage, and travel allowances

Sec. 9. Each member of the committee who is a member of the

general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.
As added by P.L.284-2013, SEC.1.

IC 33-23-17-10
Majority vote to take action

Sec. 10. The affirmative votes of a majority of the members of the committee are required for the committee to take action on any measure.
As added by P.L.284-2013, SEC.1.

IC 33-24

ARTICLE 24. SUPREME COURT

IC 33-24-1

Chapter 1. Justices and Jurisdiction

IC 33-24-1-1

Justices; quorum

Sec. 1. (a) The supreme court consists of five (5) justices.

(b) Three (3) members of the supreme court constitute a quorum.

As added by P.L.98-2004, SEC.3.

IC 33-24-1-2

Jurisdiction

Sec. 2. (a) The supreme court has jurisdiction in appeals coextensive with the state and has jurisdiction as provided by the Constitution of the State of Indiana.

(b) The supreme court has exclusive jurisdiction to:

(1) admit attorneys to practice law in all courts of the state; and

(2) issue restraining orders and injunctions in all cases involving the unauthorized practice of the law;

under rules and regulations as the supreme court may prescribe.

As added by P.L.98-2004, SEC.3.

IC 33-24-1-3

Appeals; amount in controversy

Sec. 3. Except as provided in IC 34-56-1, an appeal may not be taken to the supreme court 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.3.

IC 33-24-1-4

Justice presiding at trial of case

Sec. 4. The justices of the supreme court, in their respective districts, may preside at the trial of any case pending in any county in a district in which the circuit judge is incompetent to preside.

As added by P.L.98-2004, SEC.3.

IC 33-24-2

Chapter 2. Retention of Justices

IC 33-24-2-1

Approval or rejection of justices

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

As added by P.L.98-2004, SEC.3.

IC 33-24-2-2

Justice's statement concerning retention

Sec. 2. A justice 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 justice is to be placed on the general election ballot, indicating that the justice wishes to have the question of the justice's retention placed on the ballot. The justice's statement must include a statement of the justice's name as:

(1) the justice wants the justice'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.3.

IC 33-24-2-3

Expiration of term if no statement filed

Sec. 3. This section applies to a justice:

(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 justice would have been placed on the general election ballot.

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

As added by P.L.98-2004, SEC.3.

IC 33-24-2-4

Expiration of term if retention is rejected

Sec. 4. This section applies to a justice:

(1) who files a statement under section 2 of this chapter; and

(2) whose retention is rejected by the electorate.

The term of a justice ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the justice has been removed. However, if the justice has filed a petition for a recount under IC 3-12-11, the term of the justice 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 justice.

As added by P.L.98-2004, SEC.3.

IC 33-24-2-5
Form of ballot for retention question

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

As added by P.L.98-2004, SEC.3. Amended by P.L.58-2005, SEC.29.

IC 33-24-2-6
Name of justice on statement and voter registration record

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the justice requests the name on the justice's voter registration record be the same as the name the justice uses on the statement. If there is a difference between the name on the justice's statement and the name on the justice'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 justice's voter registration record to be the same as the name on the justice's statement.

As added by P.L.98-2004, SEC.3.

IC 33-24-3

Chapter 3. Duties and Powers

IC 33-24-3-1

Court rules; adoption and publication

Sec. 1. The supreme court shall adopt and publish rules in conformity with IC 33-24-1-2(b) specifying the terms and conditions under which the supreme court and the court of appeals exercise jurisdiction.

As added by P.L.98-2004, SEC.3.

IC 33-24-3-2

Publication and distribution of opinions and reports

Sec. 2. The judicial opinion or decision in each case determined by the supreme court 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.3.

IC 33-24-3-3

Seal

Sec. 3. (a) The supreme court shall have a seal that is devised by the justices of the supreme court.

(b) A description of the seal shall be recorded in the office of the secretary of state.

As added by P.L.98-2004, SEC.3.

IC 33-24-3-4

Powers of court

Sec. 4. The supreme court may do the following:

(1) Frame, direct, and cause to be used all process, establish modes of practice that may be necessary in the exercise of the supreme court's authority, and make and publish regulations concerning all process and modes of practice.

(2) Establish regulations concerning bonds required in appeals to the supreme court, the amount of the penalties related to the bonds, and for approving sureties executing bonds.

(3) Establish regulations concerning giving notice to officers of inferior courts of the granting of stay of execution, or of supersedeas.

(4) Establish regulations concerning proceedings that are requisite in the supreme court in the exercise of the supreme court's authority that are not specially provided for by law.

As added by P.L.98-2004, SEC.3.

IC 33-24-3-5

Additional powers of court

Sec. 5. The supreme court may:

(1) impose and administer all necessary oaths;

(2) punish by fine and imprisonment for contempt of the

supreme court's authority; and

(3) process and compel the attendance of witnesses by attachment and fine.

As added by P.L.98-2004, SEC.3.

IC 33-24-3-6

Certification of questions to court by federal appellate courts

Sec. 6. The supreme court may, by rule of court, provide that if:

(1) the Supreme Court of the United States, a circuit court of appeals of the United States, or the court of appeals of the District of Columbia determines that there are involved in any proceeding before the federal appellate court questions or propositions of the laws of Indiana that are determinative of the proceeding; and

(2) there are no clear controlling precedents in the decisions of the supreme court;

the federal appellate court may certify the questions or propositions of the laws of Indiana to the supreme court for instructions concerning the questions or propositions of state law, and the supreme court, by written opinion, may answer.

As added by P.L.98-2004, SEC.3.

IC 33-24-3-7

Senior judge; appointment; rules

Sec. 7. (a) The supreme court may appoint a judge who is certified as a senior judge by the judicial nominating commission to serve a circuit court, a superior court, a probate court, the tax court, or the court of appeals if the court requests the services of a senior judge.

(b) The supreme court may adopt rules concerning:

(1) certification by the judicial nominating commission; and

(2) appointment by the supreme court;

of senior judges.

As added by P.L.98-2004, SEC.3. Amended by P.L.32-2005, SEC.4; P.L.201-2011, SEC.21.

IC 33-24-4

Chapter 4. Supreme Court Clerk

IC 33-24-4-1

Appointment by chief justice; bond; salary; powers and duties

Sec. 1. (a) The chief justice of the supreme court shall appoint a clerk of the supreme court. The individual appointed serves at the pleasure of the chief justice of the supreme court.

(b) The clerk shall execute a bond in an amount directed by the supreme court.

(c) The clerk shall be paid a salary determined by the supreme court.

(d) In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.

As added by P.L.98-2004, SEC.3. Amended by P.L.14-2004, SEC.190.

IC 33-24-4-2

Duties

Sec. 2. The clerk of the supreme court shall do the following:

(1) Reside, and keep the clerk's office open, in a building provided for that purpose by the state, at the seat of government, from 9 a.m. until 4 p.m. of every day in the year except Sundays and Independence Day.

(2) Procure and preserve in the office all records and other books and stationery required by the court.

(3) Attend, in person or by deputy, the terms of the court.

(4) Administer all oaths authorized by law.

(5) Sign and seal, with the seal, and issue all process required to be issued from the court, under the clerk's hand.

(6) Endorse the time of filing books, records, or writings required to be filed or deposited in the clerk's office.

(7) Make a complete record of all causes finally determined in the court, except the transcript of the court below.

As added by P.L.98-2004, SEC.3.

IC 33-24-4-3

Allowance for record books and stationery furnished

Sec. 3. The supreme court shall allow the clerk of the supreme court a reasonable compensation for the record books and stationery furnished by the clerk for the use of the court if the clerk presents to the court an account specifying each item to be furnished to the court. The account presented by the clerk must be verified by an oath taken and subscribed by the clerk, to be administered by a justice of the court.

As added by P.L.98-2004, SEC.3.

IC 33-24-4-4

Entry of allowance on order book; warrant for payment

Sec. 4. An allowance made under section 3 of this chapter shall be

entered on the order book of the supreme court. Upon receipt of a certified transcript of the allowance that is signed by a justice of the supreme court and attested by the seal of the court, the auditor of state shall issue a warrant for the allowance to the treasurer of state.
As added by P.L.98-2004, SEC.3.

IC 33-24-4-5
Certifying supreme court or appellate court opinion, decision, and judgment

Sec. 5. (a) The clerk of the supreme court shall certify any opinion, decision, and judgment of the supreme court and of the court of appeals to the lower court from which the cause was appealed, in the manner provided by statute and by the rules of the supreme court.

(b) The clerk of the court from which the cause was appealed, upon receipt of the certification, shall file the certification with the papers in the cause, and that court shall order the opinion, decision, and judgment, including its certification, spread of record in the order book of the court.
As added by P.L.98-2004, SEC.3.

IC 33-24-4-6
Inspection of clerk's office

Sec. 6. The supreme court shall annually appoint one (1) of its justices to inspect the office of the clerk of the supreme court and to report, at the next term, the condition of the records and books of that office. The report shall be entered on the order book of the court.
As added by P.L.98-2004, SEC.3.

IC 33-24-4-7
Delivery of books and papers to successor

Sec. 7. The clerk of the supreme court shall deliver to the clerk's successor all the books and papers of the clerk's office.
As added by P.L.98-2004, SEC.3. Amended by P.L.14-2004, SEC.191.

IC 33-24-4-8
Posting of table of fees

Sec. 8. The clerk of the supreme court shall post a table of fees in a conspicuous place in the clerk's office. If the clerk fails to post a table of fees, the clerk may not demand or receive fees for services that the clerk renders.
As added by P.L.98-2004, SEC.3.

IC 33-24-4-9
Personal liability of clerk

Sec. 9. (a) The clerk of the supreme court is not personally liable for any act or omission occurring in connection with the performance of the clerk's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of

the office of clerk.

(b) The fact that the clerk is not personally liable under subsection (a) does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

As added by P.L.60-2010, SEC.1.

IC 33-24-5

Chapter 5. Supreme Court Sheriff

IC 33-24-5-1

Appointment; bond; term of office; vacancies

Sec. 1. (a) On the second Monday of January in each odd-numbered year, the supreme court shall appoint a sheriff.

(b) The sheriff of the supreme court must give bond in the sum of five thousand dollars ($5,000), with sureties to be approved by the court.

(c) The term of the sheriff's office is two (2) years.

(d) When a vacancy in the sheriff's office occurs in vacation, any two (2) of the justices of the court may appoint a sheriff to serve until the next term of the court, when the vacancy shall be filled by a vote of a majority of the court's justices.

As added by P.L.98-2004, SEC.3.

IC 33-24-5-2

Attendance of court; executing orders and process of court

Sec. 2. (a) Except as provided in subsection (b), the sheriff of the supreme court or a county police officer shall:

(1) attend the court in term time;
(2) execute the orders of the court;
(3) preserve order within the court;
(4) execute all process issued out of the court; and
(5) execute all civil process issued out of the court.

(b) This subsection applies only if a consolidated law enforcement department is established under IC 36-3-1-5.1. The ordinance adopted by the legislative body of the consolidated city shall determine whether:

(1) the orders of the court; and
(2) all criminal process issued out of the court;

shall be executed by an officer of the sheriff's department or an officer of the consolidated law enforcement department.

As added by P.L.98-2004, SEC.3. Amended by P.L.227-2005, SEC.10; P.L.1-2006, SEC.502.

IC 33-24-5-3

Transmitting process, rule, or order to county sheriff

Sec. 3. (a) When any process, rule, or order, is received by the sheriff of the supreme court, the sheriff may transmit it by mail to the sheriff of the county where the process, rule, or order is to be served.

(b) The sheriffs of each county are the deputies of the sheriff of the supreme court. However, each county sheriff is liable on the county sheriff's own bond for all acts done by the county sheriff as a deputy of the sheriff of the supreme court.

As added by P.L.98-2004, SEC.3.

IC 33-24-5-4

County sheriff returning process, rule, or order; service by sheriff

of supreme court

Sec. 4. (a) A county sheriff acting as a deputy of the sheriff of the supreme court may:

(1) enclose any process, rule, or order of the court that the county sheriff receives;

(2) direct the process, rule, or order to the sheriff of the supreme court; and

(3) deposit the process, rule, or order in a post office in the county sheriff's county ten (10) days before the return day of the process, rule, or order.

A county sheriff that complies with this subsection is not liable for failing to return the process, rule, or order.

(b) If money must be returned with a process, rule, or order described in subsection (a), the county sheriff may transmit the money by mail, enclosed with the process, rule, or order, addressed to the sheriff of the supreme court. However, the testimony of the postmaster that the payment was mailed is necessary to exempt the county sheriff from liability.

(c) In case of the return of any process, rule, or order of the court described in subsection (a) by any county sheriff, unserved or unsatisfied, the sheriff of the supreme court may visit any county and personally serve the process, rule, or order in the same manner provided by law for the service by county sheriffs. For this service, the sheriff of the supreme court is entitled to receive, for the distance actually traveled in going to and returning from the county seat of the county where the process, rule, or order is to be served, and from the county seat to the place where the process, rule, or order is served, a sum for mileage for each instance equal to the sum per mile paid to state employees and officers plus those other fees allowed by law to county sheriffs, with the rate for mileage to change each time the state government changes its rate per mile. The sum for mileage and fees shall be imposed as costs in the case in which the process, rule, or order is issued, and shall be collected as other costs.

As added by P.L.98-2004, SEC.3.

IC 33-24-5-5

Mileage and fees for service of process, rule, or order

Sec. 5. (a) The mileage and fees for service of any process, rule, or order issued out of the supreme court is the same as in case of similar process from the circuit court.

(b) When any process, rule, or order issued out of the supreme court is served by the county sheriff, the county sheriff is allowed the fees for mileage and one half (1/2) of the fees for service. The remaining half of the fees for service shall be paid the sheriff of the supreme court.

(c) Fees for mileage may be charged only from the county seat of the county in which the process is to be served to the place of service.

(d) When money is collected on any process, rule, or order issued out of the supreme court by the county sheriff, two-thirds (2/3) of the

sheriff's allowance is retained by the county sheriff and the remaining one-third (1/3) must be delivered to the sheriff of the supreme court.
As added by P.L.98-2004, SEC.3.

IC 33-24-5-6
Postage on process, rules, or orders
Sec. 6. The sheriff of the supreme court must pay both the outgoing and return postage on process, rules, or orders issued by the court and recover the funds expended on postage as part of the costs of the proceeding.
As added by P.L.98-2004, SEC.3.

IC 33-24-5-7
Coroner to act as deputy
Sec. 7. The sheriff of the supreme court may require the coroner of any county to act as the sheriff of the supreme court's deputy where the sheriff of that county is an interested party.
As added by P.L.98-2004, SEC.3.

IC 33-24-5-8
Penalties and liabilities
Sec. 8. The sheriff of the supreme court is subject to all the penalties and liabilities of sheriffs of the circuit courts.
As added by P.L.98-2004, SEC.3.

IC 33-24-5-9
Compensation for fuel, stationery, and extra services
Sec. 9. (a) The supreme court must allow the sheriff of the supreme court reasonable compensation for fuel, stationery, and extra services. The sheriff of the supreme court may file a statement verified by an oath administered by the clerk of the court specifying each expenditure eligible for compensation.
(b) The compensation allowed to the sheriff of the supreme court by the court shall be entered on the order book of the court. On the presentation of a certified copy of an order for compensation, attested with the seal of the court, to the auditor of state, the auditor of state shall issue a warrant for the payment of compensation to the sheriff to the treasurer of state.
As added by P.L.98-2004, SEC.3.

IC 33-24-6

Chapter 6. Office of Judicial Administration

IC 33-24-6-1

Creation of office; divisions

Sec. 1. (a) There is created within the office of chief justice the office of judicial administration.

(b) The office consists of two (2) divisions, entitled:

(1) supreme court administration; and

(2) state court administration.

(c) The division of supreme court administration shall be headed by a supreme court administrator. The division of state court administration shall be headed by an executive director.

As added by P.L.98-2004, SEC.3.

IC 33-24-6-2

Personnel; appointment; full-time positions; salaries

Sec. 2. (a) The personnel of the office of judicial administration shall be appointed by and serve at the pleasure of the chief justice.

(b) The personnel shall devote full time to their official duties and may not engage in any other profession for profit.

(c) Personnel salaries shall be fixed by the supreme court subject to approval by the budget agency.

As added by P.L.98-2004, SEC.3.

IC 33-24-6-3

Duties of division of state court administration

Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) By December 31, 2013, develop and implement a standard protocol for sending and receiving court data:

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

(i) a prosecuting attorney's case management system;

(ii) a county court case management system; and

(iii) a county court case management system developed and operated by the division of state court administration;

to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

(8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

(9) Staff the judicial technology oversight committee established by IC 33-23-17-2.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section.

As added by P.L.98-2004, SEC.3. Amended by P.L.110-2009, SEC.12; P.L.130-2009, SEC.19; P.L.1-2010, SEC.132; P.L.284-2013, SEC.2.

IC 33-24-6-4

Office of guardian ad litem and court appointed special advocate services; funding

Sec. 4. (a) The division of state court administration shall

establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that implement and administer, in courts with juvenile jurisdiction, a guardian ad litem or court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this section shall be used for guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

(e) Only guardian ad litem or court appointed special advocate programs certified by the supreme court are eligible for funding under this section.

As added by P.L.98-2004, SEC.3. Amended by P.L.129-2005, SEC.11.

IC 33-24-6-5

Appropriations for guardian ad litem or court appointed special advocate program; formula

Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services cases in each county, as determined by the division of state court administration from reports filed under IC 33-24-6-3,

during the preceding calendar year.

STEP THREE: Divide the result under STEP TWO by the total number of children in need of services cases in Indiana, as determined by the division of state court administration from reports filed under IC 33-24-6-3, during the preceding calendar year.

STEP FOUR: Multiply the result under STEP THREE by the remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars ($2,000) or less, the county is entitled to receive a grant of two thousand dollars ($2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services cases in the counties covered under subsection (a) from the total number of children in need of services cases in Indiana, as determined by the division of state court administration, during the preceding calendar year.

STEP TWO: Divide the number of children in need of services cases in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a).

As added by P.L.98-2004, SEC.3. Amended by P.L.91-2007, SEC.1.

IC 33-24-6-6

Duties of division of supreme court administration

Sec. 6. The division of supreme court administration shall perform legal and administrative duties for the justices as are determined by the justices.

As added by P.L.98-2004, SEC.3.

IC 33-24-6-7

Distribution and title of reports

Sec. 7. The reports required by section 3(a)(3) of this chapter shall be:

(1) directed to:

(A) the commission on judicial qualifications;

(B) the chief justice;

(C) the clerk of the supreme court; and

(D) the legislative council;

(2) accessible to the judicial officers of the various courts and to the general public; and

(3) titled "The Indiana Judicial Report".

Reports to the legislative council under subdivision (1)(D) must be in an electronic format under IC 5-14-6.

As added by P.L.98-2004, SEC.3.

IC 33-24-6-8
Enforcement of chapter by rules of supreme court

Sec. 8. The supreme court shall provide by rule of the court for the enforcement of this chapter.
As added by P.L.98-2004, SEC.3.

IC 33-24-6-9
Appointment of administrative or clerical personnel

Sec. 9. The authority of the courts to appoint administrative or clerical personnel is not limited by this chapter.
As added by P.L.98-2004, SEC.3.

IC 33-24-6-10
Trial court districts; transfer of judges

Sec. 10. (a) The executive director shall, with the approval of the supreme court, divide the state geographically into at least eight (8) trial court districts.

(b) On the basis of relevant information compiled by the executive director concerning the volume and nature of judicial workload, the executive director shall recommend to the supreme court the temporary transfer of any judge or judges. The supreme court shall consider the recommendation and temporarily transfer any judge of a trial court of general or special jurisdiction to another court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, a judge may not be temporarily transferred to a court in another county within the district the judge normally serves that, at its nearest point, is more than forty (40) miles from the seat of the county the judge normally serves unless the judge consents to the transfer.
As added by P.L.98-2004, SEC.3.

IC 33-24-6-11
Expenses for judges transferred to other counties

Sec. 11. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which the judge is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county. The certificate of allowance is prima facie evidence of the correctness of the claims. An item of expenses certified to be correct must be allowed by the board of commissioners of that county.
As added by P.L.98-2004, SEC.3.

IC 33-24-6-12
Judicial technology and automation project fund

Sec. 12. (a) The judicial technology and automation project fund is established to fund the judicial technology and automation project.

The division of state court administration shall administer the fund. The fund consists of the following:

(1) Deposits made under IC 33-37-9-4.

(2) Other appropriations made by the general assembly.

(3) Grants and gifts designated for the fund or the judicial technology and automation project.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The budget committee may release funds for the judicial technology and automation project after the division of state court administration certifies in conjunction with the Indiana office of technology, that the judicial technology automation project is in compliance with the information sharing and exchange provisions of IC 33-24-6-3(a).

As added by P.L.98-2004, SEC.3. Amended by P.L.229-2011, SEC.256; P.L.284-2013, SEC.3.

IC 33-24-7

Chapter 7. Supreme Court Records

IC 33-24-7-1

Orders concerning transcription of records

Sec. 1. When the supreme court or a majority of the justices of the supreme court consider it necessary to have all or part of the records of the court transcribed to protect those records from mutilation or decay arising from any cause, the court or justices shall order the clerk of the supreme court to transcribe the records in suitable books to be procured by the clerk for that purpose. The court shall make a reasonable allowance for the transcription to the clerk in an amount that the court considers just and proper. The allowance, when certified by a justice of the court, shall be audited by the auditor of state and paid as similar allowances in other cases.

As added by P.L.98-2004, SEC.3.

IC 33-24-7-2

Transcription of records; force and effect of transcribed records

Sec. 2. (a) When the supreme court makes an order under section 1 of this chapter, the clerk of the supreme court shall procure the books ordered by the court and transcribe in them the records or parts of records as ordered by the court.

(b) Records or parts of records transcribed under this chapter have the force and effect of the original records. Transcripts of records or parts of records transcribed under this chapter, certified by the clerk, under the seal of the court, have the same force and effect as transcripts of the original records.

As added by P.L.98-2004, SEC.3.

IC 33-24-7-3

Index of supreme court records

Sec. 3. (a) The clerk of the supreme court shall prepare for public use, under the direction of the supreme court, a systematic index to the court's records and papers on file in the clerk's office. The index must include the following:

(1) The title and number of every cause appealed to the supreme court.

(2) The county and court from which appealed.

(3) The date of filing the appeal in the clerk's office.

(4) The date of every decision and how decided.

(5) The number of the box or drawer in which the papers in every case can readily be found.

The clerk shall also properly clean, arrange, and securely tie the papers in each cause and place them in boxes and drawers when they are provided by the proper authorities for that purpose.

(b) The clerk of the supreme court shall also index other papers and records on file in the clerk's office as may be directed by the supreme court.

As added by P.L.98-2004, SEC.3.

IC 33-24-8

Chapter 8. Supreme Court Fees

IC 33-24-8-1

Taxing fees and charging amounts; accounting; report of uncollected fees

Sec. 1. (a) The clerk of the supreme court, for the clerk's services, shall, upon proper books to be kept in the clerk's office for that purpose, tax the fees and charge the amounts specified in this chapter. The fees and amounts belong to and are the property of the state.

(b) On March 31, June 30, September 30, and December 31 of each year, the clerk shall:

(1) make and file with the auditor of state a verified account of all fees and amounts collected during the preceding three (3) months;

(2) pay the amount shown to be due the state to the treasurer of state; and

(3) file with the treasurer of state a verified report of uncollected fees and amounts due the state of Indiana accruing in cases disposed of during that quarter.

As added by P.L.98-2004, SEC.3.

IC 33-24-8-2

Filing fee for supreme court and court of appeals

Sec. 2. The clerk of the supreme court shall tax and charge a fee of two hundred fifty dollars ($250) in each cause filed in either the supreme court or the court of appeals.

As added by P.L.98-2004, SEC.3.

IC 33-24-8-3

Fee bills

Sec. 3. The clerk of the supreme court may, at any time after the services are rendered, issue fee bills under IC 33-37-4-10 for services rendered by the clerk or by another person in the court.

As added by P.L.98-2004, SEC.3.

IC 33-24-8-4

Fees charged and collected; contracts; exceptions

Sec. 4. (a) The clerk of the supreme court shall charge the following fees:

(1) For making record and certificate of admission of attorneys to practice before the supreme court, a fee of two dollars ($2).

(2) For making and furnishing to any person, firm, limited liability company, or corporation unauthenticated copies of the opinions of the supreme court and the court of appeals for the purpose of publication by the person, firm, limited liability company, or corporation obtaining the copies, if a contract has been made by the clerk with the person, firm, limited liability company, or corporation to furnish the copies for at least one

(1) year, a fee of two thousand eight hundred twenty-five dollars ($2,825) per year, to be paid quarterly in advance.

(b) The clerk of the supreme court may make a contract described in subsection (a).

(c) This section does not prohibit proprietors of newspapers from copying opinions of the supreme court and the court of appeals or from making abstracts of these opinions for publication in the newspapers.

(d) For all other unauthenticated copies of the opinions of the supreme court and the court of appeals furnished by the clerk of the supreme court to any person, firm, limited liability company, or corporation, the clerk shall charge one dollar ($1) per page.

(e) The fees and amounts charged under this section shall be deposited by the clerk of the supreme court into the state general fund in the manner and at the time provided for the making of the quarterly reports of other collected fees due the state.

As added by P.L.98-2004, SEC.3.

IC 33-24-8-5

Contents of quarterly report; special reports

Sec. 5. The quarterly report required to be made by the clerk of the supreme court under section 1 of this chapter must show the number and title of the cause and the amount due the state. The clerk is not required to make any other or different reports, except special reports on the order of the supreme court or the court of appeals, or the written request of the governor or auditor of state.

As added by P.L.98-2004, SEC.3.

IC 33-24-8-6

Taxation of sheriffs' fees; transmittal of books, papers, fees, and property to successor; disposition of unclaimed fees

Sec. 6. (a) The clerk of the supreme court shall tax and charge in favor of the sheriff of the supreme court, or in favor of county sheriffs for their services as the deputies of the sheriff of the supreme court, the fees and amounts provided by law. The fees and amounts described in this subsection do not belong to the state but are the property of the sheriff of the supreme court and the sheriff's agents. When the fees are collected, the fees shall be paid over to the sheriff or the sheriff's agents.

(b) The clerk of the supreme court at the expiration of the clerk's term shall hand over to the clerk's successor in office all of the books, papers, fees, costs, charges, and amounts, together with all money and other property received by the clerk by virtue of the clerk's office or under color of that office.

(c) The attorney general shall enforce the collection, for the use and benefit of the party entitled to them, all fees and amounts collected and retained by the person, including penalties, against any persons liable for the fees and amounts. All unclaimed fees collected under this chapter from former clerks that have been paid in for two (2) years and remain in the office of the clerk of the supreme court

for six (6) months uncollected by the person to whom the fees are due, and all other unclaimed fees in the hands of the clerk of the supreme court, after the expiration of two (2) years from the date when the fees are paid to the clerk, shall be paid into the state treasury, to be held as other funds that escheat to the state. The clerk of the supreme court, when fees are paid into the office of the clerk for the benefit of any other officer or person, shall immediately notify that officer or person by mail that the fees have been paid, the date of payment, and the amount of the payment.

As added by P.L.98-2004, SEC.3.

IC 33-24-9

Chapter 9. Appeal Bonds

IC 33-24-9-1

Taxing fees and costs; collection of fees, costs, and executions

Sec. 1. In all cases brought to the supreme court by appeal, in which an appeal bond is executed by the plaintiff in the appeal, the clerk of the supreme court shall:

(1) tax all fees and costs for which the plaintiff is liable in the court, against the principal and sureties on the bonds, as though they were co-plaintiffs or co-defendants;

(2) issue fee bills or executions for the collection of the fees or costs and executions; and

(3) collect all judgments that are rendered by the court against the plaintiffs, against the principals and sureties jointly.

As added by P.L.98-2004, SEC.3.

IC 33-24-9-2

Endorsement on writ; levy on property on principal or surety

Sec. 2. (a) Before delivering a writ for the collection of fees, costs, or execution to the proper officer, the clerk of the supreme court shall endorse on the writ which of the parties is the principal and which is the surety in the writ.

(b) The officer responsible for enforcement of the writ shall first levy upon the property of the principal in the writ. To the extent that sufficient property of the principal cannot be found, the officer shall, without delay, levy the writ upon the property of the surety or sureties, and proceed to sell that property as in other cases.

As added by P.L.98-2004, SEC.3.

IC 33-24-9-3

Limitation of action for collection of fees or costs

Sec. 3. A writ may not be issued under this chapter for the collection of fees or costs more than five (5) years after the date the cause was decided in the supreme court.

As added by P.L.98-2004, SEC.3.

IC 33-24-10

Chapter 10. Disciplinary Proceedings Against Attorneys

IC 33-24-10-1

"Admission and discipline rule"

Sec. 1. As used in this chapter, "admission and discipline rule" refers to the Rules for Admission to the Bar and the "Discipline of Attorneys" adopted by the supreme court.

As added by P.L.98-2004, SEC.3.

IC 33-24-10-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the disciplinary commission created by Admission and Discipline Rule 23.

As added by P.L.98-2004, SEC.3.

IC 33-24-10-3

"Commissioner"

Sec. 3. As used in this chapter, "commissioner" means a member of the disciplinary commission appointed under Admission and Discipline Rule 23.

As added by P.L.98-2004, SEC.3.

IC 33-24-10-4

"Executive secretary"

Sec. 4. As used in this chapter, "executive secretary" refers to the executive secretary of the disciplinary commission.

As added by P.L.98-2004, SEC.3.

IC 33-24-10-5

Statements made to commission; immunity from civil liability

Sec. 5. A person is immune from civil liability for damages for any sworn or written statements made:

(1) without malice and transmitted to the commission, the executive secretary, or the executive secretary's staff; or

(2) in the course of investigatory, hearing, or review proceedings under Admission and Discipline Rule 23.

As added by P.L.98-2004, SEC.3.

IC 33-24-10-6

Liability of commission and staff

Sec. 6. The executive secretary, the executive secretary's staff, counsel, investigators, hearing officers, and the commissioners are immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

As added by P.L.98-2004, SEC.3.

IC 33-24-11

Chapter 11. Indiana Child Custody and Support Advisory Committee

IC 33-24-11-1

Establishment of committee; membership; appointments

Sec. 1. (a) The Indiana child custody and support advisory committee is established. The committee consists of twelve (12) members as follows:

(1) One (1) judge or magistrate whose jurisdiction and caseload includes domestic relations.

(2) One (1) attorney admitted to the practice of law in Indiana who conducts at least fifty percent (50%) of the attorney's practice in the area of domestic relations.

(3) Eight (8) members of the general assembly, with the members chosen from the standing committees that consider child custody and support matters.

(4) A custodial parent.

(5) A noncustodial parent.

(b) The appointments under subsection (a)(3) must include the following:

(1) Four (4) members from the senate, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(2) Four (4) members from the house of representatives, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(c) Appointments of the committee members shall be made as follows:

(1) The speaker of the house of representatives shall appoint the members under subsection (a)(1) and (a)(4) and the four (4) members from the house of representatives under subsection (a)(3).

(2) The president pro tempore of the senate shall appoint the members under subsection (a)(2) and (a)(5) and the four (4) members from the senate under subsection (a)(3).

(d) The members appointed under subsection (a)(1) and (a)(2) must be of opposite gender.

(e) The members appointed under subsection (a)(4) and (a)(5) must be of opposite gender.

As added by P.L.98-2004, SEC.3.

IC 33-24-11-2

Term of appointment; vacancies

Sec. 2. (a) An appointment under section 1 of this chapter is for a two (2) year term. A term begins August 1 of a year and an appointment required to be made that year shall be made before August 2.

(b) If a vacancy occurs, the vacancy shall be filled from the same group that was represented by the outgoing member. The new

member serves for the remainder of the unexpired term.
As added by P.L.98-2004, SEC.3.

IC 33-24-11-3
Designation of chairperson

Sec. 3. The chairman of the legislative council shall designate a member to serve as chairperson of the committee.
As added by P.L.98-2004, SEC.3.

IC 33-24-11-4
Compensation and expenses

Sec. 4. (a) A member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member of the committee who is a state employee but is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on an interim study committee established by the legislative council.
As added by P.L.98-2004, SEC.3.

IC 33-24-11-5
Meetings

Sec. 5. The committee shall meet at the call of the chairperson. The committee may meet any number of times during the year. However, the committee may not be compensated for more than four (4) meetings during a year.
As added by P.L.98-2004, SEC.3.

IC 33-24-11-6
Review of child support guidelines and items relating to children's welfare; recommendations

Sec. 6. (a) The committee shall review the child support guidelines adopted by the supreme court. The committee shall make recommendations, if appropriate, concerning any amendments to the guidelines. In reviewing the guidelines and formulating recommendations, the committee shall consider all relevant matters, including the following:

(1) The mathematics pertaining to the child support guideline chart.

(2) The actual costs of supporting a child.

(3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
(4) Equality of child support awards for the children of the parties, regardless of birth order.
(5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
(6) The age of a child to the extent that the child may require different amounts of support at different ages.
(7) Clarification regarding under what circumstances, if any, support may be abated.
(8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
(9) The application of the guidelines to a split custody situation.
(10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed if the family remained intact.

(b) In addition to the duties set forth in subsection (a), the committee shall review custody and educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

As added by P.L.98-2004, SEC.3.

IC 33-24-11-7
Reports

Sec. 7. The committee shall submit a report to the supreme court administrator and to the legislative services agency not later than August 1 of each year. The report to the legislative services agency must be in an electronic format under IC 5-14-6.

As added by P.L.98-2004, SEC.3.

IC 33-24-11-8
Distribution of reports

Sec. 8. The supreme court administrator shall distribute the report to the members of the supreme court.

As added by P.L.98-2004, SEC.3.

IC 33-24-11-9
Supreme court review of report

Sec. 9. The supreme court shall review the committee's report. The supreme court may amend the child support guidelines adopted by the supreme court based upon the committee's recommendations.

As added by P.L.98-2004, SEC.3.

IC 33-24-12
Chapter 12. Civil Legal Aid Fund

IC 33-24-12-1
"Fund"
Sec. 1. As used in this chapter, "fund" refers to the civil legal aid fund established by section 5 of this chapter.
As added by P.L.98-2004, SEC.3.

IC 33-24-12-2
"Indigent"
Sec. 2. As used in this chapter, "indigent" means an individual whose income is not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.
As added by P.L.98-2004, SEC.3.

IC 33-24-12-3
"Legal services provider"
Sec. 3. As used in this chapter, "legal services provider" means a private, nonprofit organization incorporated and operated exclusively in Indiana, the primary function and purpose of which is to provide civil legal services without charge to the indigent.
As added by P.L.98-2004, SEC.3.

IC 33-24-12-4
Eligibility requirements for receipt of funds
Sec. 4. To be eligible for the receipt of funds under this chapter, a legal services provider must meet the following requirements:
(1) The legal services provider must have been:
(A) incorporated before July 2, 1997; or
(B) incorporated and providing civil legal aid to the indigent for three (3) years immediately preceding the application for funds from the civil legal aid fund.
(2) The legal services provider must submit an opt-in form to the executive director of the division of state court administration before May 2 of each year. The form must include the following information:
(A) The name, address, and telephone number of the legal services provider.
(B) The Internal Revenue Code 501(c)(3) form of the legal services provider.
(C) The name and address of the executive director and board president of the legal services provider.
(D) A list of all counties within the incorporated service area of the legal services provider.
(E) Certification that the legal services provider has provided legal services to indigent individuals within its service area for the preceding three (3) years and that the

legal services provider will continue to provide legal services to the indigent for the year following receipt of funds from the civil legal aid fund.

(3) The legal services provider may not do any of the following:

(A) Make available funds, personnel, or equipment for use in advocating or opposing a plan or proposal, represent a party, or participate in litigation that is intended to or has the effect of altering, revising, or reapportioning a legislative, a judicial, or an elective district at any level of government, including influencing the timing or manner of the taking of a census.

(B) Attempt to influence the issuance, amendment, or revocation of an executive order, regulation, or other statement of general applicability and future effect by a federal, state, or local agency.

(C) Attempt to influence an adjudicatory proceeding of a federal, state, or local agency if such part of the proceeding is designed for the formulation or modification of an agency policy of general applicability and future effect.

(D) Attempt to influence the passage or defeat of legislation, a constitutional amendment, a referendum, an initiative, or similar procedure of the Congress, a state, or a local legislative body.

(E) Attempt to influence the conduct of oversight proceedings of the Legal Services Corporation or a person or an entity receiving financial assistance provided by the Legal Services Corporation.

(F) Pay for a personal service, an advertisement, a telegram, a telephone communication, a letter, printed or written matter, an administrative expense, or a related expense, associated with an activity prohibited in this subdivision.

(G) Initiate or participate in a class action suit.

(H) Support or conduct a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or an antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity. However, this clause may not be construed to prohibit the training of an attorney or a paralegal in the provision of:

(i) adequate legal assistance to eligible clients; or

(ii) advice to an eligible client as to the legal rights of the client.

(I) Participate in litigation:

(i) on behalf of a person incarcerated in a federal, state, or local prison; or

(ii) arising out of the incarceration of a person described in item (i).

As added by P.L.98-2004, SEC.3.

IC 33-24-12-5

Establishment of civil legal aid fund; administration

Sec. 5. (a) The civil legal aid fund is established to provide additional revenue for legal services providers.

(b) The fund is administered by the division of state court administration.

As added by P.L.98-2004, SEC.3.

IC 33-24-12-6

Formula for fund distribution

Sec. 6. (a) The division of state court administration shall annually determine the amount to be distributed from the fund to each county's legal services provider under the following formula:

STEP ONE: Determine the number of civil cases filed in the county during the year as reported by the most recent Indiana Judicial Report.

STEP TWO: Determine the number of civil cases filed in Indiana during the year as reported by the most recent Indiana Judicial Report.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the quotient determined in STEP THREE by the annual amount appropriated under section 7 of this chapter or by the annual amount of the appropriation from the state general fund as provided in the state budget act, whichever is greater.

Except as provided in subsection (b), the product determined in STEP FOUR is the amount to be distributed to the legal services provider or providers having the county in its service area.

(b) In a county where there is more than one (1) legal services provider, the amount distributed from the fund for that county shall be distributed among the legal services providers in direct proportion to the number of legal services providers in that county.

(c) Distributions from the fund shall be made on January 1 and July 1 of each year. Money in the fund is annually appropriated to carry out the purposes of the fund.

As added by P.L.98-2004, SEC.3.

IC 33-24-12-7

Appropriation from general fund

Sec. 7. There is appropriated on June 30 and December 31 of each year five hundred thousand dollars ($500,000) from the state general fund for deposit into the fund.

As added by P.L.98-2004, SEC.3.

IC 33-24-13

Chapter 13. Indiana Conference for Legal Education Opportunity

IC 33-24-13-1

"Program"

Sec. 1. As used in this chapter, "program" refers to the Indiana conference for legal education opportunity established by section 2 of this chapter.

As added by P.L.98-2004, SEC.3.

IC 33-24-13-2

Establishment of program; purpose

Sec. 2. The Indiana conference for legal education opportunity is established to assist Indiana minority, low income, or educationally disadvantaged college graduates in pursuing a law degree and a career in the Indiana legal and professional community.

As added by P.L.98-2004, SEC.3.

IC 33-24-13-3

Organization and administration of program; advisory committee

Sec. 3. (a) The program shall be organized and administered by the chief justice of the supreme court. The chief justice shall appoint an advisory committee composed of eight (8) members as follows:

(1) Two (2) practicing attorneys.

(2) Two (2) judges.

(3) Two (2) Indiana law school professors or administrators.

(4) Two (2) members representing community groups.

(b) The chief justice shall serve as chair of the advisory committee.

(c) Appointed members of the committee serve for three (3) year terms and may be reappointed.

(d) The committee shall solicit applications and select persons for the program who:

(1) have earned a bachelor's degree;

(2) have applied to an Indiana law school;

(3) have demonstrated the interest, motivation, and capacity to earn a law degree; and

(4) would benefit from the special training offered by the program.

(e) The committee shall award annual stipends to certified graduates of the program.

As added by P.L.98-2004, SEC.3.

IC 33-24-13-4

Preparatory course of study required; instructors

Sec. 4. (a) The program must provide for an intensive course of study to prepare the students selected for the demands of a law school education through classroom discussion and instruction in legal research, writing, and analysis.

(b) The program shall be taught by law professors and others from the legal profession and shall be held at an Indiana law school during the summer months.
As added by P.L.98-2004, SEC.3.

IC 33-24-13-5
Financial assistance

Sec. 5. (a) The program must provide financial assistance in the form of an annual stipend for those students who successfully complete the course of study and become certified graduates of the program.

(b) To be eligible for the annual stipend, certified graduates must be admitted to an Indiana law school, enroll on a full-time basis, and maintain good academic standing. However, for good cause and to advance the purposes of the program, the advisory committee may waive the requirement that a certified graduate must enroll on a full-time basis.

(c) The stipend may be awarded for up to three (3) successive academic years, if the student remains eligible. However, for good cause, the advisory committee may approve the award of a stipend to a student for more than three (3) successive academic years if:

(1) the student requires more than three (3) successive academic years to earn a law degree; and

(2) the total amount of the stipend that is awarded to the student does not exceed the amount the student would have been awarded if the student had been enrolled:

(A) on a full-time basis; and

(B) for up to three (3) successive academic years.

As added by P.L.98-2004, SEC.3.

IC 33-24-13-6
Development of programs and opportunities in furtherance of program purposes

Sec. 6. The courts of the state are encouraged and requested to develop programs and opportunities to further the purposes of the program.
As added by P.L.98-2004, SEC.3.

IC 33-24-13-7
Appropriation from general fund

Sec. 7. During every state fiscal year, there is appropriated from the state general fund to the office of judicial administration, division of state court administration, six hundred twenty-five thousand dollars ($625,000) to be used for the Indiana conference for legal education opportunity established by this chapter.
As added by P.L.98-2004, SEC.3.

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.

IC 33-26

ARTICLE 26. TAX COURT

IC 33-26-1

Chapter 1. Establishment of the Indiana Tax Court

IC 33-26-1-1

Indiana tax court; establishment

Sec. 1. The Indiana tax court is established.

As added by P.L.98-2004, SEC.5.

IC 33-26-1-2

Indiana tax court; court of record

Sec. 2. The tax court is a court of record.

As added by P.L.98-2004, SEC.5.

IC 33-26-2
Chapter 2. Tax Court Judge

IC 33-26-2-1
Judge
Sec. 1. The tax court consists of one (1) judge.
As added by P.L.98-2004, SEC.5.

IC 33-26-2-2
Qualifications of judge
Sec. 2. The judge of the tax court must:
(1) be a citizen of Indiana; and
(2) have been admitted to the practice of law in Indiana for a period of at least five (5) years.
As added by P.L.98-2004, SEC.5.

IC 33-26-2-3
Term of office; approval or rejection
Sec. 3. (a) The initial term of office of a person appointed to serve as the judge of the tax court begins on the effective date of that appointment and ends on the date of the next general election that follows the expiration of two (2) years from the effective date of that appointment.
(b) The tax court judge may be approved or rejected for an additional term or terms in the same manner as are the justices of the supreme court under IC 33-24-2.
As added by P.L.98-2004, SEC.5.

IC 33-26-2-4
Vacancy
Sec. 4. (a) Except as otherwise provided in this section, a vacancy on the tax court shall be filled as provided in IC 33-27.
(b) Before the expiration of the sixty (60) day period prescribed by IC 33-27-3-4, the governor shall:
(1) appoint to the tax court one (1) of the three (3) persons initially nominated by the judicial nominating commission; or
(2) reject all the persons initially nominated by the commission.
If the governor does reject all the nominees, the governor shall notify the chairman of the judicial nominating commission of that action. The commission shall then submit the nominations of three (3) new candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy on the tax court by appointing one (1) of the new candidates within sixty (60) days from the date the names of the new candidates are submitted by the commission.
As added by P.L.98-2004, SEC.5.

IC 33-26-2-5
Salary; expenses; full-time position
Sec. 5. (a) The judge of the tax court is entitled to an annual salary

equal to the annual salary provided in IC 33-38-5-8 to a judge of the court of appeals. In addition, the judge of the tax court is entitled to the following:

(1) Reimbursement for traveling expenses and other expenses actually incurred in connection with the judge's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(2) A subsistence allowance equal to the amount provided under IC 33-38-5-8 to a judge of the court of appeals who is not the chief judge of the court of appeals.

(b) The judge of the tax court:

(1) shall devote full-time to judicial duties; and

(2) may not engage in the practice of law.

(c) The state shall pay the annual salary prescribed in subsection (a) from the state general fund.

(d) The state shall furnish an automobile to the judge of the state tax court.

As added by P.L.98-2004, SEC.5.

IC 33-26-2-6

Disqualification; judge pro tempore

Sec. 6. If the judge of the tax court is disqualified from hearing a case or is incapable of exercising judicial duties with respect to the case, the chief justice of the supreme court shall appoint a judge pro tempore to sit in place of the disqualified or absent judge.

As added by P.L.98-2004, SEC.5.

IC 33-26-3

Chapter 3. Jurisdiction and Venue

IC 33-26-3-1

Limited jurisdiction; exclusive jurisdiction

Sec. 1. The tax court is a court of limited jurisdiction. The tax court has exclusive jurisdiction over any case that arises under the tax laws of Indiana and that is an initial appeal of a final determination made by:

(1) the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1); or

(2) the Indiana board of tax review.

As added by P.L.98-2004, SEC.5.

IC 33-26-3-2

Other jurisdiction

Sec. 2. In addition to the jurisdiction described in section 1 of this chapter, the tax court has:

(1) any other jurisdiction conferred by statute; and

(2) exclusive jurisdiction over any case that was an initial appeal of a final determination made by the state board of tax commissioners before January 1, 2002.

As added by P.L.98-2004, SEC.5.

IC 33-26-3-3

Original tax appeals

Sec. 3. The cases over which the tax court has exclusive original jurisdiction are referred to as original tax appeals in this article. The tax court does not have jurisdiction over a case unless:

(1) the case is an original tax appeal; or

(2) the tax court has otherwise been specifically assigned jurisdiction by statute.

As added by P.L.98-2004, SEC.5.

IC 33-26-3-4

Location of evidentiary hearings

Sec. 4. A taxpayer that appeals to the tax court shall, at the time the appeal is filed, elect to have all evidentiary hearings in the appeal conducted in one (1) of the following counties:

(1) Allen County.

(2) Jefferson County.

(3) Lake County.

(4) Marion County.

(5) St. Joseph County.

(6) Vanderburgh County.

(7) Vigo County.

As added by P.L.98-2004, SEC.5.

IC 33-26-3-5

Election by appellee of location of evidentiary hearings

Sec. 5. A taxpayer that is an appellee in an appeal to the tax court shall, within thirty (30) days after it receives notice of the appeal, elect to have all evidentiary hearings in the appeal conducted in a county listed in section 4 of this chapter.
As added by P.L.98-2004, SEC.5.

IC 33-26-3-6
Jurisdiction; gaming card excise tax

Sec. 6. (a) The tax court does not have jurisdiction over a case that is an appeal from a final determination made by the Indiana gaming commission under IC 4-32.2.

(b) The tax court has jurisdiction over a case that is an appeal from a final determination made by the department of state revenue concerning the gaming card excise tax established under IC 4-32.2-10.
As added by P.L.98-2004, SEC.5. Amended by P.L.91-2006, SEC.11.

IC 33-26-4

Chapter 4. Offices and Personnel

IC 33-26-4-1

Principal office

Sec. 1. (a) The tax court shall maintain its principal office in Indianapolis.

(b) The Indiana department of administration shall provide suitable facilities for the court in Indianapolis.

(c) If the court hears a case at a location outside Marion County, the executive of the county in which the court sits shall provide the court with suitable facilities.

As added by P.L.98-2004, SEC.5.

IC 33-26-4-2

Employees; clerk

Sec. 2. (a) The tax court may employ:

(1) a bailiff;

(2) a clerk;

(3) a reporter;

(4) a clerical assistant; or

(5) any other personnel that the court needs to perform its duties.

(b) The clerk of the supreme court shall serve as the clerk of the tax court.

As added by P.L.98-2004, SEC.5.

IC 33-26-5

Chapter 5. Small Claims Docket

IC 33-26-5-1

Small claims docket

Sec. 1. The tax court shall establish a small claims docket for processing:

(1) claims for refunds from the department of state revenue that do not exceed five thousand dollars ($5,000) for any year; and

(2) appeals of final determinations of assessed value made by the Indiana board of tax review that do not exceed forty-five thousand dollars ($45,000).

As added by P.L.98-2004, SEC.5.

IC 33-26-5-2

Rules and procedures

Sec. 2. The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

As added by P.L.98-2004, SEC.5.

IC 33-26-6

Chapter 6. Appellate Review; Rules and Procedures

IC 33-26-6-0.2

Jurisdiction of tax court under prior law

Sec. 0.2. (a) Notwithstanding IC 33-3-5-2, as amended by P.L.198-2001 (before its repeal, now codified in this chapter), the tax court has exclusive jurisdiction over any case that arises under the tax laws of this state and that is an initial appeal initiated after December 31, 2001, of a final determination made by the department of local government finance if the following apply:

(1) The tax court would have had jurisdiction over the case if the appeal had been initiated before January 1, 2002.

(2) P.L.198-2001 does not provide that the final determination is subject to appeal to the Indiana board of tax review.

(b) IC 33-3-5-14 (as amended by P.L.198-2001 before its repeal, now codified at section 3 of this chapter), and IC 33-3-5-14.2 (as added by P.L.198-2001 before its repeal, now codified at IC 33-26-7-1, IC 33-26-7-2, IC 33-26-7-3, and IC 33-26-7-4), IC 33-3-5-14.5 (as added by P.L.198-2001, before its repeal, now codified at section 5 of this chapter), and IC 33-3-5-14.8 (as added by P.L.198-2001, before its repeal, now codified at section 6 of this chapter) apply to appeals initiated under IC 6-1.1-15-5, as amended by P.L.198-2001, of final determinations of the Indiana board of tax review issued after December 31, 2001.

As added by P.L.220-2011, SEC.531.

IC 33-26-6-1

Trial without jury; adoption of rules and procedures

Sec. 1. (a) The tax court shall try each original tax appeal without the intervention of a jury.

(b) The tax court shall adopt rules and procedures under which original tax appeals are heard and decided.

As added by P.L.98-2004, SEC.5.

IC 33-26-6-2

Tax appeal or injunction; injunction pending appeal

Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) A taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

(1) the issues that the petitioner will raise in the original tax appeal; and

(2) the equitable considerations for which the tax court should

order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

(1) the issues raised by the original tax appeal are substantial;

(2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and

(3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the Indiana gaming commission under IC 4-32.2.

(e) This section applies to a final determination made by the department of state revenue concerning the gaming card excise tax established under IC 4-32.2-10.

As added by P.L.98-2004, SEC.5. Amended by P.L.91-2006, SEC.12.

IC 33-26-6-3

Scope of proceeding; law governing

Sec. 3. (a) Subject to subsection (b), with respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue and the state board of tax commissioners.

(b) Judicial review of disputed issues of fact must be confined to:

(1) the record of the proceeding before the Indiana board of tax review; and

(2) any additional evidence taken under section 5 of this chapter.

The tax court may not try the case de novo or substitute its judgment for that of the Indiana board of tax review. Judicial review is limited to only those issues raised before the Indiana board of tax review, or otherwise described by the Indiana board of tax review, in its final determination.

(c) A person may obtain judicial review of an issue that was not raised before the Indiana board of tax review only to the extent that the:

(1) issue concerns whether a person who was required to be notified of the commencement of a proceeding under this chapter was notified in substantial compliance with the applicable law; or

(2) interests of justice would be served by judicial resolution of an issue arising from a change in controlling law occurring after the Indiana board of tax review's action.

As added by P.L.98-2004, SEC.5.

IC 33-26-6-4

Burden of demonstrating invalidity of action; standard of review;

findings; standards for granting relief

Sec. 4. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding asserting the invalidity.

(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

As added by P.L.98-2004, SEC.5.

IC 33-26-6-5

Additional evidence; remand

Sec. 5. (a) This section applies with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the Indiana board of tax review only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.

(2) Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

(c) The tax court may remand a matter to the Indiana board of tax review before final disposition of a petition for review with directions that the Indiana board of tax review conduct further factfinding or that the Indiana board of tax review prepare an adequate record, if:

(1) the Indiana board of tax review failed to prepare or preserve an adequate record;

(2) the Indiana board of tax review improperly excluded or

omitted evidence from the record; or

(3) a relevant law changed after the action of the Indiana board of tax review and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the Indiana board of tax review. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

As added by P.L.98-2004, SEC.5. Amended by P.L.219-2007, SEC.103.

IC 33-26-6-6

Final determinations of board of tax review; burden of demonstrating invalidity; findings of fact; relief

Sec. 6. (a) This section applies with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The burden of demonstrating the invalidity of an action taken by the Indiana board of tax review is on the party to the judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the Indiana board of tax review shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the Indiana board of tax review that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(f) Subsection (e) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

As added by P.L.98-2004, SEC.5. Amended by P.L.219-2007, SEC.104.

IC 33-26-6-7

Written decisions; publication and distribution; direct appeal to supreme court

Sec. 7. (a) The tax court shall render its decisions in writing.

(b) Written decisions of the tax court may be published and distributed in the manner prescribed by the supreme court.

(c) A decision of the tax court remanding the matter of assessment of property under IC 6-1.1-15-8 to the Indiana board of tax review shall specify the issues on remand on which the Indiana board of tax review is to act.

(d) The decisions of the tax court may be appealed directly to the supreme court.

As added by P.L.98-2004, SEC.5.

IC 33-26-7

Chapter 7. Representation by Attorney General

IC 33-26-7-1

Representation of local officials by private attorney; attorney general approval

Sec. 1. Subject to IC 4-6-2-11, IC 4-6-5-3, and the written approval of the attorney general, a township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

(1) made an original determination that is the subject of a judicial proceeding in the tax court; and

(2) is a defendant in a judicial proceeding in the tax court;

may elect to be represented in the judicial proceeding by an attorney selected and paid by the defendant, the township, or the county.

As added by P.L.98-2004, SEC.5. Amended by P.L.154-2006, SEC.70.

IC 33-26-7-2

Discovery

Sec. 2. Notwithstanding representation by the office of the attorney general, the duty of discovery is on the parties to the judicial proceeding.

As added by P.L.98-2004, SEC.5.

IC 33-26-7-3

Discovery; production of documents from administrative law judge

Sec. 3. Discovery conducted under section 2 of this chapter is limited to production of documents from the administrative law judge presiding over the review under IC 6-1.1-15-3. The administrative law judge may not be summoned to testify before the tax court unless verified proof is offered to the tax court that the impartiality of the administrative law judge was compromised concerning the review.

As added by P.L.98-2004, SEC.5.

IC 33-26-7-4

Relief

Sec. 4. A township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals:

(1) may seek relief from the tax court to establish that the Indiana board of tax review rendered a decision that was:

(A) an abuse of discretion;

(B) arbitrary and capricious;

(C) contrary to substantial or reliable evidence; or

(D) contrary to law; and

(2) may not be represented by the office of the attorney general in an action initiated under subdivision (1).

As added by P.L.98-2004, SEC.5.

IC 33-26-8

Chapter 8. Order to Produce Information

IC 33-26-8-1

"Contractor"

Sec. 1. As used in this chapter, "contractor" means a reassessment, reassessment review, or special reassessment contractor of the department of local government finance under IC 6-1.1-4-32 (repealed).

As added by P.L.98-2004, SEC.5. Amended by P.L.1-2007, SEC.213; P.L.112-2012, SEC.50.

IC 33-26-8-2

"Qualifying county"

Sec. 2. As used in this chapter, "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

As added by P.L.98-2004, SEC.5.

IC 33-26-8-3

"Qualifying official"

Sec. 3. As used in this chapter, "qualifying official" refers to any of the following:

(1) A county assessor of a qualifying county.

(2) A township assessor of a qualifying county.

(3) The county auditor of a qualifying county.

(4) The treasurer of a qualifying county.

(5) The county surveyor of a qualifying county.

(6) A member of the land valuation committee in a qualifying county.

(7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a reassessment, reassessment review, or special reassessment of property to which IC 6-1.1-4-32 (repealed) applies, including information in the possession or control of an employee or a contractor of the official.

(8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32 (repealed).

As added by P.L.98-2004, SEC.5. Amended by P.L.1-2007, SEC.214; P.L.112-2012, SEC.51.

IC 33-26-8-4

Order to produce information

Sec. 4. Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the qualifying official by the department of local government finance or the contractor.

As added by P.L.98-2004, SEC.5.

IC 33-26-8-5
Production of information; deadline

Sec. 5. If the tax court orders a qualifying official to provide requested information as described in section 4 of this chapter, the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.
As added by P.L.98-2004, SEC.5.

IC 33-26-8-6
Contempt of tax court

Sec. 6. The tax court may find that any willful violation of this chapter by a qualifying official constitutes a direct contempt of the tax court.
As added by P.L.98-2004, SEC.5.

IC 33-26-9
Chapter 9. Fees

IC 33-26-9-1
Filing fees

Sec. 1. When a complaint is filed, a taxpayer who initiates an original tax appeal shall pay to the clerk of the tax court the same fee as provided in IC 33-37-4-7 for actions in probate court.
As added by P.L.98-2004, SEC.5.

IC 33-26-9-2
Witness fees and mileage

Sec. 2. A witness who testifies before the tax court is entitled to receive the same fee and mileage allowance provided to witnesses who testify in a circuit court. The person who calls the witness to testify shall pay the witness fee and mileage allowance.
As added by P.L.98-2004, SEC.5.

IC 33-26-9-3
Transcript fees

Sec. 3. The tax court may fix and charge a fee for preparing, comparing, or certifying a transcript. However, the tax court's fee may not exceed the fee charged by circuit courts for the same service.
As added by P.L.98-2004, SEC.5.

IC 33-26-9-4
Fees; collection; disposition

Sec. 4. The clerk of the tax court shall collect the fees imposed under sections 1 and 3 of this chapter. The clerk shall transmit the fees to the treasurer of state. The treasurer shall deposit the fees in the state general fund.
As added by P.L.98-2004, SEC.5.

IC 33-26-9-5
Filing fee refund

Sec. 5. If a taxpayer prevails in a complaint that is placed on the small claims docket under IC 33-26-5, the tax court shall order the refund of the taxpayer's filing fee under section 1 of this chapter from the state general fund. The auditor of state shall pay a warrant that is ordered under this section.
As added by P.L.98-2004, SEC.5.

IC 33-27

ARTICLE 27. JUDICIAL NOMINATING COMMISSION

IC 33-27-1

Chapter 1. Definitions

IC 33-27-1-1

Applicability

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.98-2004, SEC.6.

IC 33-27-1-2

"Attorney commissioners"

Sec. 2. "Attorney commissoners" means the three (3) individuals admitted to the practice of law who are elected to the judicial nominating commission by the electors.

As added by P.L.98-2004, SEC.6.

IC 33-27-1-3

"Electors"

Sec 3. "Electors" means individuals who are attorneys in good standing admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.6.

IC 33-27-1-4

"Mail"

Sec. 4. "Mail" includes ordinary mail or personal delivery.

As added by P.L.98-2004, SEC.6.

IC 33-27-1-5

"Nonattorney commissioners"

Sec. 5. "Nonattorney commissioners" means the three (3) individuals not admitted to the practice of law who are appointed to the judicial nominating commission by the governor.

As added by P.L.98-2004, SEC.6.

IC 33-27-2

Chapter 2. Commissioners, Employees, and Staff

IC 33-27-2-1

Nonattorney commissioners; appointment; term; residency; vacancy

Sec. 1. (a) The governor shall appoint three (3) nonattorney citizens of Indiana, one (1) each from the First District, the Second District, and the Third District of the court of appeals, as commissioners of the judicial nominating commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner as provided in section 5 of this chapter or appoint a new nonattorney commissioner. All appointments made by the governor to the judicial nominating commission shall be certified to the secretary of state and to the clerk of the supreme court not later than ten (10) days after the appointment.

(c) Except as provided in subsection (e), the governor shall appoint each nonattorney commissioner for a term of three (3) years.

(d) An appointed nonattorney commissioner must reside in the court of appeals district for which the nonattorney commissioner was appointed. A nonattorney commissioner is considered to have resigned the position if the residency of the nonattorney commissioner changes from the court of appeals district for which the nonattorney commissioner was appointed.

(e) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing. Vacancies in the office of nonattorney commissioners shall be filled by appointment by the governor not later than sixty (60) days after the governor receives notice of the vacancy. The term of the nonattorney commissioner appointed to fill the vacancy is for the unexpired term of the member whose vacancy the new nonattorney commissioner has filled.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-2

Attorney commissioners; electors and elections; residency; term; vacancy

Sec. 2. (a) For purposes of electing attorney members to the judicial nominating commission, the state shall be divided into three (3) districts, corresponding to the First District, the Second District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their district who is admitted to the practice of law in Indiana to the judicial nominating commission. The term of office of each elected member is three (3) years, beginning on the first day of January following the election. During the month before the expiration of an

elected member's term of office, an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission must reside for the term of their office in the district from which they were elected. An attorney commissioner is considered to have resigned the position if the residency of the attorney commissioner changes from the court of appeals district for which the attorney commissioner was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence the attorney commissioner's duties immediately upon the certification of the new attorney commissioner's election to the secretary of state.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-3

Election procedure

Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days before the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing the electors that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days before the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, by mail or otherwise, by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, in the office of the clerk of the supreme court at least sixty (60) days before the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots must contain the names and residence addresses of all nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(4) The ballot must read as follows:

Indiana Judicial Nominating Commission

BALLOT FOR DISTRICT ( )

To be cast by individuals residing in District ( ) and registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ( )

(Name) (Address)
(Name) (Address)
(Name) (Address)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

DESTROY BALLOT IF NOT USED

(5) In each district, the nominee receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed a certificate, to be completed and signed and returned by the elector voting the ballot, certifying that the voter is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that the voter voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot may be placed. This envelope shall not be opened until the counting of the ballots.

(8) The clerk of the supreme court shall mail a ballot and the accompanying material to all electors at least two (2) weeks before the date of the election.

(9) The ballot and the accompanying certificate must be received by the clerk of the supreme court by 4 p.m. on the last day of the election period.

(10) Upon receiving the completed ballots and the accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(11) The clerk of the supreme court, with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court. A ballot received after 4 p.m. may not be counted unless the chief justice orders an extension of time because of unusual circumstances. Upon canvassing the ballots, the clerk of the supreme court shall place all ballots back in their packages. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the supreme court.

(12) Not later than ten (10) days after the election, the clerk shall certify the results to the secretary of state.

(13) In an election held for selection of attorney commissioners of the judicial nominating commission, if two (2) or more nominees are tied, the canvassers shall resolve the tie by lot in

a manner that they shall determine, and the winner of the lot is considered elected.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-4
Notification

Sec. 4. After the attorney commissioners have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state as provided in this chapter, the clerk shall notify, by regular mail, the members of the commission of their election or appointment.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-5
Duration in office

Sec. 5. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for successive reelection or reappointment. However, an attorney commissioner or a nonattorney commissioner who has been appointed or elected to fill a vacancy on the commission for less than one (1) year is eligible upon the expiration of that term, if otherwise qualified, for a succeeding term.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-6
Compensation

Sec. 6. A member of the judicial nominating commission shall serve without compensation for the member's services, except for per diem and travel expenses and other necessary and reasonable expenses.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-7
Personnel; appropriations

Sec. 7. (a) The judicial nominating commission may employ investigators and other experts that the commission determines are necessary to carry out its functions and purposes. The commission may employ special counsel in a proceeding if the commission determines the employment is advisable.

(b) The division of state court administration shall serve the judicial nominating commission in performing the commission's statutory and constitutional functions.

(c) The general assembly may appropriate the sums it considers necessary for expenses that may be incurred in the administration of this article.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-8
Staff duties

Sec. 8. (a) The staff of the judicial nominating commission shall make the findings of fact concerning individuals eligible to fill a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. The information compiled shall be submitted to the clerk of the supreme court for mailing, along with the ballots, to qualified electors. The biographical sketches prepared under this subsection must include the following information for each nominee:

(1) Name and address.

(2) Legal background, including:

(A) type of practice;

(B) law firm; and

(C) law school year of graduation, honors, other pertinent information.

(3) General educational background.

(4) A short statement by the nominee stating the nominee's efforts and achievements in bringing about improvement and betterment of the administration of justice.

(5) Public offices or positions, including:

(A) all public salaried positions; and

(B) all services contributed to a public or charitable organization.

(6) Business and civic affairs.

(7) Any other pertinent information that the commission considers important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial nominating commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-9

Commissioners, employees, and staff; immunity from civil liability

Sec. 9. The commissioners, employees, and staff of the judicial nominating commission are immune from civil liability for any act or proceeding taken, or communication or statement made, relevant to the evaluation of a candidate under IC 33-27-3-2.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-10

Agencies, organizations, other associations, or persons; immunity from civil liability

Sec. 10. An agency, an organization, a person, or an association described in IC 33-27-3-2(c) is immune from civil liability for providing information or assistance in an investigation under IC 33-27-3-2 or for testifying before the judicial nominating commission if:

(1) the information or testimony is relevant to the evaluation of a candidate under IC 33-27-3-2(a); and

(2) the information or testimony is:

(A) an expression of opinion; or

(B) a statement of fact made without:

(i) knowledge that the statement is false; or

(ii) reckless disregard for the truth.

As added by P.L.98-2004, SEC.6.

IC 33-27-3

Chapter 3. Duties of the Commission; Appointments to Judicial Office

IC 33-27-3-1

Duties

Sec. 1. (a) When a vacancy occurs in the supreme court, the court of appeals, or the tax court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy.

(b) The chairman shall call a meeting of the commission not later than twenty (20) days after receiving the notice.

(c) The commission shall submit the nominations of three (3) candidates for the vacancy and certify them to the governor as promptly as possible, but not later than seventy (70) days after the time the vacancy occurs.

(d) When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the commission immediately of the future vacancy, and the commission may, not later than sixty (60) days after receiving the notice of the vacancy, make nominations and submit to the governor the names of three (3) persons nominated for the future vacancy.

As added by P.L.98-2004, SEC.6.

IC 33-27-3-2

Evaluating judicial candidates; investigations; public disclosure of names and information; public records

Sec. 2. (a) The judicial nominating commission shall submit to the governor, from those names the commission considers for a vacancy, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified each commission member shall evaluate each candidate, in writing, on the following considerations:

(1) Legal education, including law schools attended and education after law school, and any academic honors and awards achieved.

(2) Legal writings, including legislative draftings, legal briefs, and contributions to legal journals and publications.

(3) Reputation in the practice of law, as evaluated by attorneys and judges with whom the candidate has had professional contact, and the type of legal practice, including experience and reputation as a trial lawyer or trial judge.

(4) Physical condition, including general health, stamina, vigor, and age.

(5) Financial interests, including any interest that might conflict with the performance of judicial responsibilities.

(6) Activities in public service, including writings and speeches concerning public affairs and contemporary problems, and efforts and achievements in improving the administration of justice.

(7) Any other pertinent information that the commission feels

is important in selecting the most highly qualified individuals for judicial office.

(b) The commission may not make an investigation to determine these considerations until the individual states in writing that the individual desires to hold a judicial office that has been or will be created by a vacancy and that the individual consents to the public disclosure of information under subsections (d) and (g).

(c) The commission shall inquire into the personal and legal backgrounds of each candidate by investigations made independent from the statements on an application of the candidate or in an interview with the candidate. In completing these investigations, the commission may use information or assistance provided by:

(1) a law enforcement agency;

(2) any organization of lawyers, judges, or individual practitioners; or

(3) any other person or association.

(d) The commission shall publicly disclose the names of all candidates who have filed for judicial appointment after the commission has received the consent required by subsection (b) but before the commission has begun to evaluate any of the candidates. If the commission's screening of the candidates for judicial appointment occurs in an executive session conducted under IC 5-14-1.5-6.1(b)(10), the screening may not reduce the number of candidates for further consideration to fewer than ten (10) individuals unless there are fewer than ten (10) individuals from which to choose before the screening. When the commission's screening has reduced the number of candidates for further consideration to not less than ten (10) or it has less than ten (10) eligible candidates otherwise from which to choose, the commission shall:

(1) publicly disclose the names of the individuals and their applications before taking any further action; and

(2) give notice of any further action in the same manner that notice is given under IC 5-14-1.5.

(e) Information described in subsection (d)(1) is identifying information for the purposes of IC 5-14-1.5-6.1(b)(10).

(f) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of each nominee, based on the considerations set forth in subsection (a). The list of names submitted to the governor and the written evaluation of each nominee shall be publicly disclosed by the commission.

(g) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the judicial nominating commission are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the judicial nominating commission:

(1) Personnel files of commission employees and files of applicants for employment with the commission to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed

during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

(3) Investigatory records prepared for the commission under subsection (c) until:

(A) the records are filed or introduced into evidence in connection with the consideration of a candidate;

(B) the records are publicly discussed by the commission in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the commission; or

(D) the commission elects to release the records that the commission considers appropriate in response to publicly disseminated statements relating to the activities or actions of the commission;

whichever occurs first.

(4) Applications of candidates for judicial appointment who are not among the applicants eligible for further consideration following the commission's screening under subsection (d).

(5) The work product of an attorney (as defined in IC 5-14-3-2) representing the commission.

(h) When an event described by subsection (g)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(i) As used in this subsection, "attributable communication" refers to a communication containing the sender's name, address, and telephone number. The commission shall provide a copy of all attributable communications concerning a candidate for judicial appointment to each member of the commission. An attributable communication becomes available for public inspection and copying under IC 5-14-3-3 after a copy is provided to each member of the commission. The commission may not consider a communication other than an attributable communication in evaluating a candidate for judicial appointment.

(j) The commission shall release the investigatory records prepared for the commission under subsection (c) to the candidate for judicial appointment described by the records.

As added by P.L.98-2004, SEC.6.

IC 33-27-3-3

Withdrawal or death of nominees; multiple vacancies

Sec. 3. If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee from the list of nominees previously provided. Whenever two (2) or more vacancies exist, the commission shall nominate three (3) different persons for each vacancy and submit a list of the persons nominated to the governor.

As added by P.L.98-2004, SEC.6.

IC 33-27-3-4

Failure of governor to appoint; appointment by chief justice; changes in list

Sec. 4. (a) If the governor fails to make an appointment not later than sixty (60) days after the date the names of the nominees are submitted to the governor, the chief justice shall make the appointment from the nominees.

(b) A change in a list submitted to the governor under section 3 of this chapter requires a resubmission of the altered list to the governor, and the sixty (60) day period in which the governor must make the appointment begins on the date of resubmission.

As added by P.L.98-2004, SEC.6.

IC 33-27-3-5

Effective date of appointment

Sec. 5. An individual appointed to the supreme court, the court of appeals, or the tax court by the governor shall commence the duties of the individual's office immediately upon the effective date of the appointment. An appointment to a judicial office does not take effect until a vacancy for the office exists.

As added by P.L.98-2004, SEC.6.

IC 33-27-3-6

Meetings

Sec. 6. (a) The judicial nominating commission shall meet as necessary to discharge the commission's responsibilities under the Constitution of the State of Indiana and the state laws. Meetings of the commission shall be called by the chairman, or if the chairman fails to call a meeting when a meeting is necessary, upon the call of any four (4) members of the commission. When a meeting is called, the chairman shall give each member of the commission at least five (5) days written notice by mail of the time and place of the meeting unless the commission at its previous meeting designated the time and place of the next meeting.

(b) Meetings of the commission must be held at a place in Indiana, as arranged by the chairman of the commission.

(c) The commission shall act only at a meeting and may act only on the concurrence of a majority of the members attending a meeting. The commission may not vote to reduce the number of candidates for further consideration or to submit or not submit the list of nominees under subsection (e) during an executive session. Four (4) members constitute a quorum.

(d) The commission may adopt reasonable and proper rules for the conduct of its proceedings and the discharge of its duties. The rules must comply with this chapter and include procedures by which eligible candidates for a vacancy in the supreme court or court of appeals may submit their names to the commission. The rules are public records, and the meetings of the commission at which the rules are considered for initial adoption or amendment must be publicly announced and open to the public.

(e) Notwithstanding IC 5-14-1.5-2, the commission is a public

agency for the purposes of IC 5-14-1.5. The commission may meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment if:

(1) notice of the executive session is given in the manner prescribed by IC 5-14-1.5-5;

(2) all interviews of candidates are conducted at meetings open to the public; and

(3) copies of all attributable communications (as defined in section 2(i) of this chapter) concerning the candidates have been provided to all commission members and made available for public inspection and copying.

As added by P.L.98-2004, SEC.6.

IC 33-27-4

Chapter 4. Appointment of Senior Judges

IC 33-27-4-1

Application

Sec. 1. A person who desires to serve as a senior judge under IC 33-23-3 may apply to the judicial nominating commission for certification to the supreme court as a senior judge.

As added by P.L.98-2004, SEC.6.

IC 33-27-4-2

Certification

Sec. 2. The judicial nominating commission shall certify to the supreme court a person desiring to serve as a senior judge if the person meets requirements for service as a senior judge set by the supreme court under IC 33-24-3-7.

As added by P.L.98-2004, SEC.6.

IC 33-27-4-3

Restrictions on certification; retirement benefits

Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

(1) the person:

(A) has not served as a:

(i) judge;

(ii) justice;

(iii) magistrate; or

(iv) commissioner appointed under IC 33-33-49 who has all the powers and duties prescribed for a magistrate; or

(B) is still serving as a:

(i) judge;

(ii) justice;

(iii) magistrate; or

(iv) commissioner appointed under IC 33-33-49 who has all the powers and duties prescribed for a magistrate;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the

election.

As added by P.L.98-2004, SEC.6. Amended by P.L.3-2010, SEC.1; P.L.71-2010, SEC.1.

IC 33-28

ARTICLE 28. CIRCUIT COURTS

IC 33-28-1

Chapter 1. Jurisdiction, Duties, and Powers

IC 33-28-1-1

Place of holding court; name of court

Sec. 1. The circuit court shall be held in the respective counties at times as may be fixed by law. The court shall be styled "_____ Circuit Court", according to the name of the county in which it may be held.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-2

Jurisdiction

Sec. 2. (a) All circuit 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.

(b) The circuit court also has the appellate jurisdiction that may be conferred by law upon it.

As added by P.L.98-2004, SEC.7. Amended by P.L.201-2011, SEC.22.

IC 33-28-1-3

Recognizances

Sec. 3. The judge of a circuit court, within the judge's district, shall take all necessary recognizances to keep the peace, or to answer any criminal charge, or offense, in the court having jurisdiction.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-4

Form of process

Sec. 4. If there is a process for which a form is not prescribed by law, a circuit court shall frame a new writ in conformity with the principles of the process.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-5

Process; judgments; sentences; orders and injunctions; commissions for examination of witnesses; oaths; contempt

Sec. 5. A circuit court may do the following:

(1) Issue and direct all processes necessary to the regular execution of the law to the following:

(A) A court of inferior jurisdiction.

(B) A corporation.

(C) An individual.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana.

(3) Administer all necessary oaths.

(4) Punish, by fine or imprisonment, or both, all contempts of the court's authority.

(5) Proceed in any matter before the court, or in any matter in which the proceedings of the court, or the due course of justice, is interrupted.

(6) Grant commissions for the examination of witnesses according to the regulations of law.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-6
Subject matter in two or more counties

Sec. 6. When the subject matter of a circuit court is situated in two (2) or more counties, the court that takes cognizance of the matter first shall retain the matter.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-7
Seal of court

Sec. 7. The circuit court of each county shall have a seal. A description of the seal must be signed by the judge devising the seal. The seal must be filed by the clerk and recorded.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-8
Clerk's private seal

Sec. 8. (a) This section applies to a new county in which a seal has not been devised for the county's circuit court.

(b) The clerk of a circuit court located in a county subject to this section may seal all papers required by law to be sealed with the seal of the circuit court with the clerk's private seal. Papers sealed with the clerk's seal under this section are considered to have been sealed with a seal devised by the circuit court.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-9
Failure of judge to attend court

Sec. 9. A suit, process, matter, or proceeding returnable to or pending in any circuit court may not be discontinued by reason of a failure of the judge to attend on the first or any other day of the term.

As added by P.L.98-2004, SEC.7.

IC 33-28-1-10
Sheriff or coroner absent or incapacitated; appointment of elisor

Sec. 10. If, at any time both the sheriff and the coroner are unable

to attend, or if the sheriff and coroner are both incapacitated from serving, the board of county commissioners may appoint an elisor to serve during the pendency of the matter in which the sheriff and coroner are disabled from serving.
As added by P.L.98-2004, SEC.7.

IC 33-28-1-11
Oath, bond, and authority of elisor

Sec. 11. An elisor appointed under section 10 of this chapter shall take the same oath and give the same bond and surety that are required of sheriffs. The elisor has the same authority to perform all the duties of the sheriff that relate to the service for which the elisor is specially appointed. The elisor is governed by the same rules and subject to the same penalties and liabilities as the sheriff.
As added by P.L.98-2004, SEC.7.

IC 33-28-2

Chapter 2. Election of Judges

IC 33-28-2-1

Election of judges

Sec. 1. (a) A judge of the circuit court shall be elected under IC 3-10-2-11 by the voters of each circuit.

As added by P.L.98-2004, SEC.7.

IC 33-28-2-2

Numbered seats

Sec. 2. In any circuit for which IC 33-33 provides more than one (1) judge of the circuit court, the county election board shall assign a number to each seat on the court. After that, any candidate for judge of the circuit court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified seat of the court. Each seat on the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11.

As added by P.L.98-2004, SEC.7. Amended by P.L.58-2005, SEC.31.

IC 33-28-3

Chapter 3. Small Claims and Misdemeanor Division

IC 33-28-3-1

Applicability of chapter to circuit courts having standard small claims and misdemeanor division

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

As added by P.L.98-2004, SEC.7. Amended by P.L.201-2011, SEC.23.

IC 33-28-3-2

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.7.

IC 33-28-3-3

Repealed

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

IC 33-28-3-4

Jurisdiction of small claims docket

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.7.

IC 33-28-3-5

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 case.

(c) If, at the trial of the case, 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 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.7.

IC 33-28-3-6

Change of venue in cases on small claims docket

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.7.

IC 33-28-3-7

Waiver of trial by jury; demand for 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) The 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, must 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.7.

IC 33-28-3-8 Version a

Minor offenses and violations docket; jurisdiction; traffic violations bureau

Note: This version of section effective until 7-1-2014. See also

following version of this section, effective 7-1-2014.

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

(1) All Class D 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 34-28-5-9.

As added by P.L.98-2004, SEC.7. Amended by P.L.201-2011, SEC.24.

IC 33-28-3-8 Version b

Minor offenses and violations docket; jurisdiction; traffic violations bureau

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

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 34-28-5-9.

As added by P.L.98-2004, SEC.7. Amended by P.L.201-2011, SEC.24; P.L.158-2013, SEC.337.

IC 33-28-3-9

Evening sessions; additional sessions

Sec. 9. (a) The court shall provide by rule for an evening session to be held once 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.7.

IC 33-28-3-10

Compliance with 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.7.

IC 33-28-4
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5

Chapter 5. Circuit and Superior Court Jury Selection and Service

IC 33-28-5-1

"Courts" defined

Sec. 1. As used in this chapter, "courts" means courts that conduct jury trials.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.2.

IC 33-28-5-2

"Juror qualification form" defined

Sec. 2. As used in this chapter, "juror qualification form" means the form prescribed for use by the courts and delivered to each prospective juror.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.3.

IC 33-28-5-3

"Jury administrator" defined

Sec. 3. As used in this chapter, "jury administrator" means the court administrator, the county clerk, or other clerical personnel appointed by a supervising judge to administer the jury assembly process.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.4.

IC 33-28-5-3.5

"Jury pool" defined

Sec. 3.5. As used in this chapter, "jury pool" means the names or identifying numbers of prospective jurors drawn at random from the master list.

As added by P.L.118-2007, SEC.5.

IC 33-28-5-4

Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5-5

"Master list" defined

Sec. 5. As used in this chapter, "master list" means a form of record that contains the current lists approved by the supreme court that may be used to select prospective jurors.

As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.6; P.L.118-2007, SEC.6.

IC 33-28-5-6

Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5-7

"Supervising judge" defined

Sec. 7. As used in this chapter, "supervising judge" means a judge of the courts designated to supervise the jury assembly process.
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.7.

IC 33-28-5-8
Repealed
(Repealed by P.L.80-2006, SEC.17.)

IC 33-28-5-9
Uniform system of jury selection
Sec. 9. The jury assembly process must provide a uniform system of jury selection for the courts ensuring that:
(1) persons selected for jury service are selected at random from a fair cross-section of the population of the area served by the courts; and
(2) qualified citizens have the opportunity under this chapter to:
(A) be considered for jury service in the county; and
(B) fulfill their obligation to serve as jurors when summoned for that purpose.
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.8.

IC 33-28-5-10
Computerized jury selection system
Sec. 10. (a) The supervising judge may authorize use of a computerized jury selection system under this chapter.
(b) A system authorized under subsection (a) must provide for the impartial and random selection of prospective jurors.
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.9.

IC 33-28-5-11
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5-12
Plan for selection of grand and petit jurors
Sec. 12. (a) Under the supervision of the supervising judge, the jury administrator shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of this chapter. The plan must specify the following:
(1) Source of names for the master list.
(2) Form of the master list.
(3) Method of selecting names from the master list.
(4) Methods for maintaining records of names drawn, jurors qualified, and jurors' deferrals and reasons to be deferred, including specifying any necessary forms.
(5) Method of drawing names of qualified jurors for prospective service.
(6) Procedures to be followed by prospective jurors in requesting to be deferred from jury service.

(7) Number of petit jurors that constitutes a panel for civil and criminal cases or a description of the uniform manner in which this determination is made.

(8) That upon receipt of an order for a grand jury, the jury administrator shall publicly, and in accordance with section 20 of this chapter, draw at random from the jury pool twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after:

(A) explaining to the twelve (12) prospective jurors the duties and responsibilities of a grand jury; and

(B) deferring jurors under section 18 of this chapter.

(b) The plan must be submitted by the jury administrator to the judges of the courts. The judges of the courts shall approve or direct modification of the plan not later than sixty (60) days after its receipt. If the plan is found not to comply, the court shall order the jury administrator to make the necessary changes to bring the plan into compliance. The approved plan must go into effect not later than sixty (60) days after the plan is approved by the judges of the courts.

(c) The plan may be modified at any time according to the procedure specified under this chapter.

(d) The plan is a public document on file in the office of the jury administrator and must be available for inspection at all reasonable times.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.10.

IC 33-28-5-13

Master lists of prospective jurors

Sec. 13. (a) The jury administrator shall compile and maintain a master list consisting of lists approved by the supreme court that may be used to select prospective jurors. In compiling the master list, the jury administrator shall make a reasonable effort to avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list shall furnish the master list to the jury administrator for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, all other information other than the names contained in the master list is confidential.

As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.7; P.L.118-2007, SEC.11.

IC 33-28-5-14

Drawing of names; time; filing

Sec. 14. (a) Names must be drawn for the jury pool at least one (1)

time each year based on a calendar year commencing in January. Drawing of names for the first jury pool for a calendar year must be held during the last quarter of the calendar year preceding the calendar year for which names are being drawn, at a time and place prescribed by the jury administrator.

(b) The number of names required to be drawn from the jury pool for jury service must be determined by the jury administrator after consultation with all judges of the courts who may conduct jury trials, taking into consideration the number of jurors required for the grand jury.

(c) The frequency of the drawing of names to be summoned for jury service may be increased by the jury administrator if the jury administrator determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(d) Names to be summoned for jury service must be drawn randomly under section 20 of this chapter.

(e) Except by order of the supervising judge, names drawn from the jury pool to be summoned for jury service may not be returned to the jury pool until all nonexempt persons in the jury pool have been called.

(f) This section shall be construed liberally, to the effect that:

(1) an indictment may not be quashed; and

(2) a trial, a judgment, an order, or a proceeding may not be reversed or held invalid;

on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.12.

IC 33-28-5-15
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5-16
Juror qualification form; mailing; contents

Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names of persons to be notified of jury service from the jury pool, the jury administrator shall provide a juror qualification form to each person who is notified to appear for jury service. The qualification form must be accompanied by instructions to fill out and return the qualification form to the jury administrator within a specified period. The instructions must advise prospective jurors of the procedure for requesting a deferral from jury service.

(b) The juror qualification form must elicit whether the prospective juror:

(1) is a citizen of the United States;

(2) is at least eighteen (18) years of age;

(3) is a resident of the summoning county;

(4) is able to read, speak, and understand the English language;
(5) is not suffering from any physical or mental disability that prevents the person from rendering satisfactory jury service;
(6) is not under a guardianship because of mental incapacity;
(7) has not had the right to vote revoked by reason of a felony conviction, unless the right to vote has been restored; or
(8) is a law enforcement officer.

The juror qualification form must contain the prospective juror's declaration, under oath or affirmation, that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury administrator shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury administrator within a specified period.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.13.

IC 33-28-5-17
Failure to appear; misrepresentation

Sec. 17. (a) If a prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury administrator, the prospective juror is subject to criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.14.

IC 33-28-5-18
Disqualification or excuse from jury service

Sec. 18. (a) The supervising judge or the jury administrator shall determine whether a prospective juror is qualified to serve or, if disabled but otherwise qualified, whether the prospective juror could serve with reasonable accommodation. A person who is not eligible for jury service may not serve. The facts supporting juror disqualification or exemption must be recorded under oath or affirmation. A disqualification or exemption is not authorized unless supported by the facts. The jury administrator shall make a record of all disqualifications.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(5) The person has had the right to vote revoked by reason of a felony conviction and the right has not been restored.

(c) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury administrator:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which the prospective juror was originally scheduled to appear; and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(d) A prospective juror who is at least seventy-five (75) years of age may be exempted from jury service if the prospective juror notifies the jury administrator that the prospective juror is at least seventy-five (75) years of age and wishes to be exempted from jury service.

(e) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(f) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(g) The same petit jurors may be used in civil cases and in criminal cases.

(h) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

As added by P.L.98-2004, SEC.7. Amended by P.L.4-2006, SEC.4; P.L.118-2007, SEC.15; P.L.157-2009, SEC.1.

IC 33-28-5-19
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-28-5-20
Drawing of names to establish jury panels

Sec. 20. The jury administrator shall randomly draw names from the jury pool as needed to establish jury panels for jury selection. Prospective jurors may not be drawn from bystanders or from any source other than the jury pool.

As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.16.

IC 33-28-5-21
Motion to stay proceedings or dismiss indictment for failure to comply with chapter

Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

(1) in a civil case move to stay the proceedings; and

(2) in a criminal case move:

(A) to dismiss the indictment (if the case has been brought by indictment);

(B) to stay the proceedings; or

(C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present evidence in support of the motion.

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

(1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and

(2) may dismiss an indictment (if the case was brought by indictment) or grant other appropriate relief.

(d) The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(e) The parties to the case may inspect, reproduce, and copy the

records or papers of the jury administrator at all reasonable times during the preparation and pendency of a motion under subsection (a).
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.17.

IC 33-28-5-22
Preservation of records; public inspection

Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury administrator or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the supreme court. The records and papers must be available for public inspection at all reasonable times and in accordance with this chapter and applicable supreme court rules.
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.18.

IC 33-28-5-23
Completion of jury service

Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service when jury selection is complete.

(b) Except by order of the supervising judge, a person who:

(1) serves as a juror under this chapter; or

(2) serves until jury selection is complete but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons in the jury pool have been called for jury duty.
As added by P.L.98-2004, SEC.7. Amended by P.L.80-2006, SEC.8; P.L.118-2007, SEC.19.

IC 33-28-5-24
Failure to comply with summons; criminal contempt

Sec. 24. A person summoned for jury service who fails to appear or complete jury service as directed is subject to criminal contempt.
As added by P.L.98-2004, SEC.7. Amended by P.L.118-2007, SEC.20.

IC 33-28-5-24.3
Adverse employment action as the result of jury service; small employer exception

Sec. 24.3. (a) If a person:

(1) is summoned to serve as a juror; and

(2) notifies the person's employer of the jury summons within a reasonable period:

(A) after receiving the jury summons; and

(B) before the person appears for jury service;

the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual leave, vacation leave, or sick leave for time spent:

(1) responding to a summons for jury service;

(2) participating in the jury selection process; or

(3) serving on a jury.

This subsection does not require an employer to provide annual leave, vacation leave, or sick leave to an employee who is not otherwise entitled to these benefits.

(c) If:

(1) a prospective juror works for an employer with not more than ten (10) full-time employees (or their equivalent);

(2) another employee of the employer described in subdivision (1) is performing jury service; and

(3) the prospective juror or the person performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee.

As added by P.L.4-2006, SEC.5. Amended by P.L.118-2007, SEC.21.

IC 33-28-5-25

Adoption of rules

Sec. 25. The supreme court may adopt rules, not inconsistent with this chapter, regulating the selection and service of jurors.

As added by P.L.98-2004, SEC.7.

IC 33-28-6
Repealed

(Repealed by P.L.118-2007, SEC.38.)

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 Version a
Minor offenses and violations docket

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 8. (a) The minor offenses and violations docket has

jurisdiction over the following:

(1) All Class D 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.

IC 33-29-2-8 Version b

Minor offenses and violations docket

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

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.

IC 33-30

ARTICLE 30. REPEALED

(Repealed by P.L.201-2011, SEC.115.)

IC 33-31

ARTICLE 31. PROBATE COURTS

IC 33-31-1

Chapter 1. St. Joseph County Probate Court

IC 33-31-1-1

Establishment of court

Sec. 1. There is established a probate court in St. Joseph County known as the St. Joseph Probate Court. The court shall be presided over by one (1) judge to be chosen as provided in this chapter.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-2

Court of record; seal

Sec. 2. The court:

(1) is a court of record; and

(2) shall have a seal and device, as the judge may choose, with the name of the county on its face. A description and impression of the seal and device shall be spread on the order book of the court.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-3

Judge; election; vacancies; appointment

Sec. 3. (a) The court consists of one (1) judge, to be elected by the legal voters of the county for a term of six (6) years:

(1) beginning on the first day of January following the election of the judge; and

(2) continuing until the successor of the judge is elected and qualified.

The election must occur at the time of the general election every six (6) years.

(b) The judge shall be commissioned by the governor in the same manner as judges of the circuit court. Vacancies occurring in the office of judge of the probate court shall be filled by appointment by the governor, in the same manner as vacancies in the office of judge of the circuit court.

(c) To be eligible to hold office as judge of the court, a person must be a resident of St. Joseph County.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-4

Clerk; sheriff

Sec. 4. The clerk of the circuit court and the sheriff of the county where the court is organized shall be the clerk and sheriff of the probate court. The clerk and the sheriff are each entitled to fees for their services as are allowed in the circuit court for similar services.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-5
Clerk and sheriff; duties and liability; application of laws

Sec. 5. (a) The clerk and sheriff shall attend the court and discharge all the duties pertaining to their respective offices required by law in the circuit court.

(b) All laws:

(1) prescribing the duties and liability of the officers;

(2) prescribing the mode of proceeding against either or both of the officers for any neglect of official duty; and

(3) allowing fees and providing for the collection of the fees;

in the circuit court, extend to the probate court, as applicable.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-6
Sessions of court

Sec. 6. The probate court shall hold sessions at the courthouse of the county, or at any other convenient place as the court designates in the county. The county commissioners shall provide suitable quarters for the sessions.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-7
Adjournment of court

Sec. 7. The judge of the court may adjourn the same on any day previous to the expiration of the time for which it may be held, and also from any one (1) day in the term over to any other day in the same term, if in the opinion of the judge, the business of the court will allow.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-8
Trial extending beyond term of court

Sec. 8. When a trial is begun and in progress at the time when by law, the term of the court would expire, the term shall be extended until the close of the trial.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-9
Jurisdiction

Sec. 9. All probate 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.98-2004, SEC.10. Amended by P.L.201-2011, SEC.28.

IC 33-31-1-10

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-31-1-11

Judge acting as circuit court or superior court judge

Sec. 11. A judge of the probate court may act as judge of any circuit court or superior court upon the trial of any cause or proceeding, when:

(1) the judge of the circuit or superior court may be incompetent to try the cause; or

(2) a change of venue is granted for objection to the judge.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-12

Appointment of temporary judge

Sec. 12. (a) If the judge of the probate court is unable to attend and preside at any term of the court, or during any part of a term, the judge may appoint, in writing, an attorney eligible to the office of the judge, at the term or part of the term.

(b) A written appointment shall be entered of record in the court.

(c) If the appointee is not a judge of a court of record, the appointee shall take the same oath required by law of judges of the probate court.

(d) The appointee has the same power and authority during the continuance of the appointment of the judge as a regularly elected judge of the court.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-13

Compensation of judge pro tem

Sec. 13. (a) When a person is appointed judge pro tem under this chapter, the appointee is entitled to ten dollars ($10) for each day the appointee serves as the judge to be paid:

(1) out of the county treasury of the county where the probate court is held;

(2) upon the warrant of the county auditor; and

(3) based upon the filing of a claim approved by the judge of the court.

(b) Any amount more than five hundred dollars ($500) allowed to a judge pro tem during any year shall be deducted by the board of county commissioners from the regular annual salary of the judge of the probate court making the appointment unless the judge pro tem is appointed on account of change of venue, relationship, interest as former counsel, or absence of judge in case of serious sickness of the judge or a family member of the judge.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-14

Process of court

Sec. 14. The process of the court must:

(1) have the seal affixed;
(2) be attested, directed, served, and returned; and
(3) be in form as is or may be provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-15
Court of record; force and effect of judgment, orders, and proceedings

Sec. 15. (a) The probate court is a court of record and of general jurisdiction.

(b) The court's judgments, decrees, orders, and proceedings:
(1) have the same force and effect as those of the circuit court; and
(2) shall be enforced in the same manner.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-16
Judicial powers

Sec. 16. (a) The judge of the court:
(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana law; and
(2) has all the power incident to a court of record and of general original jurisdiction, in relation to the attendance of witnesses, the punishment of contempts, and enforcing its orders.

(b) The judge of the court may:
(1) administer oaths;
(2) take and certify acknowledgments of deeds; and
(3) give all necessary certificates for the authentication of the records and proceedings in the court.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-17
Dockets; books and records

Sec. 17. Under the direction of the judge, the clerk shall provide for court order books, judgment dockets, execution dockets, fee books, and other books, records, and supplies as may be necessary. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

As added by P.L.98-2004, SEC.10.

IC 33-31-1-18
Power of judge same as circuit court

Sec. 18. The judge of the court has the same power as the judge of the circuit court of the county to:
(1) grant restraining orders and injunctions;
(2) issue writs of habeas corpus, and of mandate and prohibition; and
(3) appoint receivers, master commissioners for the examination of witnesses, and other officers necessary to facilitate and

transact the business of the court.
As added by P.L.98-2004, SEC.10.

IC 33-31-1-19
Appeals

Sec. 19. A party may appeal to the supreme court or the court of appeals from the order or judgment of the probate court in any case in which an appeal may be had from an order or judgment of the circuit court. The appeal shall be regulated by the law regulating appeals from the circuit court to the court of appeals and the supreme court, so far as applicable. An appeal may also be taken to the court of appeals and the supreme court in the same manner and in like cases as from circuit courts.
As added by P.L.98-2004, SEC.10.

IC 33-31-1-20
Docket fees

Sec. 20. (a) The same docket fees shall be taxed in the court as are provided by law to be taxed in the circuit court.

(b) The fees, when collected, shall be paid by the clerk to the treasurer of the county to be applied in reimbursing the county for expenses of the court.
As added by P.L.98-2004, SEC.10.

IC 33-31-1-21
Judge's salary

Sec. 21. (a) The salary of the judge of the probate court shall be the same as that of the judge of the circuit court of the county. The salary of the judge and the compensation of a judge pro tempore shall be paid in the same manner and from the same sources as the judge of the circuit court or judges pro tempore of the court.

(b) A full-time judge of a probate court may not be paid compensation for serving as a special judge, except for reasonable expenses for meals, lodging, travel, and other incidental expenses approved by the executive director of the division of state court administration.
As added by P.L.98-2004, SEC.10.

IC 33-31-1-22
Appointment of clerk and other employees

Sec. 22. The probate court may appoint a chief clerk and other employees as the judge considers necessary whose salaries shall be fixed by the judge and be paid out of the county treasury.
As added by P.L.98-2004, SEC.10.

IC 33-31-1-23
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-31-1-24

Magistrates

Sec. 24. The judge of the St. Joseph probate court may appoint three (3) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the judge.

As added by P.L.98-2004, SEC.10. Amended by P.L.127-2008, SEC.8; P.L.201-2011, SEC.29.

IC 33-31-2

Chapter 2. Small Claims and Misdemeanor Division

IC 33-31-2-1

Application

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

As added by P.L.201-2011, SEC.30.

IC 33-31-2-2

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.201-2011, SEC.30.

IC 33-31-2-3

Small claims docket; jurisdiction

Sec. 3. 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.201-2011, SEC.30.

IC 33-31-2-4

Exceptions to formal practice and procedure

Sec. 4. (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 case.

(c) If, at the trial of the case, 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 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.201-2011, SEC.30.

IC 33-31-2-5

Change of venue

Sec. 5. 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.201-2011, SEC.30.

IC 33-31-2-6

Trial by jury

Sec. 6. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) The 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, must 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.201-2011, SEC.30.

IC 33-31-2-7 Version a

Minor offenses and violations docket; jurisdiction

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 7. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D 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 34-28-5-9.

As added by P.L.201-2011, SEC.30.

IC 33-31-2-7 Version b
Minor offenses and violations docket; jurisdiction

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 7. (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 34-28-5-9.

As added by P.L.201-2011, SEC.30. Amended by P.L.158-2013, SEC.339.

IC 33-31-2-8
Court sessions

Sec. 8. (a) The court shall provide by rule for an evening session to be held once 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.201-2011, SEC.30.

IC 33-31-2-9
Division of state court administration requests

Sec. 9. 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.201-2011, SEC.30.

IC 33-32

ARTICLE 32. CIRCUIT COURT CLERKS

IC 33-32-1

Chapter 1. Definitions

IC 33-32-1-1

"Clerk" defined

Sec. 1. As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.11.

IC 33-32-2

Chapter 2. General Powers and Duties

IC 33-32-2-1

Clerks in counties with multiple courts

Sec. 1. In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, and probate court as well as clerk of the circuit court.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-2

Election; term

Sec. 2. A clerk of the circuit court shall be elected under IC 3-10-2-13 by the voters of each county. The term of office of a clerk is four (4) years, continuing until a successor is elected and qualified.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-3

Bond

Sec. 3. In the manner prescribed by IC 5-4-1, the clerk of each county shall execute a bond conditioned upon:

(1) the faithful discharge of the duties of the clerk's office; and

(2) the proper payment of all money received by the office of the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-4

Clerk's office

Sec. 4. (a) The board of county commissioners shall provide the clerk with an office at the county seat in a building provided for that purpose.

(b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk:

(1) shall keep the office of the clerk open on those days and times necessary for the proper administration of the election statutes; and

(2) may close the office on those days that the judge of the circuit court orders the court closed in accordance with the custom and practice of the county.

(c) Any legal action required to be taken in the office of the clerk during the time the office is closed under this section may be taken on the next following day the office is open.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-5

Administering of oaths

Sec. 5. A clerk may administer all oaths.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-6
Duties concerning elections

Sec. 6. A clerk shall carry out the duties prescribed for a clerk in IC 3 concerning elections.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-7
Table of fees

Sec. 7. A clerk shall post in a conspicuous place in the clerk's office a table of the clerk's fees. If a clerk fails to post a table of fees, a clerk may not demand or receive fees for services rendered.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-8
Purchase of judgment, decree, or allowance prohibited

Sec. 8. The clerk may not become the purchaser of any judgment, decree, or allowance of any court of which the clerk is an officer. All these purchases are void as to the purchaser.

As added by P.L.98-2004, SEC.11.

IC 33-32-2-9
Required training courses

Sec. 9. (a) As used in this section, "training courses" refers to training courses related to the office of circuit court clerk that are compiled or developed by the Association of Indiana Counties and approved by the state board of accounts.

(b) An individual elected to the office of circuit court clerk after November 2, 2010, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year; and

(2) forty (40) hours of training courses within three (3) years;

after the individual is elected to the office of circuit court clerk.

(c) A training course that an individual completes:

(1) after being elected to the office of circuit court clerk; and

(2) before the individual begins serving in the office of circuit court clerk;

shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected as circuit court clerk.

(e) This subsection applies only to an individual appointed to fill a vacancy in the office of circuit court clerk. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an elected circuit court clerk, the county shall pay for the training course as if the individual had been an elected circuit court clerk.

As added by P.L.45-2010, SEC.1. Amended by P.L.279-2013, SEC.1.

IC 33-32-2-9.2

Personal liability of clerk

Sec. 9.2. (a) A clerk is not personally liable for any act or omission occurring in connection with the performance of the clerk's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of clerk.

(b) The fact that a clerk is not personally liable under subsection (a) does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

As added by P.L.60-2010, SEC.2.

IC 33-32-3

Chapter 3. Record Keeping Duties

IC 33-32-3-1

Duties

Sec. 1. (a) The clerk shall endorse the time of filing on each writing required to be filed in the office of the clerk.

(b) The clerk shall carefully preserve in the office of the clerk all records and writings pertaining to the clerk's official duties.

(c) The clerk shall procure, at the expense of the county, all necessary judges' appearance, bar, judgment, and execution dockets, order books, and final record books.

(d) The clerk shall:

(1) attend, in person or by deputy, the circuit court of the county; and

(2) enter in proper record books all orders, judgments, and decrees of the court.

(e) Not more than fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

(1) all cases involving the title to land;

(2) all criminal cases in which the punishment is death or imprisonment, except where a nolle prosequi is entered or an acquittal is had; and

(3) all other cases, at the request of either party and upon payment of the costs.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-2

Circuit court judgment docket

Sec. 2. (a) The clerk shall keep a circuit court judgment docket.

(b) Upon the filing in the office of the clerk a statement or transcript of any judgment for the recovery of money or costs, the clerk shall enter, and index in alphabetical order, in this judgment docket a statement of the judgment showing the following:

(1) The names of all the parties.

(2) The name of the court.

(3) The number of the cause.

(4) The book and page of the record in which the judgment is recorded.

(5) The date the judgment is entered and indexed.

(6) The date of the rendition of judgment.

(7) The amount of the judgment and the amount of costs.

(c) If a judgment is against several persons, the statement required to be entered under subsection (b) shall be repeated under the name of each judgment debtor in alphabetical order.

(d) A person interested in any judgment for money or costs that has been rendered by any state court, or by any federal court of general original jurisdiction sitting in Indiana, may have the judgment entered upon the circuit court judgment docket by filing

with the clerk:

(1) a statement setting forth the facts required under subsection (b); or

(2) a transcript of the judgment;

certified under the hand and seal of the court that rendered the judgment.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-3

Circuit court judgment docket; public record

Sec. 3. The circuit court judgment docket is a public record that is open during the usual hours of transacting business for examination by any person.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-4

Entering judgments and releases

Sec. 4. A clerk shall:

(1) enter a judgment or recognizance not more than fifteen (15) days after its rendition; or

(2) cause a release of judgment to be entered on the judgment docket not more than fifteen (15) days after satisfaction of the judgment.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-5

Execution docket

Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by the clerk, specifying in proper columns the following information:

(1) The names of the parties.

(2) The amount of the judgment and the interest due upon the issuing of the execution.

(3) The costs.

The clerk shall also prepare an additional column in which the clerk shall enter the return of the sheriff.

(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-6

Monthly reports; certified copies; forms

Sec. 6. (a) Before the twenty-fifth day of each month, the clerk shall prepare a report showing as of the close of business on the last day of the preceding month the following information:

(1) The balance, if any, of fees payable to the county.

(2) Fees collected for fish and game licenses.

(3) Trust funds held, including payments collected for support.

(4) The total of the balances of all fees and funds.

(5) The record balance of money in each depository at the end of the month.
(6) The cash in the office at the close of the last day of the month.
(7) Any other items for which the clerk of the circuit court is entitled to credit.
(8) The total amount of cash in each depository at the close of business on the last day of the month.
(9) The total of checks issued against each depository that are outstanding at the end of the month and unpaid by the depositories.

(b) The clerk shall:
(1) retain one (1) copy as a public record of the clerk's office; and
(2) file three (3) copies with the county auditor, who shall:
(A) present one (1) copy to the board of commissioners of the county at its next regular meeting; and
(B) transmit one (1) copy to the state board of accounts.

Each copy of the report must be verified by the certification of the clerk. The clerk shall file the original with the county auditor, who shall file it with the records of the county board of finance.

(c) The state board of accounts shall prescribe forms for the clerk's monthly reports.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-7
Register of fees

Sec. 7. (a) The clerk shall keep a register of witness fees and other court fees.

(b) When the clerk receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:
(1) The names, in alphabetical order, of persons for whom payment has been received.
(2) The cause for which the fee is paid.
(3) In which fee book and on which page the fee is taxed.
(4) The amount paid.
(5) When the fee was paid in and when it was paid out.

(d) The register must be open for inspection at all times in a conspicuous place in the clerk's office.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-8
Delivery of records, books, and papers to successor

Sec. 8. At the end of the clerk's term, the clerk shall deliver to the clerk's successor all the records, books, and papers belonging to the clerk's office.

As added by P.L.98-2004, SEC.11.

IC 33-32-3-9

Appropriation for blank books and stationery

Sec. 9. The county council shall appropriate reasonable sums to the clerk for necessary blank books and stationery.

As added by P.L.98-2004, SEC.11.

IC 33-32-4

Chapter 4. Child Support Payments

IC 33-32-4-1

"Electronic funds transfer" defined

Sec. 1. As used in this chapter, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-2

"Indiana support enforcement tracking system (ISETS)"

Sec. 2. (a) As used in this chapter, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the department of child services.

(b) As used in this chapter, "successor statewide automated support enforcement system" means a statewide automated system for the collection, disbursement, and distribution of child support payments established by the department of child services.

As added by P.L.98-2004, SEC.11. Amended by P.L.145-2006, SEC.365; P.L.128-2012, SEC.177.

IC 33-32-4-2.5

ISETS is the official record of child support payments

Sec. 2.5. The Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system is the official record of the collection, disbursement, and distribution of child support payments as required under 42 U.S.C. 654.

As added by P.L.128-2012, SEC.178.

IC 33-32-4-3

Receipt of funds

Sec. 3. The clerk may receive funds:

(1) in payment of judgments; and

(2) ordered to be paid into the court by the judge.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-4

Clerk's liability

Sec. 4. Except as provided in sections 5 and 8 of this chapter, the clerk is liable, with the clerk's sureties, on the clerk's official bond for all funds received to any person who is entitled to demand and receive those funds from the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-5
State central collection unit and clerk not liable

Sec. 5. The state central collection unit is not liable and the clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the state central collection unit or the clerk:

(1) through error or in accordance with the best information available to the state central collection unit or the clerk, disbursed the funds to a person the state central collection unit or the clerk reasonably believed to be entitled to receive the funds and to comply with a:

(A) child support order; or

(B) garnishment order;

(2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the state central collection unit or the clerk, that resulted from:

(A) an action by an employee of, or a consultant to, the department of child services or the Title IV-D agency;

(B) an ISETS or the successor statewide automated support enforcement system technological error; or

(C) information generated by ISETS or the successor statewide automated support enforcement system;

(3) disbursed funds that the state central collection unit or the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;

(4) disbursed child support funds paid to the central collection unit by a personal check that was later dishonored by a financial institution; and

(5) did not commit a criminal offense as a part of the disbursement.

As added by P.L.98-2004, SEC.11. Amended by P.L.145-2006, SEC.366; P.L.148-2006, SEC.31; P.L.128-2012, SEC.179.

IC 33-32-4-6
Improper disbursement of funds

Sec. 6. If the state central collection unit or the clerk improperly disburses funds in the manner described by section 5 of this chapter, the state central collection unit or the clerk shall do the following:

(1) Deduct the amount of funds improperly disbursed from fees collected under IC 33-37-5-6.

(2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under section 5 of this chapter.

(3) Notify the prosecuting attorney of the county of:

(A) the amount of the improper disbursement;

(B) the person from whom the amount of the improper disbursement should be collected; and

(C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.

(4) Record each action taken under this subsection on a form

prescribed by the state board of accounts.

As added by P.L.98-2004, SEC.11. Amended by P.L.148-2006, SEC.32.

IC 33-32-4-7
Reimbursement

Sec. 7. If:

(1) fees collected under IC 33-37-5-6 are credited to an account under section 6(2) of this chapter because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and

(2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the subject of a stop payment order;

the clerk must reimburse the account containing fees collected under IC 33-37-5-6 using the amount the person paid to the clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-8
Dishonored checks

Sec. 8. The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

(1) the check was tendered to the clerk for the payment of a:

(A) fee;

(B) court ordered payment; or

(C) license; and

(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

As added by P.L.98-2004, SEC.11.

IC 33-32-4-9
Repealed

(Repealed by P.L.148-2006, SEC.35.)

IC 33-32-5

Chapter 5. Marriage Licenses and Distress Sales

IC 33-32-5-1

Marriage license and certificate fees

Sec. 1. (a) For issuing a marriage license under IC 31-11-4, the clerk shall collect a fee of ten dollars ($10). The clerk shall pay these fees to the treasurer of state, who shall deposit the money in the state user fee fund established by IC 33-37-9-2.

(b) For issuing a marriage certificate under IC 31-11-4, the clerk shall collect the following fee:

(1) Eight dollars ($8), if at least one (1) of the individuals is a resident of Indiana.

(2) Fifty dollars ($50), if neither of the individuals is a resident of Indiana.

When collected, these fees shall be deposited in the general fund of the county.

As added by P.L.98-2004, SEC.11.

IC 33-32-5-2

Distress sale license fees

Sec. 2. For issuing a license to hold a distress sale under IC 25-18-1-6, the clerk shall collect the following fee:

(1) Forty dollars ($40) if the value of the inventory is not more than twenty-five thousand dollars ($25,000).

(2) Sixty-five dollars ($65) if the value of the inventory is more than twenty-five thousand dollars ($25,000) but not more than fifty thousand dollars ($50,000).

(3) One hundred dollars ($100) if the value of the inventory is more than fifty thousand dollars ($50,000) but not more than seventy-five thousand dollars ($75,000).

(4) One hundred fifty dollars ($150) if the value of the inventory is more than seventy-five thousand dollars ($75,000).

As added by P.L.98-2004, SEC.11.

IC 33-33

ARTICLE 33. COURT SYSTEM ORGANIZATION IN EACH COUNTY

IC 33-33-1

Chapter 1. Adams County

IC 33-33-1-1

Judicial circuit

Sec. 1. Adams County constitutes the twenty-sixth judicial circuit.

As added by P.L.98-2004, SEC.12.

IC 33-33-1-2

Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Adams superior court.

(b) The Adams superior court is a standard superior court as described in IC 33-29-1.

(c) Adams County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-1-3

Judge; location of court sessions

Sec. 3. The Adams superior court has one (1) judge who shall hold sessions in the Adams County courthouse in Decatur, or in other places in the county as the board of county commissioners of Adams County may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-1-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-1-5

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-2
Chapter 2. Allen County

IC 33-33-2-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-2
Judicial circuit
Sec. 2. Allen County constitutes the thirty-eighth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-3
Magistrates
Sec. 3. The judge of the Allen circuit court may appoint two (2) full-time magistrates under IC 33-23-5. A magistrate continues in office until removed by the judge.
As added by P.L.98-2004, SEC.12. Amended by P.L.39-2012, SEC.1.

IC 33-33-2-4
Repealed
(Repealed by P.L.39-2012, SEC.2.)

IC 33-33-2-5
Establishment of superior court
Sec. 5. (a) There is established a superior court in Allen County.
(b) The superior court shall be known as the Allen superior court.
(c) The Allen superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the Allen circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-6
Seal
Sec. 6. The Allen superior court shall have a seal consisting of a circular disk containing the words, "Allen Superior Court", "Indiana", and "Seal", in a design as the court may determine. An impression of the seal shall be spread of record upon the order book of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-7
Location of superior court sessions
Sec. 7. (a) The Allen superior court shall hold its sessions in:
(1) the Allen County courthouse in Fort Wayne; and
(2) in other places in Allen County as the court may determine.
(b) The board of county commissioners of Allen County shall provide and maintain in the courthouse and at other places in Allen

County as the court may determine:

(1) suitable and convenient courtrooms for the holding of the court;

(2) suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and

(3) other facilities as may be necessary.

(c) The board of county commissioners of Allen County shall also provide all necessary furniture and equipment for rooms and offices of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-8

Judges; divisions

Sec. 8. (a) The Allen superior court consists of nine (9) judges as follows:

(1) Two (2) judges serve in the family relations division.

(2) Three (3) judges serve in the criminal division.

(3) Four (4) judges serve in the civil division.

A newly elected or appointed judge assumes the division assignment of the judge whom the judge replaces.

(b) If in the opinion of a majority of the judges there is an undue disparity in the number of cases in any division, the chief judge may assign specific cases normally assigned to that division to a judge in another division as directed by a majority of the judges.

(c) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for one (1) of the Allen superior court judgeships must file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2 that:

(1) is signed by the candidate; and

(2) designates the division and the name of the incumbent judge of the judgeship that the candidate seeks.

(d) A petition without the designation required under subsection (c) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(e) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that seat not later than noon on August 1.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-9

Judicial candidates; terms

Sec. 9. (a) All candidates for each respective Allen superior court judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(b) IC 3, except where inconsistent with this chapter, applies to

elections held under this chapter.

(c) The term of each Allen superior court judge:

(1) begins January 1 following election and ends December 31 following the election of a successor; and

(2) is six (6) years.

As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.33.

IC 33-33-2-10

Candidate for judge; qualifications

Sec. 10. (a) To qualify as a candidate for Allen superior court judge, a person:

(1) must be a citizen of the United States domiciled in Allen County;

(2) must have at least five (5) years active practice of law, including cases involving matters assigned to the division in which the person would serve as judge;

(3) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(4) may not previously have been convicted of any felony.

(b) If a person does not qualify under subsection (a), the person may not be listed on the ballot as a candidate. However, an individual who was a judge of the court on January 1, 1984, does not have to comply with subsection (a)(2).

As added by P.L.98-2004, SEC.12.

IC 33-33-2-11

Limits on acceptance of contributions

Sec. 11. A judge or candidate for judge of the Allen superior court may not:

(1) accept a contribution (as defined in IC 3-5-2-15) from any political party, political action committee (as defined in IC 3-5-2-37), or regular party committee (as defined in IC 3-5-2-42); or

(2) accept more than a total of ten thousand dollars ($10,000) in contributions from all sources to pay expenses connected with the candidate's candidacy.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-12

Rules and regulations; incidental powers of judges

Sec. 12. (a) The Allen superior court:

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana laws and the rules of the supreme court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges of the superior court may administer oaths,

solemnize marriages, take and certify acknowledgments of deeds, and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-13
Orders, writs, appointments, and commissions

Sec. 13. The Allen superior court may:

(1) grant restraining orders and injunctions;

(2) issue writs of habeas corpus;

(3) appoint receivers, masters, and commissioners to convey real property and to grant commissions for the examination of witnesses; and

(4) appoint other officers necessary to facilitate and transact the business of the court;

as conferred on circuit courts or the judges of circuit courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-14
Personnel

Sec. 14. (a) The Allen superior court may appoint probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, the court believes are necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under subsection (a) and IC 31-31-3, the following magistrates may be appointed:

(1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any magistrates the duties and powers of a probate commissioner.

(2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under IC 33-23-5 to serve the Allen superior court-criminal division. Any magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate.

(c) All appointments made under this section must be made without regard to the political affiliation of the appointees. The salaries of the personnel shall be fixed and paid as provided by law. If the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and be entered of record. The officers and persons appointed shall perform duties as are prescribed by the court. Any administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and serve at the pleasure of the chief judge. Any probate commissioners, magistrates, juvenile

referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(d) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the probate commissioner's actions under this subsection, including the taking and hearing of evidence together with the commissioner's findings and conclusions regarding the evidence. However, all matters under this subsection are under the final jurisdiction and decision of the judges of the court.

(e) A juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, and the making of reports to the court concerning the referee's actions under this subsection. The actions of a juvenile referee under this subsection are under final jurisdiction and decision of the judges of the court.

(f) A probate commissioner or juvenile referee may:

(1) summon witnesses to testify before the commissioner or juvenile referee; and

(2) administer oaths and take acknowledgments;

to carry out the commissioner's or juvenile referee's duties and powers.

As added by P.L.98-2004, SEC.12. Amended by P.L.1-2007, SEC.216; P.L.127-2008, SEC.9.

IC 33-33-2-15

Salary of juvenile referee

Sec. 15. Each juvenile referee appointed under section 14 of this chapter who:

(1) is appointed by the court to serve as a full-time referee; and

(2) does not practice law during the referee's term as referee;

is entitled to receive an annual salary as provided in IC 33-38-5-7.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-16

Clerk and sheriff

Sec. 16. The clerk of the Allen circuit court and the sheriff of Allen County shall be the clerk and sheriff of the Allen superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-17
Clerk and sheriff; duties, liabilities, fees, and procedure

Sec. 17. (a) The clerk and sheriff shall attend the Allen superior court and discharge all the duties pertaining to their respective offices as they are required to do by law in the circuit court.

(b) All laws prescribing the duties and liabilities of clerk and sheriff and the mode of proceeding against them, or either of them, for neglect of official duty, allowing fees, and providing for the collection fees in the circuit court, apply to the Allen superior court.

(c) In a case in the Allen superior court based upon a violation of a city ordinance where fines or forfeitures are adjudged against a party:

(1) the fines or forfeitures shall be paid to and collected by the clerk and regularly remitted to the city clerk of the city that issued the ordinance; and

(2) the city clerk shall disburse the fines or forfeitures as required by law.

Payment of fines for admitted parking violations shall be made to the city clerk of the city that issued the ordinances concerning parking violations.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-18
Record books and dockets

Sec. 18. The clerk, under the direction of the Allen superior court, shall provide:

(1) order books;
(2) judgment dockets;
(3) execution dockets;
(4) fee books; and
(5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-19
Single order book

Sec. 19. The Allen superior court shall maintain a single order book for the entire court. The order book may be signed on behalf of the court by any of the judges of the court. The signature constitutes authentication of the actions of each judge in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-20
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-2-21
Fees

Sec. 21. The same fees shall be taxed in the Allen superior court as are provided by law to be taxed in the Allen circuit court. When collected in the Allen superior court, the fees shall be disbursed in the same manner as similar fees are disbursed in the Allen circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-22
Laws applicable to superior court
Sec. 22. All laws of the state and rules adopted by the supreme court governing the Allen circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the Allen superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-23
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-2-24
Fees of jurors and witnesses
Sec. 24. Jurors and witnesses in attendance upon the Allen superior court shall receive the same fees as are provided for by law for jurors and witnesses in the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-25
Transfer of cases from circuit court
Sec. 25. The judge of the Allen circuit court may, with the consent of the Allen superior court, transfer any action, cause, or proceeding 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 a further transcript to be redocketed and disposed of as if originally filed with the Allen superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-26
Transfer of cases to circuit court
Sec. 26. Any judge of the Allen superior court may, with the consent of the judge of the Allen circuit court, transfer any action, cause, or proceeding 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 thereof to be redocketed and disposed of as if originally filed with the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-27
Authority of circuit judge to sit in superior court

Sec. 27. The judge of the Allen circuit court may sit as a judge of the superior court, with the superior court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the circuit court judge were a judge of the superior court with all the rights and powers as if the circuit court judge were appointed judge of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-28
Appeals

Sec. 28. Any party may appeal from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-29
Process

Sec. 29. The process of the Allen superior court must have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-30
Board of judges

Sec. 30. (a) The Allen superior court shall be governed and operated by a board of judges composed of all the judges of the superior court. Six (6) judges are required for a quorum for conducting business and as a majority for taking action. Every two (2) years the board of judges shall elect a chief judge to carry out ministerial functions of representation as the board of judges periodically determines by a majority of the board's members.

(b) Matters of administration, budget, expenditures, policy, and procedure affecting the entire superior court shall be determined by a majority of the board of judges. Any determination binds the entire board of judges and each judge of the board.

(c) One (1) budget covering all the divisions of the superior court shall be prepared for the superior court and submitted to the county fiscal body. However, each division shall prepare its own budget as a component of the superior court's total budget.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-31
Divisions of the court

Sec. 31. (a) The court, by rules adopted by the Allen superior court, shall divide the work of the court into the following divisions:

(1) A family relations division.

(2) A criminal division (including a standard minor offenses and violations docket under IC 33-29-2-8).

(3) A civil division (including a standard small claims docket under IC 33-29-2-4).

(b) Cases involving juvenile matters shall be assigned to the family relations division.

(c) Cases involving matters specified in IC 33-29-2-8 shall be assigned to the criminal division.

(d) Cases involving matters specified in IC 33-29-2-4 shall be assigned to the small claims docket in the civil division.

(e) The work of each division may be divided further by rules adopted by the court.

(f) Every two (2) years each division of the court shall elect an administrative judge for that division. The administrative judge shall carry out ministerial, administrative, and assignment functions as are periodically determined by a majority of the judges of that division.

(g) Matters of administration, budget, expenditures, policy, and procedure in each division shall be determined by a majority of the judges of that division.

(h) Disputes within any division concerning administration, budget, expenditures, policy, procedure, and assignments that pertain to the division as a whole or to any individual judge of the division, that for any reason cannot be resolved by a majority of the judges in the division, shall be submitted to the board of judges and determined by a majority of the board of judges.

(i) A resolution approved by a majority of the board of judges that resolves disputes within a division must include at least one (1) of the judges of that division and binds all of the judges of that division.

As added by P.L.98-2004, SEC.12. Amended by P.L.1-2007, SEC.217.

IC 33-33-2-32

Judicial nominating commission; establishment

Sec. 32. (a) There is established a judicial nominating commission for the Allen superior court.

(b) The board of county commissioners of Allen County shall provide all facilities, equipment, supplies, and services necessary for the administration of the duties of the commission.

(c) The members of the commission serve without compensation. However, the board of commissioners shall reimburse members of the commission for actual expenses incurred in performing their duties.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-33

Judicial nominating commission; membership

Sec. 33. (a) The judicial nominating commission consists of seven (7) members, the majority of whom shall form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman. Persons who are admitted to the practice of law and who reside in Allen County shall, under sections

35 and 36 of this chapter, elect three (3) members to serve on the commission. The governor shall appoint to the commission three (3) residents of Allen County who are not admitted to the practice of law. However, not more than two (2) of these appointees may be from the same political party. If the governor fails to appoint any of the nonattorney commission members within the time required under section 34 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(b) A member of the commission other than a judge or justice may not hold any other salaried public office, and a member may not hold an office in a political party or organization. A member of the commission is ineligible for appointment to a judicial office in Allen County while the member is a member of the commission and for three (3) years thereafter. If any member of the commission other than a judge or justice terminates the member's residence in Allen County, the member is considered to have resigned from the commission.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-34

Judicial nominating commission; nonattorney members

Sec. 34. (a) The governor shall appoint the three (3) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall:

(1) reappoint the commissioner; or

(2) appoint a replacement.

All appointments shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court not more than ten (10) days after the appointment.

(c) After their initial terms, the governor shall appoint each nonattorney commissioner for a term of four (4) years.

(d) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing of that fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the governor not more than sixty (60) days after the governor has notice of the vacancy. The nonattorney commissioner appointed shall serve during the unexpired term of the member whose vacancy the nonattorney commissioner has filled.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-35

Judicial nominating commission; attorney members

Sec. 35. (a) Persons who are admitted to the practice of law and who reside in Allen County (referred to as "attorney electors") shall elect three (3) members to serve on the commission. The term of office of each elected attorney member is four (4) years, commencing on the first day of October following the member's election. The election day is the first Tuesday in September 1983, and every four

(4) years thereafter. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner shall be filled for the unexpired term by a special election.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-36

Judicial nominating commission; election of attorney members

Sec. 36. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the superior court shall, at least ninety (90) days before the date of election, notify all attorneys in Allen County of the election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors and the written consent of the qualified nominee, shall be filed by an attorney elector in the office of the clerk at least sixty (60) days before the election.

(3) The clerk shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot must read:

"ALLEN SUPERIOR COURT
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Allen County and admitted to the practice of law in Indiana. Vote for not more than three (3) of the following candidates for terms commencing _____.

(Name) (Address)
(Name) (Address)
(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Allen Superior Court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The three (3) nominees receiving the most votes are elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting the ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Allen County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(5) A separate envelope shall be provided by the clerk for the

ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

(6) The clerk of the superior court shall mail a ballot and its accompanying material to all qualified electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificates, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk, with the assistance of the Allen County election board, shall open and canvass all ballots after 4 p.m. on the day of the election in the office of the clerk of the Allen superior court. A ballot received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots the clerk shall place all ballots in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the court of appeals.

(9) If two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered to have been elected.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-37

Judicial nominating commission; notification of election or appointment

Sec. 37. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court;

the superior court clerk shall notify the members of the commission of their election or appointment.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-38

Judicial nominating commission; service; limitation

Sec. 38. (a) A member of the commission shall serve until the member's successor is appointed or elected.

(b) An attorney commissioner or nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-39

Vacancy in judgeship; nomination of candidates; meetings of commission

Sec. 39. (a) When a judge of the superior court:

(1) dies, resigns, is removed from office; or

(2) is for any reason ineligible to continue or incapable of continuing in office until the end of the judge's term in office;

a judge in another division may not more than thirty (30) days after the vacancy occurs transfer to the vacant position for the remainder of the transferring judge's term. A judge who has made one (1) transfer is ineligible to make any other transfers. If more than one (1) judge desires to transfer, the most senior of these judges is entitled to transfer. After a transfer, or the thirty (30) day period if a transfer is not made, the commission shall meet to nominate three (3) candidates to fill the unexpired term of the vacancy caused by the transferring judge or the original vacancy if a transfer is not made.

(b) The clerk shall promptly notify the members of the commission of a vacancy that the commission must fill under subsection (a), and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission shall submit its nominations of three (3) candidates for the vacancy and shall certify them to the governor not later than sixty (60) days after the vacancy occurred. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving:

(1) the clerk shall notify the chairman and each member of the commission immediately; and

(2) the chairman shall call a meeting of the commission within ten (10) days following that notice.

The commission may then submit its nominations of three (3) candidates for each impending vacancy and shall certify them to the governor.

(c) Meetings of the commission shall be called by its chairman, or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. Written notice of a meeting shall be given by mail to each member of the commission at least five (5) days before the meeting, unless the commission at its previous meeting designated the time and place of its next meeting.

(d) Meetings of the commission may be held in the Allen County courthouse or in another public building in Allen County designated by the commission.

(e) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. The commission may adopt rules for the conduct of its proceedings and the discharge of its duties.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-40

Vacancy in judgeship; nomination of candidates; requirements

Sec. 40. In selecting the three (3) nominees to be submitted to the

governor, the commission shall comply with the following requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the Allen superior court, a person must meet the qualifications listed in section 10 of this chapter.

(2) As an aid in choosing the three (3) most qualified candidates, the commission shall in writing evaluate each eligible individual it considers on the following factors:

(A) Law school record, including any academic honors and achievements.

(B) Contributions to scholarly journals and publications, legislative draftings, and legal briefs.

(C) Activities in public service, including:

(i) writings and speeches concerning public or civic affairs that are on public record, including campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(ii) government service;

(iii) efforts and achievements in improving the administration of justice; and

(iv) other conduct relating to the candidate's profession.

(D) Legal experience, including the number of years practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(E) Probable judicial temperament.

(F) Physical condition, including age, stamina, and possible habitual intemperance.

(G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

(H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.

(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(3) An individual may not be evaluated before the individual states in writing that the individual desires to hold a judicial office that is or will be created by a vacancy.

(4) The political affiliations of a candidate may not be considered.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-41

Vacancy in judgeship; submission of list of nominees to governor

Sec. 41. The commission shall submit to the governor, with its list of nominees, its written evaluation of the qualifications of each nominee.

As added by P.L.98-2004, SEC.12.

IC 33-33-2-42
Vacancy in judgeship; nomination of candidates; substitution of names

Sec. 42. (a) After the commission has nominated and submitted to the governor the names of three (3) nominees:

(1) a name may be withdrawn for a cause considered by the commission to substantially affect the nominee's qualifications to hold office; and

(2) another name or other names may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. Before an appointment is made, the commission may withdraw the lists of nominations and change the names of any persons nominated from one (1) list to another, or may substitute a new name for any of those previously nominated.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-43
Vacancy in judgeship; appointment from list of nominees

Sec. 43. (a) A vacancy created by a superior court judge's departure from office before the expiration of the judge's term in office that is not filled by a transfer under section 39 of this chapter shall be filled by appointment of the governor from the list of nominees. If the governor fails to make an appointment from the list within sixty (60) days after the list is presented to the governor, the appointment shall be made by the chief justice of the supreme court from the same list.

(b) The governor shall make all appointments to the Allen superior court without regard to the political affiliation of any of the nominees and shall consider only those qualifications included in section 40 of this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-44
Vacancy in judgeship; effective date of appointment

Sec. 44. An appointment to the Allen superior court for the remainder of a departing judge's term in office takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if the vacancy does not yet exist.
As added by P.L.98-2004, SEC.12.

IC 33-33-2-45
Vacancy in judgeship; appointee to serve unexpired term

Sec. 45. A judge appointed under section 43 of this chapter serves during the unexpired part of the judge's predecessor's term in office.
As added by P.L.98-2004, SEC.12.

IC 33-33-3
Chapter 3. Bartholomew County

IC 33-33-3-1
Judicial circuit
Sec. 1. Bartholomew County constitutes the ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-3-2
Establishment of standard superior courts
Sec. 2. (a) There are created two (2) courts of record to be known as Bartholomew superior court No. 1 and Bartholomew superior court No. 2.
(b) Each court is a standard superior court as described in IC 33-29-1.
(c) Bartholomew County comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12.

IC 33-33-3-3
Clerk and sheriff
Sec. 3. The clerk of the Bartholomew circuit court is the clerk of the Bartholomew superior courts, and the sheriff of Bartholomew County is the sheriff of the Bartholomew superior courts. The clerk and sheriff shall attend the courts and discharge all the duties pertaining to their respective offices as they are required to do by law with reference to the Bartholomew circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-3-4
Judges; location of court sessions
Sec. 4. Each Bartholomew superior court has one (1) judge who shall hold sessions in the Bartholomew County courthouse in Columbus.
As added by P.L.98-2004, SEC.12.

IC 33-33-3-5
Judicial powers
Sec. 5. (a) The judges of the Bartholomew superior courts:
(1) may make and adopt rules for conducting the business of the Bartholomew superior courts not repugnant to the laws of the state or rules of the supreme court; and
(2) have all powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and enforcement of its orders.
(b) In addition to the powers described in IC 33-29-1-4, the judges of each superior court may:
(1) give all necessary certificates for the authentication of records and proceedings of each court; and
(2) make and execute certificates of qualification and moral

character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-3-6
Magistrate

Sec. 6. (a) The judge of Bartholomew superior court No. 2 may appoint one (1) full-time magistrate to serve Bartholomew superior court No. 2.

(b) The magistrate continues in office until removed by the judge of Bartholomew superior court No. 2.

As added by P.L.98-2004, SEC.12.

IC 33-33-3-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-3-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-4

Chapter 4. Benton County

IC 33-33-4-1

Judicial circuit

Sec. 1. Benton County constitutes the seventy-sixth judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.32.

IC 33-33-5
Chapter 5. Blackford County

IC 33-33-5-1
Judicial circuit
Sec. 1. Blackford County constitutes the seventy-first judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-5-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Blackford superior court.
(b) The Blackford superior court is a standard superior court as described in IC 33-29-1.
(c) Blackford County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-5-3
Judge; location of court sessions
Sec. 3. The Blackford superior court has one (1) judge who shall hold sessions in the Blackford County courthouse in Hartford City or in any other places in the county as the Blackford County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-5-4
Personnel
Sec. 4. (a) In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, the judge of the Blackford superior court may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, commissioner, or other person:
(1) shall be fixed in the same manner as the salaries of the personnel for the Blackford circuit court; and
(2) shall be paid monthly out of the treasury of Blackford County as provided by law.
(b) Personnel appointed under this section and IC 33-29-1-5 continue in office until removed by the judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-5-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-5-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-6
Chapter 6. Boone County

IC 33-33-6-0.2
Application of certain amendments to prior law
Sec. 0.2. The amendments made to IC 33-5-9-5 (before its repeal, now codified at section 7 of this chapter) by P.L.217-2001 apply to all proceedings pending under IC 31-34 on July 1, 2001, and to all proceedings commenced under IC 31-34 after June 30, 2001.
As added by P.L.220-2011, SEC.532.

IC 33-33-6-1
Judicial circuit
Sec. 1. Boone County constitutes the twentieth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-6-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as Boone superior court No. 1 and Boone superior court No. 2.
(b) Except as otherwise provided in this chapter, both superior courts are standard superior courts as described in IC 33-29-1.
(c) Boone County constitutes the judicial district of each superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-6-3
Judges; location of court sessions
Sec. 3. Each Boone superior court has one (1) judge who shall hold session in the Boone County courthouse in Lebanon.
As added by P.L.98-2004, SEC.12.

IC 33-33-6-4
Transfer of cases
Sec. 4. A case filed in the Boone circuit court or one (1) of the Boone superior courts may not be transferred by a court to one (1) of the other courts except on written stipulation of all the parties to the cause, other than parties defaulted. The stipulation shall be filed in the cause.
As added by P.L.98-2004, SEC.12.

IC 33-33-6-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-6-6
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-6-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-6-8
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-7

Chapter 7. Brown County

IC 33-33-7-1

Judicial circuit

Sec. 1. (a) Brown County constitutes the eighty-eighth judicial circuit.

(b) The judge of the Brown circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.33.

IC 33-33-8
Chapter 8. Carroll County

IC 33-33-8-1
Judicial circuit

Sec. 1. Carroll County constitutes the seventy-fourth judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.34.

IC 33-33-8-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Carroll superior court.

(b) The Carroll superior court is a standard superior court as described in IC 33-29-1.

(c) Carroll County comprises the judicial district of the superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-8-3
Judge; location of court sessions

Sec. 3. The Carroll superior court has one (1) judge who shall hold sessions in the Carroll County courthouse in Delphi or in other places in the county as the Carroll County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-8-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-8-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-9
Chapter 9. Cass County

IC 33-33-9-1
Judicial circuit
Sec. 1. Cass County constitutes the twenty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-9-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as Cass superior court No. 1 and Cass superior court No. 2.
(b) Each Cass superior court is a standard superior court as described in IC 33-29-1.
(c) Cass County comprises the judicial district of each superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-9-3
Judges; location of court sessions
Sec. 3. Each Cass superior court has one (1) judge who shall hold sessions in the Cass County courthouse in Logansport or in other places in the county as the board of county commissioners of Cass County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-9-4
Clerk and sheriff
Sec. 4. The clerk of the Cass circuit court shall serve as the clerk of each Cass superior court, and the sheriff of Cass County shall serve as the sheriff of each Cass superior court. They shall attend the courts and perform the same duties relating to their offices as they are required to do with respect to the Cass circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-9-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-9-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10
Chapter 10. Clark County

IC 33-33-10-1
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-2
Appointment; magistrates
Sec. 2. (a) Clark County constitutes the fourth judicial circuit.
(b) The judges of the Clark circuit court may jointly appoint two (2) full-time magistrates under IC 33-23-5 to serve the circuit court.
(c) A magistrate continues in office until removed by the judges of the Clark circuit court.
As added by P.L.98-2004, SEC.12. Amended by P.L.234-2007, SEC.215; P.L.201-2011, SEC.19.

IC 33-33-10-2.5
Judges; jurisdiction; dockets
Sec. 2.5. (a) The Clark circuit court is a court of general jurisdiction with four (4) judges. The divisions of the court shall be known as Clark circuit court No. 1, No. 2, No. 3, and No. 4. Clark County constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:
(1) A small claims and misdemeanor division under IC 33-28-3 that has a:
(A) small claims docket; and
(B) minor offenses and violations docket.
(2) Criminal.
(3) Juvenile.
(4) Civil.
(5) Probate.
(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court.
As added by P.L.201-2011, SEC.35.

IC 33-33-10-3
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-6
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-7
Sessions; operation and maintenance

Sec. 7. (a) Each division of the circuit court of Clark County shall hold its sessions at the courthouse of the county, or at other convenient places as the circuit court designates in the county. The county commissioners shall provide suitable quarters for each division of the circuit court and each magistrate appointed by the circuit court.

(b) Each year the Clark County fiscal body shall budget the necessary funds to provide for the operation and maintenance of the:

(1) circuit court, including magistrates appointed by the circuit court; and

(2) office of the clerk of the circuit court.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.36.

IC 33-33-10-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-9
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-10
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-11
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-12
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-13
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-10-14
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-10-15
Transfer of cases

Sec. 15. (a) A judge of a division of the Clark circuit court may, with the consent of a judge of another division of the circuit court,

transfer any action or proceeding from the judge's division to the other judge's division.

(b) A judge of a city or town court located in Clark County may, with the consent of the judge of a division of the Clark circuit court, transfer to the division of the circuit court any cause of action filed and docketed in the city or town court. All original pleadings and documents and bail bonds filed in the cause of action shall be transferred from the city or town court to the receiving division of the circuit court. The cause of action shall be redocketed in the receiving division of the circuit court and disposed of as if originally filed with the receiving division of the circuit court.

(c) The judge of a division of the Clark circuit court may, with the consent of the judge of another division of the circuit court, sit as a judge of the other division of the circuit court in any matter.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.37.

IC 33-33-10-16

Board of judges; presiding judge

Sec. 16. (a) The Clark circuit court shall be governed by a board of judges composed of all the circuit court judges. The board of judges shall administer the Clark circuit court for all purposes.

(b) The judges of the circuit court shall select from among themselves a presiding judge of the circuit court. The presiding judge shall be selected for a minimum term of twelve (12) months.

As added by P.L.201-2011, SEC.38.

IC 33-33-10-17

Concerted action by judges; majority rules

Sec. 17. (a) When any action of the entire circuit court is required, including selection of a presiding judge under section 16(b) of this chapter and adoption of rules under section 19 of this chapter, the judges of the circuit court shall act by consensus.

(b) If consensus is not possible under subsection (a), the decision of the majority of the judges controls.

As added by P.L.201-2011, SEC.39.

IC 33-33-10-18

Presiding judge; duties

Sec. 18. In accordance with rules adopted by the board of judges under section 19 of this chapter, the presiding judge shall do the following:

(1) Ensure that the circuit court operates efficiently and judicially under rules adopted by the board of judges.

(2) Upon approval by the board of judges, annually submit to the fiscal body of Clark County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents;

(C) compensating employees of the circuit court; and

(D) maintaining an adequate law library.

(3) Upon approval by the board of judges, make the appointments or selections required of a circuit or superior court judge.

As added by P.L.201-2011, SEC.40.

IC 33-33-10-19
Rules

Sec. 19. (a) Before March 15 of each year, the board of judges of the circuit court shall adopt rules to provide for the administration of the circuit court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the circuit court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of circuit court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The board of judges of the circuit court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.201-2011, SEC.41.

IC 33-33-10-20
Court personnel

Sec. 20. (a) Each judge of the circuit court may employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the circuit court; and

(2) are subject to the rules concerning employment and management of circuit court personnel adopted by the board of judges under section 19 of this chapter.

As added by P.L.201-2011, SEC.42.

IC 33-33-10-21
Court administrator

Sec. 21. (a) The board of judges of the circuit court shall appoint a court administrator to implement and administer the decisions made by the board of judges.

(b) A circuit court administrator appointed under this section is subject to the rules concerning employment and management of circuit court personnel adopted by the board of judges under section 19 of this chapter.

As added by P.L.201-2011, SEC.43.

IC 33-33-11
Chapter 11. Clay County

IC 33-33-11-1
Judicial circuit
Sec. 1. Clay County constitutes the thirteenth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-11-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Clay superior court.
(b) The Clay superior court is a standard superior court as described in IC 33-29-1.
(c) Clay County comprises the judicial district of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-11-3
Judge; location of court sessions
Sec. 3. The Clay superior court has one (1) judge who shall hold sessions in the Clay County courthouse in Brazil or in other places in the county as the board of county commissioners of Clay County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-11-4
Rules
Sec. 4. The judges of the Clay superior court and Clay circuit court may jointly, in accordance with the Indiana Rules of Trial Procedure, establish local rules for governing their courts, including rules for distribution of cases over which the judges have concurrent jurisdiction.
As added by P.L.98-2004, SEC.12.

IC 33-33-11-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-11-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-12
Chapter 12. Clinton County

IC 33-33-12-1
Judicial circuit
Sec. 1. Clinton County constitutes the forty-fifth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-12-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Clinton superior court.
(b) The Clinton superior court is a standard superior court as described in IC 33-29-1.
(c) Clinton County comprises the judicial district of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-12-3
Judge; location of court sessions
Sec. 3. The Clinton superior court has one (1) judge who shall hold sessions in the Clinton County courthouse in Frankfort or in other places in the county as the Clinton County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-12-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-12-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-13
Chapter 13. Crawford County

IC 33-33-13-1
Judicial circuit

Sec. 1. Crawford County constitutes the seventy-seventh judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.44.

IC 33-33-14
Chapter 14. Daviess County

IC 33-33-14-1
Judicial circuit
Sec. 1. Daviess County constitutes the forty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-14-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Daviess superior court.
(b) The Daviess superior court is a standard superior court as described in IC 33-29-1.
(c) Daviess County comprises the judicial district of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-14-3
Judge; location of court sessions
Sec. 3. The Daviess superior court has one (1) judge who shall hold sessions in the Daviess County courthouse in Washington or in other places in the county as the Daviess County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-14-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-14-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-15
Chapter 15. Dearborn County

IC 33-33-15-1
Judicial circuit

Sec. 1. (a) Dearborn County and Ohio County constitute the seventh judicial circuit.

(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.10.

IC 33-33-15-2
Establishment of standard superior courts

Sec. 2. (a) There are established two (2) courts of record to be known as the:

(1) Dearborn superior court No. 1; and

(2) Dearborn superior court No. 2.

(b) Each Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of each superior court.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.2.

IC 33-33-15-3
Judges; location of court sessions

Sec. 3. Each Dearborn superior court has one (1) judge who shall hold sessions in:

(1) the Dearborn County courthouse in Lawrenceburg; or

(2) other places in the county as the Dearborn County executive may provide.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.3.

IC 33-33-15-4
Personnel

Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, each judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

(1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and

(2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court for which the personnel were appointed.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.4.

IC 33-33-15-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-15-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-16
Chapter 16. Decatur County

IC 33-33-16-1
Judicial circuit
Sec. 1. Decatur County constitutes the sixty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-16-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Decatur superior court.
(b) The Decatur superior court is a standard superior court as described in IC 33-29-1.
(c) Decatur County comprises the judicial district of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-16-3
Judge; location of court sessions
Sec. 3. The Decatur superior court has one (1) judge who shall hold sessions in:
(1) the Decatur County courthouse in Greensburg; or
(2) other places in the county that the Decatur County executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-16-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-16-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-17
Chapter 17. DeKalb County

IC 33-33-17-1
Judicial circuit

Sec. 1. DeKalb County constitutes the seventy-fifth judicial circuit.

As added by P.L.98-2004, SEC.12.

IC 33-33-17-2
Establishment of standard superior courts

Sec. 2. (a) There are established two (2) courts of record to be known as the DeKalb superior court No. 1 and the DeKalb superior court No. 2.

(b) Each DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of each superior court.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.7.

IC 33-33-17-3
Judges; location of court sessions

Sec. 3. Each DeKalb superior court has one (1) judge who shall hold sessions in:

(1) the DeKalb County courthouse in Auburn; or

(2) other places in the county as the board of county commissioners of DeKalb County may provide.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.8.

IC 33-33-17-4
Change of venue

Sec. 4. (a) If:

(1) the clerk of the circuit court of DeKalb County receives the transcript of the original papers in a civil action or proceeding on a change of venue from another county; and

(2) the papers described in subdivision (1) contain an order of the court from which venue was changed designating the circuit court or one (1) of the superior courts as the court to which the case is to be transferred;

the clerk shall file the action or proceeding on the docket of the designated court.

(b) If:

(1) the clerk of the circuit court of DeKalb County receives the transcript of the original papers in a civil action or proceeding on a change of venue from another county; and

(2) the papers described in subdivision (1) do not contain an order designating the court to which the case is to be transferred;

the clerk shall alternately file each action or proceeding on the docket of the circuit court or the docket of one (1) of the superior courts, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court No. 1, and the next must be assigned to the superior court No. 2.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.9.

IC 33-33-17-5
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-17-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-17-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-18
Chapter 18. Delaware County

IC 33-33-18-1
Judicial circuit

Sec. 1. Delaware County constitutes the forty-sixth judicial circuit.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-2
Jurisdiction; dockets

Sec. 2. (a) The Delaware circuit court is a court of general jurisdiction with five (5) judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, and No. 5. The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

(1) Small claims.
(2) Minor offenses and violations.
(3) Criminal.
(4) Juvenile.
(5) Civil.
(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-3
Presiding judge

Sec. 3. The judges of the Delaware circuit court shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-4
Concerted action of judges; majority rule

Sec. 4. When action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-5
Presiding judge; duties

Sec. 5. In accordance with rules adopted by the judges of the Delaware circuit court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially.

(2) Annually submit to the fiscal body of Delaware County a budget for the court, including amounts necessary for the following:

(A) Operation of the Delaware circuit court's probation department.

(B) Defense of indigents.

(C) Maintenance of an adequate law library.

(3) Make appointments or selections required of a circuit or superior court judge.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-6

Rules for administration of court

Sec. 6. (a) The judges of the Delaware circuit court shall adopt rules to provide for the administration of the court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-7

Personnel

Sec. 7. (a) Each judge of the Delaware circuit court may, subject to the budget approved for the court by the fiscal body of Delaware County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

(c) A commissioner is entitled to practice law in any division of the court in which the commissioner does not have appointive judicial authority. A commissioner has judicial authority only in the division of the court presided over by the judge who appointed the commissioner.

As added by P.L.98-2004, SEC.12.

IC 33-33-18-8

Court administrator

Sec. 8. (a) The Delaware circuit court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Delaware County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-19
Chapter 19. Dubois County

IC 33-33-19-1
Judicial circuit
Sec. 1. Dubois County constitutes the fifty-seventh judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-19-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Dubois superior court.
(b) The Dubois superior court is a standard superior court as described in IC 33-29-1.
(c) Dubois County comprises the judicial district of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-19-3
Judge; location of court sessions
Sec. 3. The Dubois superior court has one (1) judge who shall hold sessions in:
(1) the Dubois County courthouse in Jasper; or
(2) other places in the county as the board of county commissioners of Dubois County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-19-4
Clerk and sheriff
Sec. 4. The clerk of the Dubois circuit court shall serve as the clerk of the Dubois superior court, and the sheriff of Dubois County shall serve as the sheriff of the Dubois superior court. They shall attend the court and perform the same duties relating to their offices as they are required to do with respect to the Dubois circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-19-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-19-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-20
Chapter 20. Elkhart County

IC 33-33-20-1
Judicial circuit
Sec. 1. Elkhart County constitutes the thirty-fourth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-20-2
Magistrates
Sec. 2. (a) The judges of the Elkhart circuit and superior courts may jointly appoint two full-time magistrates under IC 33-23-5 to serve the circuit and superior courts.
(b) A magistrate continues in office until removed by the judges of the circuit and superior courts.
As added by P.L.98-2004, SEC.12. Amended by P.L.1-2006, SEC.503.

IC 33-33-20-3
Establishment of standard superior court
Sec. 3. (a) There is established a court of record to be known as the Elkhart superior court.
(b) The Elkhart superior court is a standard superior court as described in IC 33-29-1.
(c) Elkhart County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-20-4
Judges; location of court sessions
Sec. 4. The Elkhart superior court has six (6) judges. Four (4) of the judges of the court shall hold sessions in the Elkhart County courts building in Elkhart. Two (2) of the judges of the court shall hold sessions in an appropriate place in Goshen selected by the county commissioners.
As added by P.L.98-2004, SEC.12.

IC 33-33-20-5
Rules
Sec. 5. The judges of the Elkhart superior court may make rules for conducting the business of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-20-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-20-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-21
Chapter 21. Fayette County

IC 33-33-21-1
Judicial circuit
Sec. 1. Fayette County constitutes the seventy-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-21-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Fayette superior court.
(b) The Fayette superior court is a standard superior court as described in IC 33-29-1.
(c) Fayette County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-21-3
Judge; location of court sessions
Sec. 3. The Fayette superior court has one (1) judge who shall hold sessions in:
(1) the Fayette County courthouse in Connersville; or
(2) other places in the county as the Fayette County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-21-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-21-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-22

Chapter 22. Floyd County

IC 33-33-22-1

Judicial circuit; magistrate

Sec. 1. (a) Floyd County constitutes the fifty-second judicial circuit.

(b) The judges of the Floyd circuit court and Floyd superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Floyd circuit and superior courts.

As added by P.L.98-2004, SEC.12. Amended by P.L.234-2007, SEC.217; P.L.82-2010, SEC.1.

IC 33-33-22-2

Establishment of standard superior courts

Sec. 2. (a) There are established three (3) courts of record to be known as the Floyd superior court No. 1, Floyd superior court No. 2, and Floyd superior court No. 3.

(b) Each Floyd superior court is a standard superior court as described in IC 33-29-1.

(c) Floyd County comprises the judicial district of each court.

As added by P.L.98-2004, SEC.12. Amended by P.L.82-2010, SEC.2; P.L.161-2011, SEC.2; P.L.201-2011, SEC.45.

IC 33-33-22-3

Judges

Sec. 3. Each Floyd superior court has one (1) judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.234-2007, SEC.218; P.L.82-2010, SEC.3; P.L.161-2011, SEC.3; P.L.201-2011, SEC.46.

IC 33-33-22-4

Location of court sessions

Sec. 4. Each Floyd superior court shall hold its sessions in:

(1) the Floyd County courthouse in New Albany; or

(2) other places in the county as the board of county commissioners of Floyd County may provide.

As added by P.L.98-2004, SEC.12. Amended by P.L.82-2010, SEC.4.

IC 33-33-22-5

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-22-6

Repealed

(Repealed by P.L.234-2007, SEC.220.)

IC 33-33-22-7

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-23
Chapter 23. Fountain County

IC 33-33-23-1
Judicial circuit

Sec. 1. Fountain County constitutes the sixty-first judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.47.

IC 33-33-24
Chapter 24. Franklin County

IC 33-33-24-1
Judicial circuit

Sec. 1. (a) Franklin County constitutes the thirty-seventh judicial circuit.

(b) There are two (2) judges of the Franklin circuit court.

As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.11; P.L.201-2011, SEC.48.

IC 33-33-24-2
Repealed

(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-25
Chapter 25. Fulton County

IC 33-33-25-1
Judicial circuit
Sec. 1. Fulton County constitutes the forty-first judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-25-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Fulton superior court.
(b) The Fulton superior court is a standard superior court as described in IC 33-29-1.
(c) Fulton County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-25-3
Judge; location of court sessions
Sec. 3. The Fulton superior court has one (1) judge who shall hold sessions in:
(1) the Fulton County courthouse in Rochester; or
(2) other places in the county as the Fulton County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-25-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-25-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-26
Chapter 26. Gibson County

IC 33-33-26-1
Judicial circuit
Sec. 1. Gibson County constitutes the sixty-sixth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-26-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Gibson superior court.
(b) The Gibson superior court is a standard superior court as described in IC 33-29-1.
(c) Gibson County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-26-3
Judge; location of court sessions
Sec. 3. The Gibson superior court has one (1) judge who shall hold sessions in:
(1) the Gibson County courthouse in Princeton; or
(2) other places in the county as the board of county commissioners of Gibson County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-26-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-26-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-27
Chapter 27. Grant County

IC 33-33-27-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-2
Judicial circuit
Sec. 2. Grant County constitutes the forty-eighth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-3
Superior court judicial district
Sec. 3. Grant County constitutes the Grant superior court judicial district.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-4
Judge of superior court; term; election; vacancy
Sec. 4. (a) The term of the judge of the Grant superior court is six (6) years beginning on the first day of January following the judge's election.
(b) The voters of Grant County every six (6) years at a general election shall elect a person as judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-5
Location of court sessions
Sec. 5. The Grant superior court shall hold its sessions in Marion.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-6
Clerk and sheriff
Sec. 6. The clerk of the Grant circuit court and the sheriff of Grant County shall serve as the clerk and sheriff of the Grant superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-7
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-27-8
Entries in dockets and records
Sec. 8. The clerk of the Grant circuit court shall enter all judgments rendered in, executions issued from, and papers filed in the Grant superior court in the same judgment and execution dockets, lis pendens records, and other dockets and records, except order

books, as are used for judgments and executions and proceedings of the Grant circuit court. The clerk shall note whether any judgment or proceeding is a judgment or proceeding of the Grant circuit or Grant superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-27-9
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-27.2

Chapter 27.2. Grant County Superior Court No. 2

IC 33-33-27.2-1

Application

Sec. 1. IC 33-29-1 does not apply to this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-2

Establishment of court; judge; term; election

Sec. 2. The Grant superior court No. 2, is established as a court of record. The court consists of one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. Every six (6) years, the voters of Grant County shall elect at the general election a judge for the Grant superior court No. 2.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-3

Judicial district; court of record; seal

Sec. 3. Grant County constitutes the judicial district of the Grant superior court No. 2. The court shall have a seal containing the words "Grant Superior Court No. 2, of Grant County, Indiana".

As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-4

Bailiff and court reporter

Sec. 4. The judge of the Grant superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation as provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Grant County.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-5

Location of court sessions

Sec. 5. (a) The Grant superior court No. 2, shall hold its sessions in a place to be determined by the county council of Grant County.

(b) The board of county commissioners of Grant County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of court, together with a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court. The county council shall make the necessary appropriations from the general fund of the county to carry out this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-27.2-7
Judicial powers
Sec. 7. The judge of the Grant superior court No. 2 may make and adopt rules and regulations for conducting the business of the Grant superior court No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.
As added by P.L.98-2004, SEC.12.

IC 33-33-27.2-8
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-27.2-9
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-27.3

Chapter 27.3. Grant County Superior Court No. 3

IC 33-33-27.3-1

Application

Sec. 1. IC 33-29-1 does not apply to this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-2

Establishment; seal; judicial district

Sec. 2. (a) There is established a court of record to be known as the Grant superior court No. 3 (referred to as "the court" in this chapter).

(b) The court may have a seal containing the words "Grant Superior Court No. 3, Grant County, Indiana".

(c) Grant County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-3

Judge; election; term; qualifications

Sec. 3. (a) The court has one (1) judge who shall be elected at the general election every six (6) years in Grant County. 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 the court, a person must be:

(1) a resident of Grant County; and

(2) admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.4; P.L.201-2011, SEC.49.

IC 33-33-27.3-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-27.3-5

Judicial powers

Sec. 5. The judge of the court:

(1) has the same powers relating to the conduct of the business of the court as the judges of the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

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

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-6

Bailiff and court reporter

Sec. 6. (a) The judge of the 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 official court reporter for the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) paid monthly out of the treasury of Grant County as provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-7
Books and dockets of court

Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide:

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

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

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-8
Location of court sessions

Sec. 8. (a) The court shall hold its sessions in:

(1) the Grant County courthouse in Marion; or

(2) other places in the county that the Grant County executive provides.

(b) The Grant County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.

(c) The Grant County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-9
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-27.3-10
Transfer of actions and proceedings

Sec. 10. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Grant circuit court, Grant superior court, or Grant superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, transfer any action or proceeding from the court to the Grant circuit court, Grant superior court, or Grant superior court No. 2.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-11
Sitting of judges

Sec. 11. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, sit as a judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 in any matter as if an elected judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2.

As added by P.L.98-2004, SEC.12.

IC 33-33-27.3-12
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-28
Chapter 28. Greene County

IC 33-33-28-1
Judicial district
Sec. 1. Greene County constitutes the sixty-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-28-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Greene superior court.
(b) The Greene superior court is a standard superior court as described in IC 33-29-1.
(c) Greene County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-28-3
Judge; location of court sessions
Sec. 3. The Greene superior court has one (1) judge who shall hold sessions in:
(1) the Greene County courthouse in Bloomfield; or
(2) other places in the county as the Greene County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-28-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-28-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-29
Chapter 29. Hamilton County

IC 33-33-29-1
Judicial circuit

Sec. 1. Hamilton County constitutes the twenty-fourth judicial circuit.

As added by P.L.98-2004, SEC.12.

IC 33-33-29-2
Establishment of standard superior courts

Sec. 2. (a) There are established six (6) superior courts of record to be known as the:

(1) Hamilton superior court No. 1;
(2) Hamilton superior court No. 2;
(3) Hamilton superior court No. 3;
(4) Hamilton superior court No. 4;
(5) Hamilton superior court No. 5; and
(6) Hamilton superior court No. 6.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.12.

IC 33-33-29-3
Judges; location of court sessions

Sec. 3. Each Hamilton superior court has one (1) judge who shall hold sessions in:

(1) the Hamilton County courthouse in Noblesville; or
(2) another convenient and suitable place provided by the board of county commissioners.

As added by P.L.98-2004, SEC.12.

IC 33-33-29-4
Personnel

Sec. 4. In addition to the personnel that may be appointed under IC 33-29-1-5, the judge of each Hamilton superior court may appoint other personnel necessary to facilitate and transact the business of the court. The other necessary personnel shall serve at the pleasure of the court, and the judge shall fix their compensation within the limits and in the manner provided by law concerning other personnel of the court. The compensation shall be paid monthly out of the treasury of Hamilton County in the manner provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-29-5
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-29-6
Appointment; magistrates

Sec. 6. (a) The judges of the Hamilton superior court may jointly appoint three (3) full-time magistrates under IC 33-23-5 to serve the superior court.

(b) A magistrate continues in office until removed by the judges of the Hamilton superior court.

As added by P.L.98-2004, SEC.12. Amended by P.L.234-2007, SEC.212; P.L.83-2013, SEC.1.

IC 33-33-29-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-29-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-30
Chapter 30. Hancock County

IC 33-33-30-1
Judicial circuit
Sec. 1. Hancock County constitutes the eighteenth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) superior courts of record to be known as the Hancock superior court No. 1 and the Hancock superior court No. 2.
(b) Except as otherwise provided in this chapter, each Hancock superior court is a standard superior court as described in IC 33-29-1.
(c) Hancock county comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-3
Judges
Sec. 3. Each court consists of one (1) judge.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.5; P.L.201-2011, SEC.50.

IC 33-33-30-4
Location of court sessions
Sec. 4. Hancock superior court No. 1 and Hancock superior court No. 2 shall each hold sessions in the Hancock County courthouse in Greenfield.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-5
Powers
Sec. 5. In addition to the powers described in IC 33-29-1-4, the judges of Hancock superior court No. 1 and Hancock superior court No. 2 may make and adopt rules and regulations for conducting the business of Hancock superior court No. 1 and Hancock superior court No. 2 and have all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of the courts' orders. The judge of each superior court may make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-6
Transfer of actions and proceedings
Sec. 6. Notwithstanding the provisions of any statute applying generally to superior or circuit courts, a judge of the:
(1) Hancock circuit court;

(2) Hancock superior court No. 1; or
(3) Hancock superior court No. 2;
may transfer an action or proceeding from the Hancock circuit court or a Hancock superior court to the Hancock circuit court or another Hancock superior court with the consent of the judge of the court that would receive the action or proceeding.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-7
Change of venue

Sec. 7. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hancock circuit court on change of venue from another county, the cause may be docketed in either the Hancock circuit court, Hancock superior court No. 1, or Hancock superior court No. 2, under rules adopted by the judges of the Hancock circuit court, Hancock superior court No. 1, and Hancock superior court No. 2, unless otherwise provided in the order, report of striking, or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry, report, or order.
As added by P.L.98-2004, SEC.12.

IC 33-33-30-8
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-30-9
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-30-10
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-31
Chapter 31. Harrison County

IC 33-33-31-1
Judicial circuit
Sec. 1. Harrison County constitutes the third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-31-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Harrison superior court.
(b) The Harrison superior court is a standard superior court as described in IC 33-29-1.
(c) Harrison County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-31-3
Judge; location of court sessions
Sec. 3. The Harrison superior court has one (1) judge who shall hold sessions in:
(1) the Harrison County courthouse in Corydon; or
(2) other places in the county as the Harrison County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-31-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-31-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-32
Chapter 32. Hendricks County

IC 33-33-32-0.2
Application of certain amendments to prior law
Sec. 0.2. The amendments made to IC 33-5-25-5 (before its repeal, now codified at section 8 of this chapter) by P.L.217-2001 apply to all proceedings pending under IC 31-34 on July 1, 2001, and to all proceedings commenced under IC 31-34 after June 30, 2001.
As added by P.L.220-2011, SEC.533.

IC 33-33-32-1
Judicial circuit
Sec. 1. Hendricks County constitutes the fifty-fifth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-32-2
Establishment of standard superior courts
Sec. 2. (a) There are established five (5) superior courts of record to be known as:
(1) Hendricks superior court No. 1;
(2) Hendricks superior court No. 2;
(3) Hendricks superior court No. 3;
(4) Hendricks superior court No. 4; and
(5) Hendricks superior court No. 5.
(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.
(c) Hendricks County comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.14.

IC 33-33-32-3
Judges; location of court sessions
Sec. 3. Each Hendricks superior court has one (1) judge who shall hold sessions in the Hendricks County courthouse in Danville.
As added by P.L.98-2004, SEC.12.

IC 33-33-32-4
Transfers of cases
Sec. 4. Notwithstanding IC 33-29-1-9, an action, a cause, a case, a proceeding, or other matter filed in the Hendricks circuit court or a Hendricks superior court established by this chapter may be transferred by the court in which it is filed to either of the other courts by transferring all original papers filed with the consent of the court to which it is transferred.
As added by P.L.98-2004, SEC.12.

IC 33-33-32-5
Change of venue
Sec. 5. (a) Change of venue from the judge or from the county

may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the:

(1) Hendricks circuit court;
(2) Hendricks superior court No. 1;
(3) Hendricks superior court No. 2;
(4) Hendricks superior court No. 3;
(5) Hendricks superior court No. 4; and
(6) Hendricks superior court No. 5;

unless otherwise provided in the order or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry or order.

As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.15.

IC 33-33-32-6
Powers

Sec. 6. In addition to the powers described in IC 33-29-1-4, the judge of each Hendricks superior court may make and adopt rules and regulations for continuing business of the court. Each judge has the powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. Each judge may make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-32-7
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-32-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-32-9
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-32-10
Magistrates

Sec. 10. (a) The judges of the Hendricks superior courts may jointly appoint two (2) full-time magistrates under IC 33-23-5 to serve the superior courts.

(b) The magistrates continue in office until removed by the judges of the Hendricks superior courts.

As added by P.L.83-2013, SEC.2.

IC 33-33-33
Chapter 33. Henry County

IC 33-33-33-1
Judicial circuit
Sec. 1. Henry County constitutes the fifty-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-33-2
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-3
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-33-8
Judges; jurisdiction; dockets
Sec. 8. (a) The Henry circuit court is a court of general jurisdiction with three (3) judges. The divisions of the court shall be known as Henry circuit court No. 1, No. 2, and No. 3. Henry County constitutes the judicial district of the court and of each of the court's divisions. The court shall maintain the following:
(1) A small claims and misdemeanor division under IC 33-28-3 that has:
(A) a small claims docket; and
(B) a minor offenses and violations docket.
(2) A criminal docket.
(3) A juvenile docket.
(4) A civil docket.
(5) A probate docket.
(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court. However, Henry circuit court No. 3 shall have a standard small

claims and misdemeanor docket.
As added by P.L.201-2011, SEC.51.

IC 33-33-33-9
Presiding judge

Sec. 9. The judges of the Henry circuit court shall select from among themselves a presiding judge of the circuit court.
As added by P.L.201-2011, SEC.52.

IC 33-33-33-10
Concerted action by judges; majority rules

Sec. 10. When any action of the entire Henry circuit court is required, the judges of the circuit court shall act in concert. If the judges disagree, the decision of the majority of the judges present and voting controls.
As added by P.L.201-2011, SEC.53.

IC 33-33-33-11
Presiding judge; duties

Sec. 11. In accordance with rules adopted by the judges of the Henry circuit court under section 12 of this chapter, the presiding judge shall do the following:

(1) Ensure that the circuit court operates efficiently and judicially.

(2) Annually submit to the fiscal body of Henry County a budget for the court, including amounts necessary for the following:

(A) The operation of the judicial circuit's probation department.

(B) The defense of indigents.

(3) Make the appointments or selections required of a circuit or superior court judge.

As added by P.L.201-2011, SEC.54.

IC 33-33-33-12
Rules

Sec. 12. (a) The judges of the Henry circuit court shall adopt rules to provide for the administration of the circuit court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the circuit court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of circuit court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The circuit court shall file with the division of state court administration a copy of the rules adopted under this section.
As added by P.L.201-2011, SEC.55.

IC 33-33-33-13
Personnel

Sec. 13. (a) Each judge of the Henry circuit court may, subject to the budget approved for the court by the fiscal body of Henry County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the circuit court; and

(2) are subject to the rules concerning employment and management of circuit court personnel adopted by the circuit court under section 12 of this chapter.

As added by P.L.201-2011, SEC.56.

IC 33-33-34
Chapter 34. Howard County

IC 33-33-34-1
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-2
Judicial circuit
Sec. 2. Howard County constitutes the sixty-second judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-34-3
Establishment of standard superior courts
Sec. 3. (a) There are established four (4) superior courts of record to be known as the Howard superior court No. 1, the Howard superior court No. 2, the Howard superior court No. 3, and the Howard superior court No. 4.
(b) Except as otherwise provided in this chapter, each Howard superior court is a standard superior court, as described in IC 33-29-1.
(c) Howard county comprises the judicial circuit of each court.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.16.

IC 33-33-34-4
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-5
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-6
Judges; location of court sessions
Sec. 6. Each Howard superior court has one (1) judge, who shall hold its sessions in:
(1) the Howard County courthouse in Kokomo; or
(2) another convenient and suitable place as the board of county commissioners of Howard County provides.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.17.

IC 33-33-34-7
Court rules and regulations
Sec. 7. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.18.

IC 33-33-34-8
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-9
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-10
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-11
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-12
Additional personnel
Sec. 12. Each judge may appoint additional officers and personnel as is necessary for the proper administration of the judge's duties as judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-34-13
Rules; presiding judge
Sec. 13. (a) The court shall adopt rules to provide for the operation and conduct of the court.
(b) The court shall designate one (1) of the judges as presiding judge who shall serve in that capacity for three (3) years, at the end of which another judge shall be selected to serve as presiding judge for the same period. The presiding judge shall ensure that the court operates efficiently and judicially.
As added by P.L.98-2004, SEC.12.

IC 33-33-34-14
Action by entire court
Sec. 14. When any action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the presiding judge controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-34-15
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-16
Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-17

Repealed
(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-34-18
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-34-19
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-34.3
Repealed

(Repealed by P.L.237-2005, SEC.25.)

IC 33-33-35
Chapter 35. Huntington County

IC 33-33-35-1
Judicial circuit
Sec. 1. Huntington County constitutes the fifty-sixth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-35-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Huntington superior court.
(b) Except as otherwise provided in this chapter, the Huntington superior court is a standard superior court as described in IC 33-29-1.
(c) Huntington County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-35-3
Judge; location of court sessions
Sec. 3. The Huntington superior court has one (1) judge who shall hold sessions in:
(1) the Huntington County courthouse in Huntington; or
(2) other places in the county as the Huntington County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-35-4
Personnel
Sec. 4. (a) In addition to the personnel appointed under IC 33-29-1-5, the Huntington superior court may appoint a referee and other personnel as the court determines necessary to facilitate and transact the business of the court.
(b) Salaries of the personnel described in this section shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Huntington circuit court. Their salaries shall be paid out of the treasury of Huntington County as provided by law.
As added by P.L.98-2004, SEC.12.

IC 33-33-35-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-35-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-36
Chapter 36. Jackson County

IC 33-33-36-1
Judicial circuit
Sec. 1. Jackson County constitutes the fortieth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-36-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Jackson superior court.
(b) The Jackson superior court is a standard superior court as described in IC 33-29-1.
(c) Jackson County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-36-3
Judges; location of court sessions
Sec. 3. The Jackson superior court has two (2) judges.
As added by P.L.98-2004, SEC.12. Amended by P.L.234-2007, SEC.213.

IC 33-33-36-3.5
Jackson superior court; transitional provisions
Sec. 3.5. (a) The Jackson superior court is not expanded to two (2) judges until January 1, 2008.
(b) The governor shall appoint a person under IC 3-13-6-1(i) to serve as the initial judge added to the Jackson superior court by section 3 of this chapter before January 1, 2008.
(c) The term of the initial judge appointed under subsection (b) begins January 1, 2008, and ends December 31, 2010.
(d) The initial election of the judge of the Jackson superior court added by section 3 of this chapter is the general election on November 2, 2010. The term of the initially elected judge begins January 1, 2011.
(e) This section expires January 1, 2017.
As added by P.L.220-2011, SEC.534. Amended by P.L.194-2013, SEC.100.

IC 33-33-36-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-36-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-37
Chapter 37. Jasper County

IC 33-33-37-1
Judicial circuit; small claims and misdemeanor division

Sec. 1. (a) Jasper County constitutes the thirtieth judicial circuit.

(b) The Jasper circuit court has a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.12.

IC 33-33-37-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as Jasper superior court No. 1.

(b) Except as otherwise provided in this chapter, the Jasper superior court No. 1 is a standard superior court as described in IC 33-29-1.

(c) Jasper County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-37-3
Judge

Sec. 3. The Jasper superior court has one (1) judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.6; P.L.201-2011, SEC.57.

IC 33-33-37-4
Location of court sessions

Sec. 4. The judge of the Jasper superior court No. 1 shall hold sessions in the Jasper County courthouse in Rensselaer or in other places in the county as the board of county commissioners of Jasper County may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-37-5
Rules

Sec. 5. (a) The judge of Jasper superior court No. 1 shall adopt rules to provide for the administration of the Jasper superior court, including rules governing the following:

(1) Legal representation for indigents.
(2) Budgetary matters of the Jasper superior court.
(3) Operation of the probation department.
(4) Employment and management of court personnel.
(5) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The judge of the Jasper superior court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.98-2004, SEC.12.

IC 33-33-37-6
Personnel

Sec. 6. (a) In addition to the personnel described in IC 33-29-1-5, the judge of the Jasper superior court No. 1 may, subject to the budget approved for the court by the fiscal body of Jasper County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 5 of this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-37-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-37-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-38
Chapter 38. Jay County

IC 33-33-38-1
Judicial circuit
Sec. 1. Jay County constitutes the fifty-eighth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-38-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Jay superior court.
(b) The Jay superior court is a standard superior court as described in IC 33-29-1.
(c) Jay County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-38-3
Judge; location of court sessions
Sec. 3. The Jay superior court has one (1) judge who shall hold sessions in:
(1) the Jay County courthouse in Portland; or
(2) other places in the county as the Jay County executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-38-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-38-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-39
Chapter 39. Jefferson County

IC 33-33-39-1
Judicial circuit
Sec. 1. Jefferson County constitutes the fifth judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.13.

IC 33-33-39-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Jefferson superior court.
(b) The Jefferson superior court is a standard superior court as described in IC 33-29-1.
(c) Jefferson County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-39-3
Judge; location of court sessions
Sec. 3. The Jefferson superior court has one (1) judge who shall hold sessions in Madison.
As added by P.L.98-2004, SEC.12.

IC 33-33-39-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-39-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-40
Chapter 40. Jennings County

IC 33-33-40-1
Judicial circuit

Sec. 1. (a) Jennings County constitutes the eighty-sixth judicial circuit.

(b) The Jennings circuit court has a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.12.

IC 33-33-40-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Jennings superior court.

(b) The Jennings superior court is a standard superior court as described in IC 33-29-1.

(c) Jennings County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-40-3
Judge; location of court sessions

Sec. 3. The Jennings superior court has one (1) judge who shall hold sessions in:

(1) the Jennings County courthouse in Vernon; or

(2) another place in the county as the Jennings County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-40-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-40-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-41
Chapter 41. Johnson County

IC 33-33-41-1
Judicial circuit
Sec. 1. Johnson County constitutes the eighth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-41-2
Magistrate
Sec. 2. (a) The judges of the Johnson circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve both the circuit and superior courts.
(b) The magistrate continues in office until removed by the judges of the Johnson circuit and superior courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-41-3
Establishment of standard superior courts
Sec. 3. (a) There are established four (4) courts of record to be known as the Johnson superior court No. 1, Johnson superior court No. 2, Johnson superior court No. 3, and Johnson superior court No. 4.
(b) Except as otherwise provided in this chapter, each Johnson superior court is a standard superior court as described in IC 33-29-1.
(c) Johnson County comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12. Amended by P.L.74-2012, SEC.1.

IC 33-33-41-4
Judges; location of court sessions
Sec. 4. (a) The Johnson superior court No. 1 and Johnson superior court No. 2 each have one (1) judge who shall hold sessions in the Johnson County courthouse in Franklin.
(b) The Johnson superior court No. 3 and Johnson superior court No. 4 each have one (1) judge who shall hold sessions in a place to be determined and provided by the board of county commissioners of Johnson County.
As added by P.L.98-2004, SEC.12. Amended by P.L.74-2012, SEC.2.

IC 33-33-41-4.1
Fourth superior court judge; initial election, salary and benefits
Sec. 4.1. (a) Notwithstanding sections 3 and 4 of this chapter, the Johnson superior court No. 4 is not established until January 1, 2015.
(b) The initial election of the judge of the Johnson superior court No. 4 added by section 3 of this chapter is the general election on November 4, 2014. The term of the initially elected judge begins January 1, 2015.
(c) Notwithstanding IC 33-38-5, the part of the total salary and benefits that would otherwise be paid by the state for the judge of the new Johnson superior court No. 4 may not be paid by the auditor of

state until the auditor of state receives a resolution of the board of county commissioners of Johnson County that sets forth the board's determination that a building in existence on January 1, 2012, has been rehabilitated and is ready as a place for the court added by section 3 of this chapter to hold sessions.
As added by P.L.74-2012, SEC.3.

IC 33-33-41-5
Transfer of actions and proceedings

Sec. 5. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, transfer any action or proceeding from the superior court to the other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-41-6
Sitting of judges

Sec. 6. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, sit as the judge of the other superior court in any matter as if the judge of the superior court were an elected judge of the other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-41-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-41-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-42
Chapter 42. Knox County

IC 33-33-42-1
Judicial circuit
Sec. 1. Knox County constitutes the twelfth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-42-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as Knox superior court No. 1 and Knox superior court No. 2.
(b) Except as otherwise provided in this chapter, each Knox superior court is a standard superior court as described in IC 33-29-1.
(c) Knox County constitutes the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-42-3
Judges; location of court sessions
Sec. 3. Each Knox superior court has one (1) judge who shall hold sessions:
(1) in the Knox County courthouse in Vincennes; or
(2) at other places in the county as the county executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-42-4
Transfer of actions and proceedings
Sec. 4. The judge of the Knox circuit court may, with the consent of the judge of a superior court, transfer any action or proceeding from the circuit court to the superior court. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, transfer any action or proceeding from that superior court to the circuit or other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-42-5
Sitting of judges
Sec. 5. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if the judge of the superior court was an elected judge of the circuit or other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-42-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-42-7

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-43
Chapter 43. Kosciusko County

IC 33-33-43-1
Judicial circuit
Sec. 1. Kosciusko County constitutes the fifty-fourth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-43-2
Establishment of standard superior courts
Sec. 2. (a) There is established a court of record, which consists of three (3) judges, to be known as the "Superior Court of Kosciusko County". The court shall have a seal containing the words "Superior Court No. 1 of Kosciusko County, Indiana", "Superior Court No. 2 of Kosciusko County, Indiana", or "Superior Court No. 3 of Kosciusko County, Indiana".
(b) The superior court of Kosciusko county is a standard superior court as described in IC 33-29-1.
(c) Kosciusko County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.7; P.L.201-2011, SEC.58.

IC 33-33-43-3
Repealed
(Repealed by P.L.161-2011, SEC.19; P.L.201-2011, SEC.113.)

IC 33-33-43-4
Location of court sessions
Sec. 4. The superior court of Kosciusko County shall hold its sessions:
(1) in the Kosciusko County courthouse in Warsaw; or
(2) at another place in Warsaw as the board of county commissioners may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-43-5
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-43-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-43-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-44

Chapter 44. LaGrange County

IC 33-33-44-1

Judicial circuit

Sec. 1. LaGrange County constitutes the thirty-fifth judicial circuit.

As added by P.L.98-2004, SEC.12.

IC 33-33-44-2

Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the LaGrange superior court.

(b) The LaGrange superior court is a standard superior court as described in IC 33-29-1.

(c) LaGrange County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-44-3

Judge; location of court sessions

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the LaGrange County courthouse in the town of LaGrange; or

(2) other places in the county as the LaGrange County executive may provide.

As added by P.L.98-2004, SEC.12. Amended by P.L.1-2010, SEC.133.

IC 33-33-44-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-44-5

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-45
Chapter 45. Lake County

IC 33-33-45-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-2
Judicial circuit
Sec. 2. (a) Lake County constitutes the thirty-first judicial circuit.
(b) The judge of the Lake circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the Lake circuit court. One (1) of the magistrates shall serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. A magistrate continues in office until removed by the judge of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-3
Establishment of superior court
Sec. 3. There is established a superior court in Lake County (referred to as "the court" in this chapter).
As added by P.L.98-2004, SEC.12.

IC 33-33-45-4
Name
Sec. 4. The court shall be known as the superior court of Lake County.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-5
Seal
Sec. 5. The court shall have a seal consisting of a circular disk containing the words "superior court of Lake County, Indiana" and "seal" and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-6
Juvenile court jurisdiction
Sec. 6. Notwithstanding IC 31-30-1-2, the juvenile court has exclusive jurisdiction over a child who:
(1) has been taken into custody in the county; and
(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.59.

IC 33-33-45-7
Court of record; force and effect of judgments and orders

Sec. 7. (a) The court is a court of record.

(b) The court's judgments, decrees, orders, and proceedings:

(1) have the same force and effect; and

(2) shall be enforced in the same manner;

as those of the Lake circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-8
Power and authority of court

Sec. 8. (a) The court:

(1) may make and adopt rules and regulations for conducting the business of the court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-9
Additional court powers

Sec. 9. The court has the same power to grant restraining orders and injunctions, to issue writs of habeas corpus, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of the circuit courts in counties where there is no criminal court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-10
Magistrates of criminal division

Sec. 10. (a) The judges of the criminal division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the criminal division. A magistrate appointed under this subsection continues in office until removed by the judges of the criminal division.

(b) The judges of the civil division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the civil division. A magistrate appointed under this subsection continues in office until removed by the judges of the civil division.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-11
Magistrates

Sec. 11. (a) The judge of division No. 1, division No. 2, and division No. 3 of the court may each appoint one (1) full-time

magistrate under IC 33-23-5 to serve as the court requires. A magistrate appointed under this section:

(1) must be a resident of the county; and

(2) continues in office until removed by the judge that the magistrate serves.

(b) The appointment of a magistrate under this section must be in writing.

(c) The judge may specifically determine the duties of the magistrate within the limits established under IC 33-23-5.

(d) The county executive shall provide and maintain suitable facilities for the use of the magistrate, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the magistrates.

(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

(g) A magistrate is entitled to annual compensation as established under IC 33-23-5-10. The state shall pay the salary set under IC 33-23-5-10.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-12

Personnel

Sec. 12. (a) The senior judge of each division may appoint the number of bailiffs, court reporters, probation officers, and other personnel as the senior judge believes is necessary to judicially and efficiently facilitate and transact the business of the division. All appointments shall be made without regard to the political affiliation of the appointees. The salaries of the court personnel shall be fixed and paid as provided by law. The officers and persons appointed shall:

(1) perform the duties prescribed by the senior judge of each respective division; and

(2) serve at the pleasure of the senior judge.

(b) The court shall appoint an administrative officer who has the duties the court determines are necessary to ensure the efficient operation of the court. The court may appoint the number of deputy administrative officers as the court considers necessary to facilitate and transact the business of the court. Any appointment of an administrative officer or deputy administrative officer shall be made without regard to the political affiliation of the appointees. The salaries of the administrative officer and any deputy administrative officer shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and entered of record. Any administrative officer or deputy administrative officer appointed by the court shall:

(1) operate under the jurisdiction of the chief judge; and

(2) serve at the pleasure of the chief judge.

(c) The court may appoint part-time juvenile referees and magistrates as provided by IC 31-31-3.

(d) The court may appoint the number of probate commissioners provided for by IC 29-2-2. The probate commissioners shall be vested with the powers and duties provided by IC 29.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-13
Location of court sessions

Sec. 13. The court shall hold continuous sessions in places in Lake County as the court periodically determines. The board of county commissioners of Lake County shall:

(1) provide and maintain:

(A) suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and

(B) other facilities as may be necessary; and

(2) provide all necessary furniture and equipment for rooms and offices of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-14
Books, papers, and records

Sec. 14. The clerk of the Lake circuit court, under the direction of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records that are necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-15
Order books

Sec. 15. The court shall maintain an order book at each location of the court and the order books may be signed on behalf of the court by any of the judges of the court, and the signature constitutes authentication of the actions of each of the judges in the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-16
Laws and rules governing the court

Sec. 16. All Indiana laws and rules adopted by the supreme court governing the circuit courts apply to the superior court. However:

(1) a person other than a judge of the superior court of Lake County may not serve as a special judge when a change of judge is requested from the superior court of Lake County;

(2) a judge of the superior court of Lake County may not receive compensation other than regular salary for serving as a special judge where the change of venue from the judge was granted by the superior court of Lake County;

(3) the statutes and rules governing the records, procedures, and practices of county courts apply to the county division of the

court; and

(4) there is no change of venue from the county as of right in cases in the county division of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-17

Appeals

Sec. 17. Any party may appeal from any order or judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-18

Process of court

Sec. 18. The process of the court shall have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-19

Chief judge; senior judge

Sec. 19. (a) The court, by rules adopted by the court, shall designate one (1) of the judges as chief judge and shall fix the time that the chief judge presides. The chief judge is responsible for the efficient operation and conduct of the court.

(b) The judges of each division of the court, in accordance with the rules adopted by the judges of that division, shall designate a judge as the senior judge of that division and fix the time that the senior judge serves.

(c) The senior judge of each division shall report to the chief judge as to how the division should best judicially operate.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-20

Action of entire court

Sec. 20. When an action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-21

Divisions of court; assignment of judges

Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) Seven (7) judges comprise the civil division. Four (4) judges comprise the criminal division. Four (4) judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a

division of the court if the court determines that the change is necessary for the efficient operation of the court.

(c) The court by rule may reassign a judge of the court from one (1) division to another if the court determines that the change is necessary for the efficient operation of the court. The court by rule may establish a rotation schedule providing for the rotation of judges through the various divisions. The rotation schedule may be used if the court determines that an emergency exists. However, a senior judge of any division may not be reassigned or rotated to another division under this subsection.

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the efficient operation of the court.

(e) A judge of a division of the court who has not been appointed to the court under section 38 of this chapter is not eligible to be reassigned, rotated, or transferred to the other divisions of the court. However, a judge of a division of the court who has not been appointed to the court under section 38 of this chapter may apply to fill a vacancy in another division of the court through appointment as provided under this chapter.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.60.

IC 33-33-45-22

Transfer of actions from circuit court

Sec. 22. The judge of the Lake circuit court may, with the consent of the court, transfer any action, cause, or proceeding filed and docketed in the Lake circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding and without further transcript, to be redocketed and disposed of as if originally filed with the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-23

Transfer of actions to circuit court

Sec. 23. Any judge of the court may, with the consent of the judge of the Lake circuit court, transfer any civil action, cause or proceeding filed and docketed in the court to the Lake circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the Lake circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-24

Authority of circuit judge to sit in superior court

Sec. 24. The judge of the Lake circuit court may sit as a judge of the court, with the court's permission, in the civil division, without

limitation and without any further order, in the same manner as if the circuit court judge were a judge of the court with all the rights and powers as if the circuit court judge were a duly appointed judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-25
Incumbent judges; retention; election

Sec. 25. (a) At the general election immediately preceding the expiration of a judge's extended term, the question of that judge's retention in office or rejection shall be submitted to the electorate of Lake County under section 42 of this chapter. Thereafter, unless rejected by the electorate, each judge shall serve successive terms as provided in section 41(b) of this chapter.

(b) A judge of the county division serving on June 30, 2011, is subject to the question of the judge's retention in office or rejection as provided in subsection (a) at the expiration of the judge's term of office under the law in effect on June 30, 2011.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.61.

IC 33-33-45-26
Number of judges

Sec. 26. The superior court of Lake County consists of sixteen (16) judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-27
Judicial nominating commission; establishment

Sec. 27. (a) There is established a judicial nominating commission for the superior court of Lake County, the functions, responsibilities, and procedures of which are set forth in sections 28 through 37 of this chapter.

(b) The board of county commissioners of Lake County shall provide all facilities, equipment, supplies, and services as may be necessary for the administration of the duties imposed upon the commission. The members of the commission shall serve without compensation. However, the board of county commissioners of Lake County shall reimburse members of the commission for actual expenses incurred in performing their duties.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-28
Judicial nominating commission; membership

Sec. 28. (a) The judicial nominating commission (referred to in this chapter as the commission) consists of nine (9) members, the majority of whom form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall

act as chairman.

(b) Under sections 30 and 31 of this chapter, those admitted to the practice of law and residing in Lake County shall elect four (4) of their members to serve on the commission, subject to the following:

(1) At least one (1) attorney member must be a minority individual (as defined in IC 21-13-1-6).

(2) Two (2) attorney members must be women.

(3) Two (2) attorney members must be men.

(c) The Lake County board of commissioners shall appoint four (4) nonattorney citizens to the commission, subject to the following:

(1) Each of the three (3) county commissioners shall appoint one (1) nonattorney member who is a resident of the appointing commissioner's district.

(2) After each county commissioner has had the opportunity to make the county commissioner's appointment, the fourth nonattorney member must be appointed by a majority vote of the Lake County board of commissioners.

(3) At least one (1) nonattorney member must be a minority individual (as defined in IC 21-13-1-6).

(4) Two (2) nonattorney members must be women.

(5) Two (2) nonattorney members must be men.

(6) Not more than two (2) of such appointees may be from the same political party.

The appointees must reflect the composition of the community. If the Lake County board of commissioners fails to appoint any of the nonattorney commission members within the time required to do so in section 29 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(d) A member of the commission, other than a judge or justice, may not hold any other elected public office. A member may not hold an office in a political party or organization. A nonattorney member of the commission may not hold an elected or salaried public office. A nonattorney member may not be an employee of the state or of a political subdivision of the state.

(e) A member of the commission is not eligible for appointment to a judicial office in Lake County if the member is a member of the commission and for three (3) years thereafter.

(f) If any member of the commission, other than a judge or justice, terminates the member's residence in Lake County, the member is considered to have resigned from the commission.

As added by P.L.98-2004, SEC.12. Amended by P.L.2-2007, SEC.368.

IC 33-33-45-29

Appointment of nonattorney commissioners

Sec. 29. (a) The Lake County board of commissioners shall appoint the four (4) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, an appointment or reappointment shall be made in accordance with section 28 of this chapter. All appointments

made by the Lake County board of commissioners shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Lake circuit court within ten (10) days after the appointment.

(c) Each nonattorney member shall be appointed for a term of four (4) years.

(d) Whenever a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the Lake County board of commissioners in writing of such fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the Lake County board of commissioners within sixty (60) days after notice of the vacancy is received. The term of the nonattorney commissioner appointed is for the unexpired term of the member whose vacancy the new member has filled.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-30

Election of attorney commissioners

Sec. 30. (a) Those admitted to the practice of law and residing in Lake County (referred to in this chapter as attorney electors) shall elect four (4) of their number to the commission. To be eligible for the office of attorney commissioner, a person must be on the current annual list of attorneys certified to the clerk of the supreme court and must be a resident of Lake County. The term of office of each elected attorney member is four (4) years, commencing on the first day of October following the attorney member's election. The election day is the date on which the ballots are counted and, for purposes of this section, is the first Tuesday in September 1995, and every four (4) years thereafter. Thereafter, during the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-31

Election procedures

Sec. 31. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the Lake circuit court shall, at least ninety (90) days before the date of election, notify all attorneys in Lake County of the upcoming election by mail, informing them that nominations must be made to the clerk of the circuit court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by any attorney elector or group

of attorney electors residing in Lake County, by mail or otherwise, in the office of the clerk of the Lake circuit court at least sixty (60) days before the election.

(3) The clerk of the Lake circuit court shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot shall read:

"SUPERIOR COURT OF LAKE COUNTY
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Lake County and admitted to the practice of law in Indiana. Vote for not more than four (4) of the following candidates for the term commencing _____.

(Name)(Address)
(Name)(Address)
(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Lake circuit court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The four (4) nominees receiving the most votes whose election does not conflict with the requirements of section 28(b) of this chapter shall be elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting such ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Lake County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(5) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope shall not be opened until the counting of the ballots.

(6) The clerk of the Lake circuit court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificate, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk of the Lake circuit court, with the assistance of the Lake County election board, shall open and canvass all ballots after 4 p.m. on the day of election in the office of the clerk of the Lake circuit court. Ballots received after 4 p.m. may not be

counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots, the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk shall permit no one to inspect them except upon an order of the supreme court.

(9) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give the nominee a plurality, the canvasser shall resolve the tie by lot and the winner of the lot is considered to be elected.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-32
Notification

Sec. 32. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, clerk of the supreme court, and clerk of the Lake circuit court as this chapter provides;

the clerk of the Lake circuit court shall by regular mail notify the members of the commission of their election or appointment and shall notify the chairman of the judicial nominating commission of the same.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-33
Duration in office

Sec. 33. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-34
Vacancies; meetings of commission

Sec. 34. (a) When a vacancy occurs in the superior court of Lake County, the clerk of the court shall promptly notify the chairman and each member of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following the notice. The commission shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving, but the vacancy has not yet occurred, the clerk shall notify the chairman and each member of the commission immediately of the forthcoming

vacancy, and the commission may within fifty (50) days of the notice of the vacancy make its nominations and submit to the governor the names of three (3) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman or, if the chairman fails to call a necessary meeting, upon the call of any five (5) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any five (5) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the date, time, and place of every meeting unless the commission at its previous meeting designated the date, time, and place of its next meeting.

(c) Meetings of the commission are to be held at the Lake County government center in Crown Point or another place, as the circuit court clerk of Lake County may arrange, at the direction of the chairman of the commission.

(d) The commission may act only at a public meeting. IC 5-14-1.5 applies to meetings of the commission. The commission may not meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment.

(e) The commission may act only by the concurrence of a majority of its members attending a meeting. Five (5) members constitute a quorum at a meeting.

(f) The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties. These rules must provide for the receipt of public testimony concerning the qualifications of candidates for nomination to the governor.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.62.

IC 33-33-45-35

Nominees; requirements of commission

Sec. 35. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the superior court of Lake County, a person must be domiciled in the county of Lake, a citizen of the United States, and admitted to the practice of law in Indiana.

(2) In abiding by the mandate in subdivision (1), the commission shall evaluate in writing each eligible individual on the following factors:

(A) Law school record, including any academic honors and achievements.

(B) Contribution to scholarly journals and publications, legislative drafting, and legal briefs.

(C) Activities in public service, including:

(i) writings and speeches concerning public or civic affairs that are on public record, including but not limited to campaign speeches or writings, letters to newspapers, and testimony before public agencies;
(ii) government service;
(iii) efforts and achievements in improving the administration of justice; and
(iv) other conduct relating to the individual's profession.
(D) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.
(E) Probable judicial temperament.
(F) Physical condition, including age, stamina, and possible habitual intemperance.
(G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.
(H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.
(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.
(3) These written evaluations shall not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.
(4) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the superior court of Lake County.
(5) In determining which eligible candidates are recommended to the governor, the commission shall consider that racial and gender diversity enhances the quality of the judiciary.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-36
List of nominees; public records; submission to governor
Sec. 36. (a) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of the qualifications of each candidate.
(b) The names of the nominees and the written evaluations are public records that may be inspected and copied under IC 5-14-3.
(c) Every eligible candidate whose name was not submitted to the governor shall have access to any evaluation on the candidate by the commission and the right to make such evaluation public.
(d) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1 are excepted from public disclosure, unless the records are prepared for use in the consideration of a candidate for judicial appointment.
As added by P.L.98-2004, SEC.12.

IC 33-33-45-37
Withdrawal of name or list of nominations

Sec. 37. (a) After the commission has nominated and submitted to the governor the names of three (3) persons for appointment to fill a vacancy of the superior court of Lake County:

(1) any name may be withdrawn for cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted;

before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. The commission may, before an appointment is made, withdraw the lists of nominations, change the names of any persons nominated from one (1) list to another, and resubmit them as changed, or may substitute a new name for any of those previously nominated.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-38
Selection of judges

Sec. 38. (a) A vacancy occurring on the court shall be filled by appointment of the governor from a list of three (3) nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days after the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list, or altered list as provided for in section 37 of this chapter.

(b) The governor shall make all appointments to the court without regard to the political affiliation of any of the three (3) nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 35 of this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-45-39
Repealed

(Repealed by P.L.201-2011, SEC.114.)

IC 33-33-45-40
Effective date of appointment

Sec. 40. An appointment by the governor or chief justice, as required by section 38 of this chapter, to the superior court of Lake County takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if a vacancy does not exist at the date of appointment.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.63.

IC 33-33-45-41
Tenure of judges

Sec. 41. (a) Each judge appointed under section 38 of this chapter serves an initial term, which begins on the effective date of the appointment of the judge and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the superior court shall serve successive six (6) year terms.

(c) Each six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and continues for six (6) years.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.64.

IC 33-33-45-42
Submission to electorate; question of retention in office or rejection of judges

Sec. 42. (a) The question of the retention in office or rejection of each judge of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of the judge.

(b) At the general election, the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If a majority of the ballots cast by the electors voting on any question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 41(b) of this chapter.

(d) If a majority of the ballots cast by the electors voting on any question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election, in which case the question of that judge's retention in office or rejection shall

not be submitted to the electorate, and the office becomes vacant at the expiration of the term.
As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.34; P.L.201-2011, SEC.65.

IC 33-33-45-43
Repealed
(Repealed by P.L.201-2011, SEC.114.)

IC 33-33-45-44
Conditions of office; censure or removal; political party campaigning for or against removal
Sec. 44. (a) A judge of the superior court may not during a term of office as judge of the superior court do any of the following:
(1) Engage in the practice of law.
(2) Run for elective office.
(3) Take part in any political campaign.
(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications to recommend to the supreme court that the judge be censured or removed.
(c) A political party may not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.66.

IC 33-33-45-45
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-46
Chapter 46. LaPorte County

IC 33-33-46-1
Judicial circuit; magistrate

Sec. 1. (a) LaPorte County constitutes the thirty-second judicial circuit.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the LaPorte circuit court and LaPorte superior court No. 4.

As added by P.L.98-2004, SEC.12.

IC 33-33-46-2
Establishment of standard superior courts

Sec. 2. (a) There are established four (4) courts of record to be known as the LaPorte superior courts No. 1, No. 2, No. 3, and No. 4.

(b) Except as otherwise provided in this chapter, the LaPorte superior courts are standard superior courts as described in IC 33-29-1.

(c) LaPorte County comprises the judicial district of the courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-46-3
Judges

Sec. 3. Each LaPorte superior court has one (1) judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.8; P.L.201-2011, SEC.67.

IC 33-33-46-4
Location of court sessions

Sec. 4. LaPorte superior court No. 1 shall hold its sessions in Michigan City. LaPorte superior courts No. 2, No. 3, and No. 4 shall hold sessions in places in the county as the LaPorte County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-46-5
Magistrate

Sec. 5. (a) The judges of the court may, by a vote of the majority of the judges, appoint one (1) full-time magistrate under IC 33-23-5.

(b) The magistrate appointed under subsection (a) continues in office until removed by the vote of a majority of the judges of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-46-6
Transfer of actions and proceedings

Sec. 6. Notwithstanding IC 33-29-1-9, the judge of the LaPorte

circuit court may, with the consent of the judge of the receiving court, transfer any action or proceeding from the circuit court to any of the LaPorte superior courts. The judge of any of the LaPorte superior courts may, with consent of the judge of the circuit or another LaPorte superior court, transfer any action or proceeding from the LaPorte superior court to the circuit court or to another LaPorte superior court. However, a judge of LaPorte superior courts No. 3 and No. 4 may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the LaPorte circuit court or LaPorte superior court No. 1 or No. 2.
As added by P.L.98-2004, SEC.12.

IC 33-33-46-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-46-8
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-47
Chapter 47. Lawrence County

IC 33-33-47-1
Judicial circuit
Sec. 1. Lawrence County constitutes the eighty-first judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-47-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record in Lawrence County to be known as the Lawrence superior court.
(b) The Lawrence superior court has two (2) judges.
(c) Except as otherwise provided in this chapter, the Lawrence superior court is a standard superior court as described in IC 33-29-1.
As added by P.L.98-2004, SEC.12.

IC 33-33-47-3
Repealed
(Repealed by P.L.161-2011, SEC.19; P.L.201-2011, SEC.113.)

IC 33-33-47-4
Location of court sessions
Sec. 4. The Lawrence superior court shall hold its sessions in:
(1) the Lawrence County courthouse in Bedford; or
(2) another convenient and suitable place as the board of county commissioners of Lawrence County provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-47-5
Rules
Sec. 5. Each judge of the court may make and adopt rules and regulations for conducting the business of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-47-6
Personnel
Sec. 6. In addition to the personnel appointed under IC 33-29-1-5, each judge may appoint additional officers and personnel necessary for the proper administration of the judge's duties as judge of the Lawrence superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-47-7
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-47-8
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-47-9
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48
Chapter 48. Madison County

IC 33-33-48-1
Judicial circuit
Sec. 1. Madison County constitutes the fiftieth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-48-2
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-3
Repealed
(Repealed by P.L.161-2011, SEC.19; P.L.201-2011, SEC.113.)

IC 33-33-48-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-7
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-7.5
Magistrates
Sec. 7.5. (a) The judges of the Madison circuit court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit court.
(b) The magistrate continues in office until removed by the judges of the circuit court.
As added by P.L.246-2005, SEC.221. Amended by P.L.201-2011, SEC.68.

IC 33-33-48-8
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-9
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-10
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-11
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-48-12
Judges; jurisdiction; dockets
Sec. 12. (a) The Madison circuit court is a court of general jurisdiction with six (6) judges. The divisions of the court shall be known as Madison circuit court No. 1, No. 2, No. 3, No. 4, No. 5, and No. 6. Madison County constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following:
(1) A small claims and misdemeanor division under IC 33-28-3 that has:
(A) a small claims docket; and
(B) a minor offenses and violations docket.
(2) A criminal docket.
(3) A juvenile docket.
(4) A civil docket.
(5) A probate docket.
(6) A problem solving docket.
(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court.
As added by P.L.201-2011, SEC.69.

IC 33-33-48-13
Chief judge
Sec. 13. The judges of the circuit court shall select from among themselves a chief judge of the circuit court. The chief judge shall be selected for a minimum term of twelve (12) months.
As added by P.L.201-2011, SEC.70.

IC 33-33-48-14
Concerted action by the judges; majority rules
Sec. 14. When any action of the entire circuit court is required, the judges of the circuit court shall act in concert. If the judges disagree, the decision of the majority of the judges present and voting controls.
As added by P.L.201-2011, SEC.71.

IC 33-33-48-15
Chief judge; duties
Sec. 15. In accordance with rules adopted by the judges of the circuit court under section 16 of this chapter, the chief judge shall do the following:
(1) Ensure that the circuit court operates efficiently and

judicially under rules adopted by the circuit court.

(2) Annually submit to the fiscal body of Madison County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents; and

(C) maintaining an adequate legal research facility.

(3) Make the appointments or selections required of a circuit or superior court judge.

As added by P.L.201-2011, SEC.72.

IC 33-33-48-16
Rules

Sec. 16. (a) The judges of the circuit court shall adopt rules to provide for the administration of the circuit court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the circuit court.

(4) Operation of the probation department.

(5) Term of administration of the chief judge.

(6) Employment and management of circuit court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The circuit court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.201-2011, SEC.73.

IC 33-33-48-17
Personnel

Sec. 17. (a) Each judge of the circuit court may, subject to the budget approved for the court by the fiscal body of Madison County, employ personnel necessary for the proper administration of the circuit court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the circuit court; and

(2) are subject to the rules concerning employment and management of circuit court personnel adopted by the circuit court under section 16 of this chapter.

As added by P.L.201-2011, SEC.74.

IC 33-33-48-18
Court administrator

Sec. 18. (a) Subject to the budget approved for the circuit court by the fiscal body of Madison County, the circuit court may appoint a court administrator.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of circuit court personnel adopted by the circuit court under section 16 of this

chapter.
As added by P.L.201-2011, SEC.75.

IC 33-33-49
Chapter 49. Marion County

IC 33-33-49-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-2
Judicial district
Sec. 2. Marion County constitutes the nineteenth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-3
"City-county council" defined
Sec. 3. As used in this chapter, "city-county council" refers to the Indianapolis, Marion County city-county council.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-4
"Clerk" defined
Sec. 4. As used in this chapter, "clerk" refers to the clerk of the Marion superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-5
"Court" defined
Sec. 5. As used in this chapter, "court" refers to the Marion superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-6
Establishment; qualification of judges; residency
Sec. 6. (a) There is established a superior court in Marion County. The court consists of:
(1) thirty-five (35) judges beginning January 1, 2007, and ending December 31, 2008; and
(2) thirty-six (36) judges beginning January 1, 2009.
(b) To be qualified to serve as a judge of the court, a person must be, at the time a declaration of candidacy or a petition of nomination under IC 3-8-6 is filed:
(1) a resident of Marion County; and
(2) an attorney who has been admitted to the bar of Indiana for at least five (5) years.
(c) During the term of office, a judge of the court must remain a resident of Marion County.
As added by P.L.98-2004, SEC.12. Amended by P.L.80-2006, SEC.12.

IC 33-33-49-7

Name

Sec. 7. The court must be named the Marion superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-8

Seal

Sec. 8. The court must have a seal consisting of a circular disk containing the words, "Marion Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which must be spread of record upon the order book of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-9

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-49-10

Court of record; force and effect of judgments, decrees, and orders

Sec. 10. The court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-11

Power and authority; removal of presiding judge; incidental powers of judges

Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-12

Orders, writs, appointments, and commissions

Sec. 12. The court may do the following:

(1) Grant restraining orders and injunctions.

(2) Issue writs of habeas corpus.

(3) Appoint receivers, masters, and commissioners to:

(A) convey real property;

(B) grant commissions for the examination of witnesses; and

(C) appoint other officers necessary to transact the business

of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-13
Judge; term; election

Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) At the primary election held in 2008 and every six (6) years thereafter, a political party may nominate not more than eight (8) candidates for judge of the court. At the primary election held in 2006 and every six (6) years thereafter, a political party may nominate not more than ten (10) candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11. At the 2008 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for sixteen (16) candidates for judge of the court. Beginning with the 2006 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for twenty (20) candidates for judge of the court.

(d) The candidates for judge of the court receiving the highest number of votes shall be elected to the vacancies. The names of the candidates elected as judges of the court shall be certified to the county election board as provided by law.
As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.35; P.L.2-2005, SEC.93; P.L.80-2006, SEC.13; P.L.1-2006, SEC.504; P.L.164-2006, SEC.140.

IC 33-33-49-13.5
Rights of municipal court judge serving as part-time judge on December 31, 1997; conditions; part-time judge standing for election; effect of ethics determinations

Sec. 13.5. (a) The municipal court judge:

(1) whose term expires December 31, 1997; and

(2) who is serving as a part-time judge on December 31, 1997;

is entitled to continue serving as a part-time judge of the Marion superior court established under IC 33-5.1-2 (before its repeal, now codified at IC 33-33-49-6). The municipal court judge whose term expires December 31, 1997, and who is serving as a part-time judge on that date is entitled to continue serving as a part-time judge of the Marion superior court established under IC 33-5.1-2 (before its

repeal, now codified at IC 33-33-49-6) until midnight December 31, 2000.

(b) The following apply to the part-time judge described in subsection (a):

(1) The judge may not practice criminal law in the Marion superior court but may practice civil law in the Marion superior court.

(2) The judge may convert to full-time status at any time.

(3) The annual salary of the part-time judge shall be equal to the sum of forty percent (40%) of the salary of a full-time superior court judge. The salary of the part-time judge shall be paid on a percentage basis from the same sources providing the salary of a full-time superior court judge.

(c) If the judge serving as part-time judge of the Marion superior court stands for election in the general election held November 7, 2000, and any subsequent election, and is elected as judge of the Marion superior court, the judge may continue to serve as a part-time judge, subject to the provisions of subsection (b).

(d) If it is determined in a judicial ethics action that the judge serving as part-time judge of the Marion superior court may not engage in the practice of civil law before the Marion superior court, the cases in which the judge has entered an appearance or filed any pleadings shall be transferred to the Marion circuit court for further proceedings. The judge may continue to participate in the cases transferred to the circuit court. Cases transferred to the circuit court under this subsection have the same effect as if originally filed in or issued by the Marion circuit court.

As added by P.L.220-2011, SEC.535. Amended by P.L.6-2012, SEC.213.

IC 33-33-49-14

Executive committee; divisions of court

Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate four (4) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. The executive committee shall operate and maintain the juvenile detention facilities in the county. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Except for the rotation of the presiding judge as provided in subsection (b), any or all of the members elected to the executive committee may be reelected. Of the four (4) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the four (4) judges elected to the executive committee shall be elected as presiding judge, and three (3) of the four (4) judges elected to the executive committee shall be elected as associate presiding judges. Beginning with the election of the executive committee in 2007, a presiding judge may not be elected from the same political party as the presiding judge who served the previous term. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. If a tie vote occurs, the presiding judge shall cast the tiebreaking vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

(1) Civil.
(2) Criminal.
(3) Probate.
(4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

As added by P.L.98-2004, SEC.12. Amended by P.L.80-2006, SEC.14; P.L.142-2007, SEC.10.

IC 33-33-49-15

Powers and duties of executive committee; appointment and powers of commissioners

Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed

by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

(d) Notwithstanding any other law, a commissioner appointed under this chapter has all of the powers and duties prescribed for a magistrate under IC 33-23-5. However, the provisions of IC 33-23-5-11 requiring the state to pay the salary of a magistrate do not require the state to pay the salary of a commissioner appointed under this chapter.

(e) If a commissioner appointed under this chapter is appointed as a magistrate in Marion County, the salary of that magistrate shall be paid by the state under IC 33-23-5-11 in the same amount as other magistrates are paid.

(f) The allocation of appointments of commissioners under this chapter shall be determined by agreement between the judges of the superior court and the judge of the circuit court with consideration given to the case load of each court. However, notwithstanding any other law, at least two (2) of the commissioners appointed under this chapter shall be appointed by the judge of the circuit court.

(g) The:

(1) judge of the circuit court has exclusive authority to appoint commissioners allocated to the circuit court; and

(2) judges of the superior court have exclusive authority to appoint commissioners allocated to the superior court by a vote of the majority of the judges of the superior court.

(h) Not more than a simple majority of the commissioners appointed under this chapter may be from the same political party.

(i) A commissioner appointed by the:

(1) judge of the circuit court serves at the pleasure of the judge of the circuit court; and

(2) judges of the superior court continues in office until removed pursuant to local rule.

As added by P.L.98-2004, SEC.12. Amended by P.L.71-2010, SEC.2; P.L.201-2011, SEC.76.

IC 33-33-49-16

Probate hearing judge; probate commissioner; juvenile referee; bail commissioner; master commissioner; powers and duties

Sec. 16. (a) An appointed probate hearing judge or probate commissioner shall be vested by the judge of the probate division with suitable powers for the handling of all probate matters of the court, including the following:

(1) Fixing of all bonds.

(2) Auditing accounts of estates, guardianships, and trusts.

(3) Accepting reports, accounts, and settlements filed in the court.

(4) Appointing personal representatives, guardians, and trustees.

(5) Probating wills.

(6) Taking or hearing evidence on or concerning matters described in this subsection or any other probate, guardianship, or trust matters in litigation before the court.

(7) Enforcing court rules.

(8) Making reports to the court concerning the judge's or commissioner's doings in the proceedings described in this subsection, including reports concerning the commissioner's findings and conclusions regarding the proceedings.

However, all matters handled by a hearing judge or commissioner under this subsection are under the final jurisdiction and decision of the judge of the probate division.

(b) A juvenile referee appointed by the judge of the juvenile division shall have all suitable powers for the handling of the juvenile matters of the court, including the following:

(1) Fixing of bonds.

(2) Taking and hearing evidence on or concerning juvenile matters in litigation before the court.

(3) Enforcing court rules.

(4) Making reports to the court concerning the juvenile referee's handling of proceedings of the juvenile division of the court.

However, all matters handled by a juvenile referee under this subsection are under final jurisdiction and decision of the judge or judges of the juvenile division designated by rules of the court.

(c) A bail commissioner may fix bonds, including the following:

(1) Determining whether an individual is to be released on the individual's own recognizance in criminal cases and proceedings.

(2) Making reports to the court concerning the bail commissioner's activities.

All matters handled by a bail commissioner under this subsection are under the final jurisdiction and decision of the judge or judges of the criminal division as designated by rules of the court.

(d) For any of the purposes specified in this section, a probate hearing judge, probate commissioner, referee, or bail commissioner may do the following:

(1) Summon witnesses to testify before the probate hearing judge, probate commissioner, referee, or bail commissioner.

(2) Administer oaths and take acknowledgments in connection with duties.
(3) Administer oaths and take acknowledgments generally.

(e) A master commissioner appointed by the court under this section has the powers and duties prescribed for a magistrate under IC 33-23-5-5 through IC 33-23-5-9. A master commissioner shall report the findings in each of the matters before the master commissioner in writing to the judge or judges of the division to which the master commissioner is assigned or as designated by rules of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-17
Sessions of court; facilities

Sec. 17. (a) The court shall hold sessions in:
(1) the city-county building in Indianapolis; and
(2) other places in Marion County as the court determines.

(b) The city-county council shall:
(1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; and
(2) provide all necessary furniture and equipment for rooms and offices of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-18
Books, papers, and records of court

Sec. 18. The clerk, under the direction of the court, shall provide:
(1) order books;
(2) judgment dockets;
(3) execution dockets;
(4) fee books; and
(5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-19
Single order book

Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge of that division or room of the court. The signature of the judge authenticates the actions of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-20
Laws applicable to court

Sec. 20. All laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-21
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-49-22
Appeals
Sec. 22. A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-23
Process
Sec. 23. The process of the court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as provided for process issuing from the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-24
Transfer of cases from circuit court
Sec. 24. The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-25
Transfer of cases to circuit court
Sec. 25. The presiding judge may, with the consent of the judge of the Marion circuit court and under rules adopted by the court, transfer any action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the Marion circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-26
Authority of circuit judge to sit in superior court
Sec. 26. The judge of the Marion circuit court may sit as a judge

of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-27
Oath

Sec. 27. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

> "I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".

The oath shall be filed with the clerk of the county.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-28
Judicial notice

Sec. 28. The court shall take judicial notice of all matters of which courts of general jurisdiction of Indiana are required to take judicial notice. The court shall also take judicial notice of all general ordinances of each city or municipality located in the county.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-29
Costs of appeals

Sec. 29. (a) When an appeal is taken from the court in criminal cases or proceedings under IC 34-28-5 (or IC 34-4-32 before its repeal), the amount of costs charged must be certified as a part of the transcript and charged as part of the costs in the court to which the appeal or proceeding is taken. The costs are in addition to any other clerk's service fee required by law.

(b) All costs charged in the court hearing or in the court trying an appeal must be charged and adjudged upon the hearing or trial in the appeal against a defendant who is convicted or who pleads guilty.

(c) In an appeal under this section, the defendant shall pay a transcript fee of thirty-five dollars ($35) before the appeal may be transferred from the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-49-30
Conditions of continued qualification for office of judge; complaints; retirement; vacancies

Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

> (1) remains fair and impartial in judicial functions;
> (2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) Complaints against a judge must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge of the superior court.

(c) If the judge wishes to retire before the judge's term has ended, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

(d) When a vacancy occurs in the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who serves the balance of the term of the vacating judge. The successor judge must be a member of the same political party as the judge who is to be succeeded.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.9; P.L.201-2011, SEC.77.

IC 33-33-49-31

Magistrate

Sec. 31. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-23-5.

(b) A magistrate appointed under this section may only hear criminal proceedings.

(c) The magistrate continues in office until removed by the presiding judge.

As added by P.L.98-2004, SEC.12.

IC 33-33-49-32

Appointment of magistrates; transfer of proceeding back to judge

Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint:

(1) eight (8) full-time magistrates under IC 33-23-5 after December 31, 2007, and until January 1, 2014, not more than four (4) of whom may be from the same political party; and

(2) twelve (12) full-time magistrates under IC 33-23-5 after December 31, 2013, not more than six (6) of whom may be from the same political party.

(b) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(c) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection must be in writing and must be filed with the court:

(1) in a civil case, not later than:

(A) ten (10) days after the pleadings are closed; or

(B) thirty (30) days after the case is entered on the

chronological case summary, in a case in which the defendant is not required to answer; or

(2) in a criminal case, not later than ten (10) days after the omnibus date.

Upon a timely request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.33-2005, SEC.1; P.L.80-2006, SEC.15; P.L.100-2013, SEC.1.

IC 33-33-49-33

Court administrator

Sec. 33. (a) The executive committee elected under section 14 of this chapter shall employ a court administrator to administer the business activities of the court. A court administrator is subject to rules of the court and oversight by the executive committee.

(b) The salary of the court administrator shall be set by the executive committee.

As added by P.L.98-2004, SEC.12. Amended by P.L.33-2005, SEC.2.

IC 33-33-49-34

Books, papers, and records of the court; forms

Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

As added by P.L.98-2004, SEC.12.

IC 33-33-50
Chapter 50. Marshall County

IC 33-33-50-1
Judicial circuit
Sec. 1. Marshall County constitutes the seventy-second judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-50-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as the Marshall superior court No. 1 and the Marshall superior court No. 2.
(b) The Marshall superior courts are standard superior courts as described in IC 33-29-1.
(c) Marshall County comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12.

IC 33-33-50-3
Judges; location of court sessions
Sec. 3. The Marshall superior court No. 1 has one (1) judge who shall hold sessions in the Marshall County courthouse in Plymouth. The Marshall superior court No. 2 has one (1) judge who shall hold sessions in a place in the county as the board of county commissioners may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-50-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-50-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-51
Chapter 51. Martin County

IC 33-33-51-1
Judicial circuit

Sec. 1. Martin County constitutes the ninetieth judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.78.

IC 33-33-52
Chapter 52. Miami County

IC 33-33-52-1
Judicial circuit
Sec. 1. Miami County constitutes the fifty-first judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-52-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Miami superior court.
(b) The Miami superior court is a standard superior court as described in IC 33-29-1.
(c) Miami County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-52-3
Judges; location of court sessions
Sec. 3. The court has two (2) judges who shall hold sessions in:
(1) the Miami County courthouse in Peru; or
(2) other places in the county as the board of county commissioners of Miami County may provide.
As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.16.

IC 33-33-52-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-52-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-53
Chapter 53. Monroe County

IC 33-33-53-1
Judicial circuit; judges
Sec. 1. (a) Monroe County constitutes the tenth judicial circuit.
(b) There are nine (9) judges of the Monroe circuit court.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.20.

IC 33-33-53-2
Circuit court jurisdiction; dockets
Sec. 2. (a) The Monroe circuit court is a court of general jurisdiction and shall maintain the following dockets:
(1) Small claims.
(2) Minor offenses and violations.
(3) Criminal.
(4) Juvenile.
(5) Civil.
(6) Probate.
(b) The assignment of judges of the court to the dockets specified in subsection (a) must be by rule of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-53-3
Presiding judge
Sec. 3. The judges of the Monroe circuit court shall select from among themselves a presiding judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-53-4
Concerted action of judges; majority rule; controlling vote
Sec. 4. When any action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls. If the judges are evenly divided, the decision joined by the presiding judge controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-53-5
Presiding judge; duties
Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:
(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.
(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:
(A) the operation of the circuit's probation department;

(B) the defense of indigents; and
(C) maintaining an adequate law library.
(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:
IC 8-4-21-2
IC 11-12-2-2
IC 16-22-2-4
IC 16-22-2-11
IC 16-22-7
IC 20-23-4
IC 20-23-7-6
IC 20-23-7-8.1
IC 20-26-7-8
IC 20-26-7-14
IC 20-47-2-15
IC 20-47-3-13
IC 36-9
IC 36-10
IC 36-12-10-10.
(4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

As added by P.L.98-2004, SEC.12. Amended by P.L.1-2005, SEC.217; P.L.231-2005, SEC.50; P.L.1-2006, SEC.505; P.L.2-2006, SEC.183; P.L.179-2011, SEC.33.

IC 33-33-53-6
Rules for administration of court

Sec. 6. (a) The judges of the court shall adopt rules to provide for the administration of the court, including rules governing the following:
(1) Allocation of case load.
(2) Legal representation for indigents.
(3) Budgetary matters of the court.
(4) Operation of the probation department.
(5) Term of administration of the presiding judge.
(6) Employment and management of court personnel.
(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.98-2004, SEC.12.

IC 33-33-53-7
Personnel

Sec. 7. (a) Each judge of the court may, subject to the budget approved for the court by the fiscal body of Monroe County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-53-8
Court administrator

Sec. 8. (a) The court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Monroe County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-54
Chapter 54. Montgomery County

IC 33-33-54-1
Judicial circuit
Sec. 1. Montgomery County constitutes the twenty-second judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-54-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as the:
(1) Montgomery superior court No. 1; and
(2) Montgomery superior court No. 2.
(b) Each Montgomery superior court is a standard superior court as described in IC 33-29-1.
(c) Montgomery County comprises the judicial district of each court.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.21.

IC 33-33-54-3
Judges; location of court sessions
Sec. 3. Each court has one (1) judge who shall hold sessions in:
(1) the Montgomery County courthouse in Crawfordsville; or
(2) other places in the county as the Montgomery County executive may provide.
As added by P.L.98-2004, SEC.12. Amended by P.L.237-2005, SEC.22.

IC 33-33-54-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-54-5
Repealed
(Repealed by P.L.237-2005, SEC.26.)

IC 33-33-54-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-55
Chapter 55. Morgan County

IC 33-33-55-1
Application
Sec. 1. The following do not apply to this chapter:
(1) IC 33-29-1-4.
(2) IC 33-29-1-8.
(3) IC 33-29-1-9.
(4) IC 33-29-1-10.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.10; P.L.201-2011, SEC.79.

IC 33-33-55-2
Judicial circuit
Sec. 2. Morgan County constitutes the fifteenth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-55-3
Establishment of superior court
Sec. 3. There is established a court of record to be known as the Morgan superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-55-4
Standard superior court
Sec. 4. (a) Except as otherwise provided in this chapter, the Morgan superior court is a standard superior court as described in IC 33-29-1.
(b) Morgan County constitutes the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-55-5
Judges
Sec. 5. The Morgan superior court has three (3) judges.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.11; P.L.201-2011, SEC.80.

IC 33-33-55-6
Location of court sessions
Sec. 6. The Morgan superior court shall hold its sessions in the Morgan County courthouse in Martinsville.
As added by P.L.98-2004, SEC.12.

IC 33-33-55-7
Judicial powers
Sec. 7. (a) Each judge of the Morgan superior court may make and adopt rules and regulations for conducting the business of the Morgan superior court.
(b) Each judge has all powers incident to a court of record in

relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders.

(c) Each judge of the court may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-55-8
Magistrate

Sec. 8. The judges of the Morgan circuit and Morgan superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judges of the circuit and superior courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-55-9
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-55-10
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-56
Chapter 56. Newton County

IC 33-33-56-1
Judicial circuit

Sec. 1. (a) Newton County constitutes the seventy-ninth judicial circuit.

(b) The Newton circuit court has a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.12.

IC 33-33-56-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Newton superior court.

(b) The Newton superior court is a standard superior court as described in IC 33-29-1.

(c) Newton County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-56-3
Judge

Sec. 3. The Newton superior court has one (1) judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.12; P.L.201-2011, SEC.81.

IC 33-33-56-4
Location of court sessions

Sec. 4. The Newton superior court shall hold its sessions in:

(1) the Newton County courthouse in Kentland; or

(2) other places in the county as the board of county commissioners of Newton County may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-56-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-56-6
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-57
Chapter 57. Noble County

IC 33-33-57-1
Judicial circuit
Sec. 1. Noble County constitutes the thirty-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-57-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Noble superior court.
(b) The Noble superior court is a standard superior court as described in IC 33-29-1.
(c) Noble County comprises the judicial district of the courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-57-3
Judges; location of court sessions
Sec. 3. The Noble superior court has two (2) judges who shall hold sessions in:
(1) the Noble County courthouse in Albion; or
(2) other places in the county as the board of county commissioners of Noble County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-57-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-57-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-58
Chapter 58. Ohio County

IC 33-33-58-1
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-2
Judicial circuit
Sec. 2. (a) Dearborn County and Ohio County constitute the seventh judicial circuit.
(b) The judge of the Dearborn and Ohio circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.
As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.17.

IC 33-33-58-3
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-4
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-5
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-6
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-7
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-8
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-9
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-10
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-58-11

Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-12
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-13
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-58-14
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-59
Chapter 59. Orange County

IC 33-33-59-1
Judicial circuit
Sec. 1. Orange County constitutes the eighty-seventh judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-59-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Orange superior court.
(b) Except as otherwise provided in this chapter, the Orange superior court is a standard superior court as described in IC 33-29-1.
(c) Orange County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-59-3
Judge; location of court sessions
Sec. 3. The Orange superior court has one (1) judge who shall hold sessions in:
(1) the Paoli Office Complex in Paoli; or
(2) other places in the county as the Orange county executive may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-59-4
Personnel
Sec. 4. In addition to the personnel that may be appointed under IC 33-29-1-5, the judge of the Orange superior may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries must be fixed in the same manner as the salaries of the personnel for the Orange circuit court. Their salaries must be paid monthly out of the treasury of Orange County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-59-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-59-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-60
Chapter 60. Owen County

IC 33-33-60-1
Judicial circuit

Sec. 1. Owen County constitutes the seventy-eighth judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.82.

IC 33-33-60-1.1
Owen circuit court; addition of second judge

Sec. 1.1. (a) Notwithstanding sections 2 through 8 of this chapter, the Owen circuit court is not:

(1) expanded to two (2) judges; and

(2) operated as provided in sections 2 through 8 of this chapter;

until January 1, 2015.

(b) The initial election of the second judge of the Owen circuit court added by section 2 of this chapter is the general election on November 4, 2014. The term of the initially elected judge begins January 1, 2015.

(c) This section expires January 2, 2015.

As added by P.L.83-2013, SEC.3.

IC 33-33-60-2
Judges; jurisdiction; dockets

Sec. 2. (a) The Owen circuit court is a court of general jurisdiction with two (2) judges. The divisions of the circuit court shall be known as Owen circuit court No. 1 and Owen circuit court No. 2. Owen County constitutes the judicial district of the circuit court and each of the court's divisions. The circuit court shall maintain the following dockets:

(1) A small claims and misdemeanor division under IC 33-28-3 that has a:

(A) small claims docket; and

(B) minor offenses and violations docket.

(2) Criminal.

(3) Juvenile.

(4) Civil.

(5) Probate.

(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court.

As added by P.L.83-2013, SEC.4.

IC 33-33-60-3
Presiding judge; selection

Sec. 3. The judges of the Owen circuit court shall select from among themselves a presiding judge of the circuit court.

As added by P.L.83-2013, SEC.5.

IC 33-33-60-4
Concerted action by judges; majority rules

Sec. 4. When any action of the entire Owen circuit court is required, the judges of the circuit court shall act in concert. If the judges are evenly divided, the decision joined by the presiding judge controls.

As added by P.L.83-2013, SEC.6.

IC 33-33-60-5
Presiding judge; duties

Sec. 5. In accordance with rules adopted by the judges of the Owen circuit court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the circuit court operates efficiently and judicially.

(2) Annually submit to the fiscal body of Owen County a budget for the circuit court, including amounts necessary for the following:

(A) The operation of the circuit's probation department.

(B) The defense of indigents.

(C) Maintaining an adequate legal research facility.

(3) Make the appointments or selections required of a circuit or superior court judge.

As added by P.L.83-2013, SEC.7.

IC 33-33-60-6
Rules

Sec. 6. (a) The judges of the Owen circuit court shall adopt rules to provide for the administration of the circuit court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the circuit court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of circuit court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The Owen circuit court shall file with the division of state court administration a copy of the rules adopted under this section.

As added by P.L.83-2013, SEC.8.

IC 33-33-60-7
Personnel

Sec. 7. (a) Each judge of the Owen circuit court may, subject to the budget approved for the court by the fiscal body of Owen County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any

additional officers necessary for the proper administration of the circuit court; and

(2) are subject to the rules concerning employment and management of circuit court personnel adopted by the Owen circuit court under section 6 of this chapter.

As added by P.L.83-2013, SEC.9.

IC 33-33-60-8

Court administrator

Sec. 8. (a) The Owen circuit court may appoint a court administrator subject to the budget approved for the circuit court by the fiscal body of Owen County.

(b) A circuit court administrator appointed under this section is subject to the rules concerning employment and management of circuit court personnel adopted by the Owen circuit court under section 6(a) of this chapter.

As added by P.L.83-2013, SEC.10.

IC 33-33-61
Chapter 61. Parke County

IC 33-33-61-1
Judicial circuit

Sec. 1. Parke County constitutes the sixty-eighth judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.83.

IC 33-33-62
Chapter 62. Perry County

IC 33-33-62-1
Judicial circuit

Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The judge of the Perry circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

As added by P.L.98-2004, SEC.12. Amended by P.L.246-2005, SEC.222; P.L.201-2011, SEC.84.

IC 33-33-63
Chapter 63. Pike County

IC 33-33-63-1
Judicial circuit

Sec. 1. Pike County constitutes the eighty-third judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.85.

IC 33-33-64
Chapter 64. Porter County

IC 33-33-64-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-2
Judicial circuit
Sec. 2. Porter County constitutes the sixty-seventh judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-3
Establishment of superior court; judges; election; divisions
Sec. 3. (a) There is established a court of record to be known as Porter superior court. The Porter superior court has five (5) judges, who hold office for six (6) years, beginning on the first day of January after their election and until their successors are elected and qualified. Every six (6) years the voters of Porter County shall elect at the general election the judges for the superior court.
(b) The judges of the Porter superior court are designated as follows:
(1) Two (2) judges are judges of the superior court, superior division.
(2) Three (3) judges are judges of the superior court, county division.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-4
Seal
Sec. 4. (a) The Porter superior court's superior division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, Superior Division", an impression of which shall be spread of record upon the order book of the court.
(b) The Porter superior court's county division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, County Division", an impression of which shall be imprinted upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-64-6
Power and authority of judges
Sec. 6. The judges of the Porter superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the

attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-7
Power of judges same as circuit court judges

Sec. 7. The judges of the Porter superior court have the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of circuit courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-8
Location of court sessions

Sec. 8. (a) The Porter superior court, superior division, shall hold sessions in the Porter County courthouse in Valparaiso.

(b) One (1) judge of the Porter superior court, county division, shall hold sessions of the court in Valparaiso and two (2) judges shall hold sessions of the court principally in Portage Township and may sit periodically in Westchester Township in the discretion of the judges in Porter County.

(c) The board of county commissioners of Porter County shall:

(1) provide and maintain suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

The county council shall appropriate sufficient funds to implement this section.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-9
Dockets, books, and records

Sec. 9. The clerk, under the direction of a Porter superior court judge, shall provide order books, judgment dockets, execution dockets, fee books and other books, papers, and records as necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-10
Order books

Sec. 10. (a) The Porter superior court shall maintain a single order book for the Porter superior court, superior division, that may be signed on behalf of the court by any of the sitting judges of the superior division. A judge's signature constitutes authentication of the actions of each judge in the court.

(b) The Porter superior court shall maintain an order book for the judge of the Porter superior court, county division, located in Valparaiso and a separate order book for the judge of the Porter superior court, county division, located in Portage Township. The signature of a judge of the Porter superior court, county division, constitutes authentication of the actions of the judge taken on behalf of the superior court holding sessions in that location.

As added by P.L.98-2004, SEC.12.

IC 33-33-64-11
Bailiff

Sec. 11. Each judge of the Porter superior court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-64-12
Court reporter

Sec. 12. Each judge of the Porter superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-64-13
Process of court

Sec. 13. The process of the Porter superior court must have the seal affixed. The process must be attested, directed, served, returned, and be in the form as provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-64-14
Officers and personnel

Sec. 14. Each Porter superior judge may appoint additional officers and personnel necessary for the proper administration of the judge's duties as judge of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-64-15
Presiding judge

Sec. 15. (a) The Porter superior court by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the judge presides.

(b) The presiding judge shall be responsible for the operation and conduct of the court and for seeing that the court operates efficiently

and judicially.

(c) If an agreement is not reached, the judge with the most seniority as a judge of a court of record shall act as presiding judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-16
Majority decision of judges

Sec. 16. When any action of the entire Porter superior court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-17
Additional personnel; administrative officer

Sec. 17. The Porter superior court shall, when it believes it is necessary, appoint additional personnel for the proper administration of the court, including but not limited to an administrative officer who shall operate under the jurisdiction of the presiding judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-18
Transfer of causes from circuit court

Sec. 18. The judge of the circuit court may, with the consent of the court transfer any action, cause, or proceeding filed and docketed in the circuit court to this 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 this court.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-19
Transfer of causes

Sec. 19. Any judge of the Porter superior court may, with the consent of the judge of the Porter circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court. However, a judge of the Porter superior court, county division, may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the Porter circuit court or to the Porter superior court, superior division.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-20
Circuit court judge sitting and acting as superior court judge

Sec. 20. The judge of the Porter circuit court may, with the Porter superior court's permission, sit and act as a judge of the Porter

superior court in all matters pending before the superior court, without limitation and without any further order, in the same manner and stead as if the judge were a judge of the Porter superior court with all the rights and powers as if the judge were an elected judge of the Porter superior court, including the right to act as presiding judge and otherwise participate in the organization and administration of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-21
Commission and appointment of judges

Sec. 21. The judges of the Porter superior court shall be commissioned by the governor in the same manner as a judge of the circuit court and any vacancy occurring in the office of judge of the superior court shall be filled by appointment by the governor in the same manner as vacancies in the office of the judge of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-64-22
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-64-23
Magistrates

Sec. 23. The judges of the Porter superior court may jointly appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the judges of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-65
Chapter 65. Posey County

IC 33-33-65-1
Judicial circuit
Sec. 1. Posey County constitutes the eleventh judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-65-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Posey superior court.
(b) The Posey superior court is a standard superior court as described in IC 33-29-1.
(c) Posey County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-65-3
Judge; location of court sessions
Sec. 3. The court has one (1) judge who shall hold sessions in:
(1) the Posey County courthouse in Mount Vernon; or
(2) other places in the county that the Posey County executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-65-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-65-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-66
Chapter 66. Pulaski County

IC 33-33-66-1
Judicial circuit
Sec. 1. Pulaski County constitutes the fifty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-66-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Pulaski superior court.
(b) The Pulaski superior court is a standard superior court as described in IC 33-29-1.
(c) Pulaski County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-66-3
Judge; location of court sessions
Sec. 3. The court has one (1) judge who shall hold sessions in:
(1) the Pulaski County courthouse in Winamac; or
(2) other places in the county that the Pulaski County executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-66-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-66-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-67
Chapter 67. Putnam County

IC 33-33-67-1
Judicial circuit

Sec. 1. Putnam County constitutes the sixty-fourth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-67-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Putnam superior court.

(b) The Putnam superior court is a standard superior court as described in IC 33-29-1.

(c) Putnam County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.13; P.L.201-2011, SEC.86.

IC 33-33-67-3
Judge

Sec. 3. The Putnam superior court has one (1) judge.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.14; P.L.201-2011, SEC.87.

IC 33-33-67-4
Location of court sessions

Sec. 4. The Putnam superior court shall hold sessions in:

(1) the Putnam County courthouse in Greencastle; or

(2) other places in the county that the Putnam County executive provides.

As added by P.L.98-2004, SEC.12.

IC 33-33-67-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-67-6
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-68
Chapter 68. Randolph County

IC 33-33-68-1
Judicial circuit
Sec. 1. Randolph County constitutes the twenty-fifth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-68-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Randolph superior court.
(b) The Randolph superior court is a standard superior court as described in IC 33-29-1.
(c) Randolph County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-68-3
Judge; location of court sessions
Sec. 3. The Randolph superior court has one (1) judge who shall hold sessions in:
(1) the Randolph County courthouse in Winchester; or
(2) other places in the county that the Randolph County executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-68-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-68-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-69
Chapter 69. Ripley County

IC 33-33-69-1
Judicial circuit; small claims and misdemeanor division

Sec. 1. (a) Ripley County constitutes the eightieth judicial circuit.

(b) The Ripley circuit court has a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.12.

IC 33-33-69-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Ripley superior court.

(b) The Ripley superior court is a standard superior court as described in IC 33-29-1.

(c) Ripley County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-69-3
Judge; location of court sessions

Sec. 3. The Ripley superior court has one (1) judge who shall hold sessions in:

(1) the Ripley County courthouse in Versailles; or

(2) other places in the county that the Ripley County executive provides.

As added by P.L.98-2004, SEC.12.

IC 33-33-69-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-69-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-70
Chapter 70. Rush County

IC 33-33-70-1
Judicial circuit
Sec. 1. Rush County constitutes the sixty-fifth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-70-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Rush superior court.
(b) The Rush superior court is a standard superior court as described in IC 33-29-1.
(c) Rush County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-70-3
Judge; location of court sessions
Sec. 3. The Rush superior court has one (1) judge who shall hold sessions in:
(1) the Rush County courthouse in Rushville; or
(2) other places in the county that the Rush county executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-70-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-70-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-71
Chapter 71. St. Joseph County

IC 33-33-71-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-2
Judicial circuit
Sec. 2. St. Joseph County constitutes the sixtieth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-3
Magistrates
Sec. 3. The judge of the St. Joseph circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the circuit court. A magistrate continues in office until removed by the judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-4
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-71-5
Establishment of superior court; number of judges
Sec. 5. There is established a superior court in St. Joseph County. The court consists of eight (8) judges.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-6
Name
Sec. 6. The superior court shall be known as the St. Joseph superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-7
Seal
Sec. 7. The superior court shall have a seal consisting of a circular disk containing the words "St. Joseph Superior Court", an impression of which shall be spread of record upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-8
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-71-9
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-71-10
Court of record; force and effect of judgments, decrees, and orders

Sec. 10. The St. Joseph superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-11
Power and authority of judges

Sec. 11. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-12
Powers of judges same as circuit judges

Sec. 12. The judges of the superior court may:

(1) grant restraining orders and injunctions;
(2) issue writs of habeas corpus and of mandate and prohibition;
(3) appoint receivers, masters, and commissioners to convey real property;
(4) grant commissions for the examination of witnesses; and
(5) appoint other officers necessary to facilitate and transact the business of the court;

the same as circuit courts or circuit court judges.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-13
Sessions of court; facilities; jurisdiction

Sec. 13. (a) The St. Joseph superior court shall hold its sessions in:

(1) the St. Joseph County courthouse in South Bend; and
(2) at least one (1) appropriate place in Mishawaka.

The superior court in Mishawaka shall be full time and shall exercise full superior court jurisdiction in that city. The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities that include suitable and convenient courtrooms, jury rooms, and offices for the judges, secretaries, and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law regardless of the city in which they are located.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-14
Dockets; books, papers, and records

Sec. 14. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records as necessary for the court, and all books, papers, and proceedings of the superior court shall be kept distinct and separate from those of other courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-15
Single order book for entire court

Sec. 15. The superior court shall maintain a single order book for the entire court that may be signed on behalf of the court by any of the sitting judges of the court, and the signature constitutes authentication of the actions of each judge in the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-16
Bailiff

Sec. 16. Each judge of the superior court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as provided by law.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-17
Court reporter

Sec. 17. Each judge of the superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-18
Laws and rules governing practice and procedure

Sec. 18. All laws and rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court shall be applicable to and govern the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-19
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-71-20
Appeal from order or judgment of court

Sec. 20. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where, under Indiana law, an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law governing appeals from the circuit court to the court of appeals and the supreme court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-21
Process of court

Sec. 21. The process of the superior court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-22
Appointment of officers and personnel

Sec. 22. Each judge of the superior court may appoint additional officers and personnel as necessary for the proper administration of the judge's duties as judge of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-23
Chief judge

Sec. 23. (a) The superior court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time the chief judge presides.

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

(1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.

(2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.

(3) Annually submit to the fiscal body of St. Joseph County a budget for the court.

(4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.

(5) Direct the employment and management of court personnel.

(6) Conduct cooperative efforts with other courts for establishing and administering shared programs and facilities.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-24
Judges acting in concert; majority decision

Sec. 24. When any action of the entire superior court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-25
Administrative officer of court
Sec. 25. The superior court shall, when it believes it is necessary, appoint additional personnel for the proper administration of the court, including an administrative officer who shall operate under the jurisdiction of the chief judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-26
Transfer of causes from circuit court
Sec. 26. The judge of the circuit court may, with the consent of the chief judge, transfer any action, cause, or proceeding 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.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-27
Transfer of causes to circuit court
Sec. 27. The chief judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding 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.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-28
Circuit court judge sitting as superior court judge
Sec. 28. The judge of the St. Joseph circuit court at the circuit court judge's discretion, may sit as a judge of the superior court, with the chief judge's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge of the circuit court were a judge of the superior court with all the rights and powers as if the judge of the circuit court were an elected judge of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-29
Judicial nominating commission; establishment
Sec. 29. (a) There is established a judicial nominating commission

for the St. Joseph superior court, the functions, responsibilities, and procedures of which are set forth in sections 30 through 40 of this chapter.

(b) The board of county commissioners of St. Joseph County shall provide all facilities, equipments, supplies, and services necessary for the administration of the duties imposed upon the commission. The members of this commission shall serve without compensation. However, the board of county commissioners of St. Joseph County shall reimburse members of this commission for their actual expenses incurred in performing their duties.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-30

Judicial nominating commission; membership

Sec. 30. (a) The judicial nominating commission (referred to as the "commission" in this chapter) consists of seven (7) members, the majority of whom shall form a quorum. The chief justice shall appoint a justice of the supreme court or a judge of the court of appeals to serve as a member and chairman of the commission until a successor is appointed. Those admitted to the practice of law in Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, under sections 32 and 33 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates residence in St. Joseph County or discontinues the maintenance of a principal law office in St. Joseph County, the member shall be considered to have resigned from the commission. The three (3) remaining members of the commission must be persons not admitted to the practice of law (referred to as "nonattorney members" in this chapter) and residents of St. Joseph County. However, not more than two (2) of the nonattorney members may be from the same political party and that the appointment of the nonattorney members of the commission shall be made under section 31 of this chapter. Not more than four (4) commission members may be from the same political party.

(b) A member of the commission may not hold any other salaried public office nor an office in a political party organization. A member of the commission is not eligible for appointment to a judicial office in St. Joseph County who has, within four (4) years immediately preceding an appointment, served on the commission. If any nonattorney member of the commission terminates residence in St. Joseph County, the member is considered to have resigned from the commission.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-31

Appointment of nonattorney commissioners

Sec. 31. (a) The appointment to membership on the commission of the nonattorney members shall be made by a selection committee consisting of the judge of the St. Joseph circuit court, the president

of the board of St. Joseph County commissioners, and mayors in each of the two (2) cities having the largest populations in St. Joseph County. These appointments shall be made by a majority vote of the selection committee. If a vacancy occurs on the commission among the nonattorney members, that fact shall be reported to the judge of the St. Joseph circuit court by the commission. Upon notification, the judge of the St. Joseph circuit court shall call into session the selection committee, which shall, by majority vote, select a person or persons not admitted to the practice of law, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment by the selection committee shall be made within sixty (60) days after the date the St. Joseph circuit court is notified of the creation of the vacancy. If the selection committee fails to act to fill an unexpired term of a nonattorney member of the commission within sixty (60) days after the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days before the expiration of the term of a nonattorney member of the commission, the judge of the St. Joseph circuit court shall call into session the selection committee that shall appoint, by a majority vote, a person to the commission to serve a new term. If the selection committee fails to act to fill an expired term of a nonattorney member of the commission by the date of expiration of the term of a nonattorney member of the commission, the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

(c) Each appointee of a nonattorney member to the commission, except those who fill a vacancy, shall serve for four (4) years.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-32

Election of attorney commissioners

Sec. 32. (a) Each year in which an attorney member's term expires, those admitted to the practice of law in Indiana and residing in St. Joseph County (referred to as "attorney electors" in this chapter) shall elect three (3) of their number to serve on the commission. Each attorney member of the commission shall serve for four (4) years. The term of each attorney member begins on the first day of October following the member's election. The election day is the date on which the ballots are counted. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-33
Procedure for election of attorney commissioners

Sec. 33. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the St. Joseph superior court shall at least ninety (90) days before the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys in the county and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by an attorney elector or group of attorney electors residing in St. Joseph County, by mail or otherwise, in the office of the clerk of St. Joseph superior court at least sixty (60) days before the election.

(3) The clerk of St. Joseph superior court shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions and written statements of consent have been received sixty (60) days before the election.

The ballot must read:

"ST. JOSEPH SUPERIOR COURT
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following candidates for the term commencing:

(Insert Date)

( )	(Name)	(Address)
( )	(Name)	(Address)
( )	(etc.)	(etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of St. Joseph superior court not later than _____ (insert date).

DESTROY BALLOT IF NOT USED".

(4) The nominee receiving the most votes is elected.

(5) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting that ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, resides in St. Joseph County, and voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(6) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

(7) The clerk of St. Joseph superior court shall mail a ballot and

its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

(8) Upon receiving the completed ballots and the accompanying certificates, the clerk shall insure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(9) The clerk of St. Joseph superior court, with the assistance of the St. Joseph County election board, shall open and canvass all ballots at 4 p.m. on the day of election in the office of the clerk of St. Joseph superior court. Ballots received after 4 p.m. may not be counted. Upon canvassing the ballots the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months. The clerk may not allow a person to inspect them except upon an order of the court of appeals.

(10) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered elected.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-34
Notification

Sec. 34. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the selection committee have been certified to the secretary of state, clerk of the supreme court, and the clerk of St. Joseph superior court under this chapter;

the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall notify the chairman of the commission of the same.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-35
Succession of membership

Sec. 35. A person who has been elected or appointed to a full four (4) year term upon the commission may not succeed himself or herself or be eligible for election or appointment to the commission for four (4) years after the expiration of the term to which the person was elected or appointed.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-36
Nominations for vacancies in superior court; meetings of commission

Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. The commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by the chairman or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission must be held at a place in the St. Joseph County courthouse in South Bend as the clerk of the St. Joseph superior court may arrange.

(d) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. Four (4) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-37

Qualifications of nominees; evaluation

Sec. 37. (a) The commission shall submit only the names of the five (5) most highly qualified candidates from among those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be domiciled in the county of St. Joseph, a citizen of the United States, and admitted to the practice of law in the courts of Indiana.

(b) In abiding by the mandate in subsection (a), the commission shall evaluate in writing each eligible individual on the following factors:

(1) Law school record, including any academic honors and achievements.

(2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs.

(3) Activities in public service, including:

(A) writings and speeches concerning public or civic affairs

which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(B) efforts and achievements in improving the administration of justice; and

(C) other conduct relating to the individual's profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Physical condition, including age, stamina, and possible habitual intemperance.

(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.

(8) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.

(9) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(c) Written evaluations may not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-38

List of nominees; submission to governor

Sec. 38. The commission shall submit with the list of five (5) nominees to the governor its written evaluation of the qualifications of each candidate, and the names and written evaluations shall be publicly disclosed. Every eligible candidate whose name was not submitted to the governor is entitled to access to any evaluation of the candidate by the commission and the right to make the evaluation public. Otherwise, the evaluation, including the names of the candidates applying for the office, shall remain confidential. If the commission determines that there are less than five (5) persons qualified under section 40 of this chapter, the commission must submit a lesser number under section 40 of this chapter.

As added by P.L.98-2004, SEC.12. Amended by P.L.2-2005, SEC.98.

IC 33-33-71-39

Withdrawal of list or names of nominees

Sec. 39. (a) After the commission has nominated and submitted to the governor the names of five (5) persons for appointment to fill a vacancy of the St. Joseph superior court:

(1) any name may be withdrawn for a cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies, or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If there are existing at the same time two (2) or more vacancies on the court, the commission shall nominate and submit to the governor a list of five (5) different persons for each of the vacancies. The commission may before an appointment is made:

(1) withdraw the lists of nominations;

(2) change the names of any persons nominated from one (1) list to another; and

(3) resubmit the lists as changed or substitute a new name for any of those previously nominated.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-40
Appointment to fill vacancies

Sec. 40. (a) A vacancy occurring in the St. Joseph superior court shall be filled by appointment of the governor from a list of nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days from the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list presented to the governor.

(b) The governor shall make all appointments to the St. Joseph superior court without regard to the political affiliation of any of the nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 37 of this chapter.

(c) If the St. Joseph County judicial nominating commission, by a vote of any five (5) of its members, determines that, of the persons considered for any existing or expected vacancy in the St. Joseph superior court, less than five (5) are qualified for judicial office, within the scope of this chapter, the commission shall certify that determination to the governor together with the name or names of the person or persons found to be qualified under this chapter. In that event, the governor, chief justice, or acting chief justice shall make the selection or, if only one (1) name is submitted, make the appointment.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-41
Effective date of appointments

Sec. 41. An appointment by the governor, chief justice, or acting chief justice, as required by section 40 of this chapter, to the St.

Joseph County superior court shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if a vacancy does not exist on the date of the appointment.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-42
Tenure of judges

Sec. 42. (a) Each judge appointed serves an initial term that begins on the effective date of the judge's appointment and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Thereafter, unless rejected by the electorate of St. Joseph County under this chapter, each judge of the St. Joseph superior court serves successive six (6) year terms. Each successive six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term and continues for six (6) years.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-43
Submission of question of retention in office or rejection of judge to electorate

Sec. 43. (a) The question of the retention in office or rejection of each judge of the St. Joseph superior court shall be submitted to the electorate of St. Joseph County at the general election immediately preceding expiration of the term of that judge.

(b) If a judge subject to this chapter does not desire to serve a further term, the judge shall notify the judge's intention in writing to the clerk of the St. Joseph circuit court at least sixty (60) days before the general election immediately preceding expiration of the judge's term in which case the question of the judge's retention in office or rejection may not be submitted to the electorate, and the office is vacant at the expiration of the term.

(c) The St. Joseph County election board shall submit the question of the retention in office or rejection of any judge to the electorate of St. Joseph County. The submission of this question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(d) At the general election, the question of the retention in office or rejection of a judge shall be submitted to the electorate of St. Joseph County in the form prescribed by IC 3-11 and must state "Shall Judge (insert name) of the St. Joseph superior court be retained in office for an additional term?".

(e) If a majority of the ballots cast by the electors voting on the question is "No", the judge whose name appeared on such question is rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment of the governor under section 40 of this chapter. The name of the rejected judge may not be included among those submitted to the

governor. However, the judge's rejection does not disqualify a rejected judge from being considered for another judicial office that becomes vacant.
As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.36.

IC 33-33-71-44
Conditions of office

Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not engage in the practice of law, run for an elective office other than a judicial office, or directly or indirectly make any contributions to or hold any office in a political party or organization. A judge may not take part in any political campaign except as a candidate for retention in judicial office and, in that event, the judge's campaign participation must be absolutely devoid of partisan association and be limited to activities designed to acquaint the electorate with the judge's judicial record.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-45
Judicial qualifications commission; membership; employment of special counsel

Sec. 45. There is established a commission on judicial qualifications for the St. Joseph superior court, whose membership is the same as that of the judicial nominating commission under section 29 of this chapter. The commission on judicial qualifications may employ special counsel in any proceedings it undertakes under the responsibilities imposed upon it by this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-46
Recommendation for suspension or removal of judge

Sec. 46. (a) On recommendation of the commission on judicial qualifications, the supreme court may suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States the judge enters a plea of guilty or nolo contendere to, or is found guilty of, any crime punishable as a felony under the laws of Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If the judge's conviction is reversed, suspension terminates, and the judge shall be paid the judge's salary for the period of suspension. If the judge is suspended and the judge's conviction is affirmed or otherwise becomes final, the supreme court shall remove the judge from office.

(b) On recommendation of the commission on judicial qualifications, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability

that seriously interferes with the performance of the judge's duties and is likely to become permanent; and

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years before the commencement of the judge's current term, when the conduct constitutes willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice or that brings or tends to bring judicial office into disrepute.

(c) When the supreme court receives any recommendation from the commission on judicial qualifications, it shall hold a hearing, at which the affected judge is entitled to attend, and shall make a determination as is required. The supreme court shall make rules regarding the convening and conduct of hearings, which shall, upon request of the judge whom it concerns, be public.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-47

Meetings of commission

Sec. 47. (a) The commission on judicial qualifications shall meet periodically as necessary to discharge its statutory responsibilities. Meetings of the commission on judicial qualifications shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business is four (4) members.

(b) The clerk of the St. Joseph circuit court shall make arrangements for a meeting place in St. Joseph County as the commission may request.

(c) The commission on judicial qualifications may act only at a meeting. The commission on judicial qualifications may adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-48

Confidentiality of proceedings

Sec. 48. (a) All papers filed with and proceedings had before the commission on judicial qualifications before the institution of formal proceedings are confidential unless the judge against whom a complaint has been filed elects to have the information divulged or unless the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission on judicial qualifications at the time of or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission on judicial qualifications are open to the public.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-49
Defamatory material

Sec. 49. The filing of papers with or the giving of testimony before the commission on judicial qualifications under this chapter are absolutely privileged in any action for defamation.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-50
Complaints

Sec. 50. Complaints directed to the commission on judicial qualifications do not have to be in writing. A specified form of complaint may be required if presented in writing.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-51
Complaint by citizen; investigation

Sec. 51. (a) Any citizen of Indiana may complain to the commission on judicial qualifications with reference to the activities, fitness, or qualifications of any judge of the St. Joseph superior court. Upon receiving a complaint or request, the commission on judicial qualifications shall make an initial inquiry to determine if a complaint is founded and not frivolous. The commission on judicial qualifications, without receiving a complaint, may make an initial inquiry on its own motion.

(b) If the commission on judicial qualifications considers it necessary as a result of its initial inquiry to conduct further investigation, the judge involved may then be notified of the investigation, the nature of the charge, the complaint that must be in writing, the name of the person making the complaint, if any, or that the investigation is on the commission's own motion and the judge shall be afforded reasonable opportunity in the course of the investigation to present matters as the judge may choose. When this notice is given, it must be by prepaid registered or certified mail addressed to the judge at the judge's chambers and at the judge's last known address. If the investigation does not disclose sufficient cause to warrant further proceedings, the judge may be so notified. The commission on judicial qualifications may make investigations by members of the commission or by special investigators employed by the commission, hold confidential hearings with the person filing the complaint or with the person's agents or attorneys, and hold confidential hearings with the judge involved in the complaint.

(c) If the commission on judicial qualification's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings and if the complainant subsequently issues any statement or statements of any kind for public dissemination relating to the activities or actions of the commission, the commission may answer that statement by reference to as much of the record of its proceedings or results of its investigation as it considers necessary.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-52
Notification of formal proceedings

Sec. 52. (a) After the investigation is completed and if the commission on judicial qualifications concludes that formal proceedings should be instituted, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against the judge. These proceedings shall be entitled:

"BEFORE THE ST. JOSEPH COUNTY JUDICIAL
QUALIFICATIONS COMMISSION
Inquiry Concerning a Judge, No. _____ .".

(b) The notice must be issued in the name of the commission on judicial qualifications, specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based, and advise the judge of the judge's right to file a written answer to the charges against the judge within twenty (20) days after service of the notice upon the judge. A charge is not sufficient if it merely recites the general language of the original complaint. The charge must specify the facts relied upon to support a particular charge. A copy of the notice shall be filed in the office of the commission on judicial qualifications.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and the judge's last known address.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-53
Answer

Sec. 53. Within twenty (20) days after service of the notice of formal proceedings, the judge may file with the commission on judicial qualifications a signed original and one (1) copy of an answer, and shall serve a copy on the counsel by mail.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-54
Time and place for hearing

Sec. 54. Upon filing an answer or upon the expiration of the time for its filing, the commission on judicial qualifications shall order a hearing to be held before it concerning the discipline, retirement, or removal of the judge. The commission on judicial qualifications shall set an approximate date, time, and place for a hearing and shall give notice of the hearing by registered or certified mail to the judge and to the counsel at least twenty (20) days before the date set.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-55
Hearing

Sec. 55. (a) At the date, time, and place set for hearing, the commission on judicial qualifications may proceed with the hearing whether or not the judge has filed an answer or appears at the

hearing.

(b) The failure of the judge to answer or to appear at the hearing, standing alone, may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In any proceeding for involuntary retirement for disability, the failure of the judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission on judicial qualifications may be considered, unless the failure to appear was due to circumstances beyond the judge's control.

(c) The proceedings at the hearing shall be reported verbatim.

(d) At least four (4) members of the commission on judicial qualifications must be present when the evidence is produced.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-56

Evidence

Sec. 56. At a hearing before the commission on judicial qualifications the evidentiary rules of the courts of Indiana apply.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-57

Rights of judge in formal proceedings

Sec. 57. (a) In formal proceedings involving the judge's discipline, retirement, or removal, a judge has the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge has the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the commission on judicial qualifications, a copy shall be furnished without cost to the judge. The judge has the right, without any order or approval, to have all or any part of the testimony in the proceedings transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, whenever provision is made for giving notice or sending any matter to the judge, that notice or matter must be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing, and a copy is mailed to the judge's attorney of record.

(d) If the judge has been adjudged incapacitated under IC 29-3, the guardian may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, a copy of the notice or matter also shall be served, given, or sent to the guardian.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-58

Amendments to notice or answer

Sec. 58. At any time before determination of the issues, the commission on judicial qualifications may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. If an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present the judge's defense against the matters charged thereby.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-59

Hearing additional evidence

Sec. 59. The commission on judicial qualifications may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order must set the date, time, and place of the hearing in St. Joseph County and must indicate the matters on which the evidence is to be taken. A copy of the order shall be sent by registered or certified mail to the judge and to the counsel at least ten (10) days before the date of the hearing.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-60

Recommendation of commission; vote

Sec. 60. If the commission on judicial qualifications finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of the judge. The affirmative vote of four (4) members of the commission on judicial qualifications, including a majority of those who were present at the hearing or hearings when the evidence was produced, is required for a recommendation of discipline, retirement, or removal of a judge.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-61

Certified recommendation to supreme court

Sec. 61. Upon making a determination recommending the censure, retirement, or removal of a judge, the commission on judicial qualifications shall promptly file a copy of the recommendation certified by the chairman or secretary of the commission, together with the transcript and findings and conclusions, with the clerk of the supreme court and shall promptly mail to the judge and to the counsel notice of the filing, together with a copy of the recommendation, finding, and conclusions.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-62

Petition to modify or reject commission recommendation

Sec. 62. (a) A petition to the supreme court to modify or reject the recommendation of the commission on judicial qualifications for

censure, retirement, or removal of a judge may be filed by the judge within thirty (30) days after the filing with the clerk of the supreme court of the certified copy of the commission's recommendation. The petition must:

(1) be verified;

(2) be based on the record;

(3) specify the grounds relied on; and

(4) be accompanied by petitioner's brief together with proof of service on the commission of two (2) copies, and on the counsel of one (1) copy, of the petition and the brief.

Within twenty (20) days after service of petitioner's brief the commission on judicial qualifications shall file a respondent's brief and serve a copy of the respondent's brief on the judge. Within twenty (20) days after service of the respondent's brief, the petitioner may file a reply brief, two (2) copies of which shall be served on the commission on judicial qualifications and one (1) copy shall be served on the counsel.

(b) Failure to file a petition within the time provided is considered a consent to the determination on the merits based upon the record filed by the commission on judicial qualifications.

(c) To the extent necessary to implement this section and if not inconsistent with this section, the Indiana Rules of Appellate Procedure are applicable to reviews by the supreme court of commission on judicial qualifications proceedings.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-63

Powers of commission in investigations and hearings

Sec. 63. The commission on judicial qualifications has jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or hearing, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of witnesses, and to order the production of books, records, or other documentary evidence. Any member of the commission on judicial qualifications may administer oaths and affirmations to witnesses in any matter within the jurisdiction of the commission.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-64

Subpoenas

Sec. 64. Subpoenas for the attendance of witnesses and the production of documentary evidence between the commission on judicial qualifications or for discovery shall be issued by the chairman of the commission and shall be served in the manner provided by law for the service of process.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-65

Enforcement of subpoena

Sec. 65. If in any proceeding before the commission on judicial

qualifications, any witness fails or refuses to attend upon subpoena issued by the commission or any of the commission's representatives, or appearing, refuses to testify or refuses to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of the witness's testimony and the production of the books and papers required shall be enforced by the St. Joseph circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-66
Papers and pleadings filed with commission

Sec. 66. All papers and pleadings filed with the chairman of the commission on judicial qualifications at the chairman's office shall be considered filed with the commission.
As added by P.L.98-2004, SEC.12.

IC 33-33-71-67
Discovery

Sec. 67. (a) In all formal proceedings, discovery shall be available to the commission on judicial qualifications and to the judge in accordance with the Indiana Rules of Civil Procedure. Any motions requesting court orders for discovery shall be made to the St. Joseph circuit court.

(b) In all formal proceedings before the commission on judicial qualifications, the counsel shall furnish to the judge not less than twenty (20) days before any hearing the following:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing together with copies of all written statements and transcripts of testimony of the witnesses in the possession of the counsel or the commission that are relevant to the subject matter of the hearing and that have not previously been furnished the judge.

(2) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing. The testimony of any witness, except if offered in rebuttal or for impeachment, whose name and address have not been furnished to the judge, and documentary evidence, copies of which have not been furnished to the judge, as provided in this subsection, are not admissible in evidence at the hearing over the objection of the judge. After formal proceedings have been instituted, the judge may request in writing that the counsel furnish to the judge the names and addresses of all witnesses then or thereafter known to the counsel who have information that may be relevant to any charge against the judge and to any defense of the judge with respect to the charge. The counsel shall also furnish copies of such written statements, transcripts of testimony, and documentary evidence as are then or thereafter known to the counsel and are then or thereafter in the possession of the counsel or the commission that are relevant to any charges or defense and that have not previously been furnished the judge. The counsel shall comply

with a request within ten (10) days after receipt of the request and thereafter within ten (10) days after any information or evidence becomes known to the counsel.

(c) During the course of an investigation by the commission on judicial qualifications, the judge whose conduct is being investigated may demand in writing that the commission either institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe that the judge is guilty of any misconduct. The commission on judicial qualifications shall within sixty (60) days after the judge's demand comply with the demand. A copy of the demand must be filed with the supreme court and is a matter of public record. If, after a demand, the commission on judicial qualifications finds that there is not probable cause, that finding must be filed with the supreme court and is a matter of public record.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-68
Retirement; removal

Sec. 68. (a) Whenever a judge of a St. Joseph County court is retired by the supreme court under this chapter and on the grounds set forth in sections 44 and 46 of this chapter, the judge is considered to have retired voluntarily. In these situations, this chapter may not be construed to authorize any encroachment upon or impairment of any rights of the judge or the judge's surviving spouse under any constitutional or statutory retirement program.

(b) A judge of a St. Joseph County court who is removed from office by the supreme court on those grounds set forth in sections 44 and 46 of this chapter, is ineligible for judicial office and, pending further order of the supreme court, shall be suspended from the practice of law in Indiana.

As added by P.L.98-2004, SEC.12.

IC 33-33-71-69
Magistrates

Sec. 69. (a) The court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member of the same political party.

(b) A magistrate continues in office until removed by the judges of the court.

As added by P.L.98-2004, SEC.12. Amended by P.L.1-2007, SEC.219; P.L.127-2008, SEC.18.

IC 33-33-72
Chapter 72. Scott County

IC 33-33-72-1
Judicial circuit
Sec. 1. Scott County constitutes the sixth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-72-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Scott superior court.
(b) The Scott superior court is a standard superior court as described in IC 33-29-1.
(c) Scott County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-72-3
Judge; location of court sessions
Sec. 3. The Scott superior court has one (1) judge who shall hold sessions in Scottsburg.
As added by P.L.98-2004, SEC.12.

IC 33-33-72-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-72-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-73
Chapter 73. Shelby County

IC 33-33-73-1
Judicial circuit
Sec. 1. Shelby County constitutes the sixteenth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-73-2
Establishment of standard superior courts
Sec. 2. (a) There are established two (2) courts of record to be known as the Shelby superior court No. 1 and the Shelby superior court No. 2.
(b) Except as otherwise provided in this chapter, each Shelby superior court is a standard superior court as described in IC 33-29-1.
(c) Shelby County comprises the judicial district of the courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-73-3
Judges; location of court sessions
Sec. 3. Each Shelby superior court has one (1) judge who shall hold sessions in the Shelby County courthouse in Shelbyville.
As added by P.L.98-2004, SEC.12.

IC 33-33-73-4
Transcripts
Sec. 4. (a) This section does not apply to criminal cases.
(b) If the transcript of the original papers in a civil action or proceeding received by the clerk of the Shelby circuit court and Shelby superior courts on change of venue from another county contains an order of the court from which venue was changed designating the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.
(c) If the transcript of the original papers in a civil action or proceeding does not contain an order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the Shelby circuit court and the docket of the Shelby superior courts depending on the order and sequence in which the papers of the cases reach the clerk.
As added by P.L.98-2004, SEC.12.

IC 33-33-73-5
Change of venue
Sec. 5. (a) This section does not apply to criminal cases.
(b) Notwithstanding IC 33-29-1-9, after any action or proceeding is docketed in a Shelby superior court or the Shelby circuit court on change of venue, all parties who have appeared in the case in person or by counsel may agree on and request a transfer from a superior court to the circuit court or from the circuit court to a superior court.

(c) Upon the agreement of all parties, the court in which the action is pending shall order the case transferred to the other court. The clerk shall transmit the original papers of the case to the other court and docket the case in the other court without any transcript being required.

(d) All further proceedings in the case shall take place in the court to which the case is transferred. If the case is one in which the prosecuting attorney is required to appear and defend and a party fails to appear or to employ counsel, the prosecuting attorney has the right to agree to the transfer instead of the nonappearing party or counsel.

As added by P.L.98-2004, SEC.12.

IC 33-33-73-6
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-73-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-74

Chapter 74. Spencer County

IC 33-33-74-1

Judicial circuit

Sec. 1. Spencer County constitutes the eighty-fourth judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.88.

IC 33-33-75
Chapter 75. Starke County

IC 33-33-75-1
Judicial circuit

Sec. 1. Starke County constitutes the forty-fourth judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.89.

IC 33-33-75-2
Magistrate

Sec. 2. The judge of the Starke circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-75-3
Judicial powers

Sec. 3. All inherent powers of judicial mandate in Starke County remain vested solely in the judge of the Starke circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-76

Chapter 76. Steuben County

IC 33-33-76-1

Judicial circuit; magistrate

Sec. 1. (a) Steuben County constitutes the eighty-fifth judicial circuit.

(b) The judges of the Steuben circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Steuben circuit and superior courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-76-2

Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Steuben superior court.

(b) The Steuben superior court is a standard superior court as described in IC 33-29-1.

(c) Steuben County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-76-3

Judge; location of court sessions

Sec. 3. The Steuben superior court has one (1) judge who shall hold sessions in:

(1) the Steuben County courthouse in Angola; or

(2) other places in the county that the Steuben County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-76-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-76-5

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-77
Chapter 77. Sullivan County

IC 33-33-77-1
Judicial circuit; magistrate

Sec. 1. (a) Sullivan County constitutes the fourteenth judicial circuit.

(b) The judge of the Sullivan circuit court and the judge of the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-77-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Sullivan superior court.

(b) The Sullivan superior court is a standard superior court as described in IC 33-29-1.

(c) Sullivan County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-77-3
Judge; location of court sessions

Sec. 3. The Sullivan superior court has one (1) judge who shall hold sessions in:

(1) the Sullivan County courthouse in Sullivan; or

(2) other places in the county that the Sullivan County executive provides.

As added by P.L.98-2004, SEC.12.

IC 33-33-77-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-77-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-78
Chapter 78. Switzerland County

IC 33-33-78-1
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-2
Judicial circuit
Sec. 2. Switzerland County constitutes the ninety-first judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.127-2008, SEC.19; P.L.201-2011, SEC.90.

IC 33-33-78-3
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-4
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-5
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-6
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-7
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-8
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-9
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-10
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-78-11
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-12
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-13
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-78-14
Repealed
(Repealed by P.L.127-2008, SEC.21.)

IC 33-33-79
Chapter 79. Tippecanoe County

IC 33-33-79-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-2
Judicial circuit
Sec. 2. Tippecanoe County constitutes the twenty-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-3
Establishment of superior court; election of judge
Sec. 3. (a) There is established a court of record to be known as the superior court of Tippecanoe County.
(b) The superior court has one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-4
Seal
Sec. 4. The judge of the superior court shall cause to be provided a seal for the court. The seal must contain on its face the words "Superior Court of Tippecanoe County". A description and impression of the seal shall be spread upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-5
Location of court sessions
Sec. 5. The superior court shall hold its sessions at the Tippecanoe County courthouse or at any other convenient place as the board of county commissioners or the judge of the court may provide in Lafayette.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-79-7
Process of court
Sec. 7. The process of the superior court must have the seal affixed, and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79-8
Court of record; force and effect of judgments and orders

Sec. 8. The superior court is a court of record and of general jurisdiction, and its judgments, decrees, orders, and proceedings have the same force and effect as those of the circuit court and shall be enforced in the same manner.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-9
Power of court or judge

Sec. 9. The superior court may:

(1) issue and direct all process to courts of inferior jurisdiction, corporations, and individuals necessary in exercising the court's 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; and

(4) perform other acts necessary to implement this chapter;

in conformity with the Constitution of the State of Indiana and Indiana law.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-10
Power of judge same as circuit court judge

Sec. 10. The judge of the court may grant restraining orders and injunctions; issue writs of habeas corpus and of mandate and prohibition; appoint receivers, master commissioners, and commissioners to convey real property; grant commissions for the examination of witnesses; and appoint other officers necessary to facilitate and transact the business of said court, conferred on circuit courts or circuit court judges.
As added by P.L.98-2004, SEC.12.

IC 33-33-79-11
Power and authority of judge

Sec. 11. (a) The judge of the court:

(1) may make and adopt rules and regulations for conducting the business of the court; and

(2) has the power incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgments of deeds; and

(4) give all necessary certificates for the authentication of the records and proceedings in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79-12
Adverse or pecuniary interest of judge

Sec. 12. If the judge of the court is interested, or in the progress of the cause becomes interested, in an action or a matter pending in the court, the action or matter shall be removed for hearing and determination to the Tippecanoe circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79-13
Affidavit for change of venue

Sec. 13. (a) When an affidavit for a change of venue is filed in the superior court for any of the causes described in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7), a judge of the circuit or a superior court shall be called to hear and determine the cause as provided by law for changes of venue in causes pending in the circuit court.

(b) If the causes are alleged in the affidavit and described in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), the change of venue shall be granted and the cause directed to the circuit court of some other county, as provided in cases of changes of venue from the circuit court. The court to which the case is sent has jurisdiction to hear and determine the cause and render judgment.

As added by P.L.98-2004, SEC.12.

IC 33-33-79-14
Dockets; books and papers

Sec. 14. The clerk shall, under the direction of the judge, provide for the court, order books, judgment dockets, execution dockets, fee books, and other books as necessary, and all the books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-79-15
Appeals from superior court

Sec. 15. In a case where, under state law, a person has the right of appeal from the circuit court to the supreme court, an appeal may be had from the superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2

Chapter 79.2. Tippecanoe Superior Court No. 2

IC 33-33-79.2-1

Application

Sec. 1. IC 33-29-1 does not apply to this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-2

Creation of superior court; election and term of judge

Sec. 2. There is created a court of record to be known as the Superior Court No. 2 of Tippecanoe County. The court has one (1) judge, who holds office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-3

Judicial district; court of record; seal

Sec. 3. Tippecanoe County constitutes the judicial district of superior court No. 2.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-4

Clerk and sheriff of court; bailiff and official reporter

Sec. 4. (a) The clerk of the Tippecanoe circuit court shall be the clerk of superior court No. 2 of Tippecanoe County and the sheriff of Tippecanoe County shall be the sheriff of superior court No. 2 of Tippecanoe County. The clerk and sheriff shall attend court and discharge all the duties pertaining to their respective office as they are required to do by law with reference to the Tippecanoe circuit court.

(b) The judge of superior court No. 2 of Tippecanoe County shall appoint a bailiff and an official reporter for the court to serve during the court. The judge shall fix their compensation within the limits and in the manner provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Tippecanoe County, in the manner provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-5

Location of court sessions; dockets, books, and records

Sec. 5. (a) Superior court No. 2 of Tippecanoe County shall hold sessions in a place to be determined by the county council of Tippecanoe County.

(b) The board of county commissioners of Tippecanoe County shall provide and maintain in the courthouse or at another convenient place as the board of commissioners or the judge of the court may provide at the county seat:

(1) a suitable and convenient courtroom for the holding of court; and

(2) a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court and all necessary dockets, books, and records for the court.

(d) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-6
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-79.2-7
Judicial powers

Sec. 7. (a) The judge of superior court No. 2 of Tippecanoe County may make and adopt rules and regulations for conducting the business of superior court No. 2 of Tippecanoe County.

(b) The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. The judge may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgments of deeds;

(4) give all necessary certificates for the authentication of records and proceedings of the court; and

(5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.2-8
Transfer of actions

Sec. 8. (a) The judge of the Superior Court No. 2 of Tippecanoe County may, with the consent of the judge of the superior court of Tippecanoe County, transfer any action, cause, or proceeding pending in superior court No. 2 of Tippecanoe County to the superior court of Tippecanoe County by transferring all original papers, instruments and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court of Tippecanoe County, if:

(1) the action, cause, or proceeding could have been originally filed and docketed in the superior court of Tippecanoe County; and

(2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.

(b) The judge of the superior court of Tippecanoe County may, with the consent of the judge of the superior court No. 2 of Tippecanoe County, transfer any action, cause, or proceeding pending in the superior court of Tippecanoe County to the superior court No. 2 of Tippecanoe County by transferring all original papers, instruments, and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court No. 2 of Tippecanoe County if:

(1) the action, cause, or proceeding could have been originally filed and docketed in the superior court No. 2 of Tippecanoe County; and

(2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.3

Chapter 79.3. Tippecanoe Superior Court No. 3

IC 33-33-79.3-1

Application

Sec. 1. IC 33-29-1 does not apply to this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-2

Establishment of superior court; seal; judicial district

Sec. 2. There is established a court of record to be known as the Tippecanoe superior court No. 3 (referred to as the court in this chapter). The court may have a seal containing the words "Tippecanoe Superior Court No. 3, Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-3

Judge; election, term, and qualifications

Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. 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 judge of the court, a person must:

(1) be a resident of Tippecanoe County; and

(2) be admitted to the bar of Indiana.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.15; P.L.201-2011, SEC.91.

IC 33-33-79.3-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-79.3-5

Power of judge same as circuit court judges

Sec. 5. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Tippecanoe circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-6

Bailiff and court reporter

Sec. 6. The judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by

law.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-7
Dockets; books and papers

Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-8
Location of court sessions

Sec. 8. The court shall hold its sessions in:

(1) the Tippecanoe County courthouse in Lafayette; or

(2) other places in the county as the Tippecanoe County executive may provide.

The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as necessary. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-9
Transfers of actions and proceedings

Sec. 9. The judge of the Tippecanoe circuit court or Tippecanoe superior court No. 1 or No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court or superior court No. 1 or No. 2 to the court and the judge of the court may, with consent of the judge of the circuit or other superior court, transfer any action or proceeding from the court to the circuit or other superior court, if the action or proceeding could have been originally filed in the receiving court.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-10
Interchange of judges

Sec. 10. The judge of the Tippecanoe circuit or other superior court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if an elected judge of the circuit or other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.3-11
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-79.3-12
Rules for conducting business; local rules

Sec. 12. The judge of the court may adopt rules for conducting the business of the court, consistent with the laws and court rules of Indiana. However, when adopting local rules to govern in all the courts of record in the county, the judges of the circuit and superior courts shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4

Chapter 79.4. Tippecanoe Superior Courts No. 4, No. 5, and No. 6

IC 33-33-79.4-1

Application

Sec. 1. IC 33-29-1 does not apply to this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-2

Establishment of superior courts

Sec. 2. There are established three (3) courts of record to be known as:

(1) Tippecanoe superior court No. 4;

(2) Tippecanoe superior court No. 5; and

(3) Tippecanoe superior court No. 6;

(referred to as "the court" in this chapter). Tippecanoe superior court No. 4, No. 5, and No. 6 may each have a seal containing the words "Tippecanoe Superior Court No. (Insert Court Division Number), Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of each court.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-3

Judges; election

Sec. 3. (a) Tippecanoe superior court No. 4, No. 5, and No. 6 each has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. 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 judge of the court, a person must be:

(1) a resident of Tippecanoe County; and

(2) admitted to the bar of Indiana.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.16; P.L.201-2011, SEC.92.

IC 33-33-79.4-4

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-79.4-5

Judicial powers

Sec. 5. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 have the same powers relating to the conduct of the business of Tippecanoe superior court No. 4, No. 5, and No. 6 as the judge of the Tippecanoe circuit court. The judge of each court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-6
Bailiff and court reporter

Sec. 6. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6:

(1) shall each appoint a bailiff and an official court reporter for the court; and

(2) may each appoint other court personnel necessary to facilitate and transact the business of the court.

A person appointed under this section serves at the pleasure of the judge appointing the person. Their salaries shall be fixed in the same manner as the salaries of the bailiff, official court reporter, and other personnel for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-7
Magistrate

Sec. 7. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until jointly removed by the judges of the courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-8
Dockets, books, and papers

Sec. 8. The clerk of the circuit court, under the direction of the judge of a court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-9
Location of court sessions

Sec. 9. Each court shall hold its sessions in the Tippecanoe County courthouse in Lafayette or in other places in the county that the Tippecanoe County executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary for each court. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-10
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-79.4-11
Transfer of actions and proceedings

Sec. 11. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, transfer any action or proceeding from the circuit court to Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with the consent of the judge of the circuit court or the judge of another superior court in the county, transfer any action or proceeding from Tippecanoe superior court No. 4, No. 5, or No. 6 to the circuit court or the other superior court in the county.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-12
Sitting of judges

Sec. 12. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, sit as a judge of the court in any matter as if the judge of the circuit court or the other superior court were an elected judge of Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with consent of the judge of the circuit court or the judge of another superior court in the county, sit as a judge of the circuit court or the other superior court in any matter as if the judge of Tippecanoe superior court No. 4, No. 5, or No. 6 were an elected judge of the circuit court or the other superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-13
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-79.4-14
Rules

Sec. 14. (a) Except as provided in this section, a judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may adopt rules for conducting business in the court.

(b) Rules adopted under this section must be consistent with the laws of Indiana and the rules adopted by the supreme court.

(c) When adopting local rules to govern in all the courts of record in the county, the judge of the circuit court and the judges of all superior courts in the county shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

(d) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly adopt rules to provide for the coordination and conduct of the standard small claims and misdemeanor divisions in the courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-79.4-15
Presiding judge

Sec. 15. (a) The judges of Tippecanoe superior court No. 4, No.

5, and No. 6, by rules jointly adopted by the courts, shall designate one (1) of the judges of the courts as presiding judge for the standard small claims and misdemeanor divisions of the courts.

(b) The presiding judge shall insure that the standard small claims divisions operate efficiently.

As added by P.L.98-2004, SEC.12.

IC 33-33-80
Chapter 80. Tipton County

IC 33-33-80-1
Judicial circuit

Sec. 1. Tipton County constitutes the thirty-sixth judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.93.

IC 33-33-81
Chapter 81. Union County

IC 33-33-81-1
Judicial circuit

Sec. 1. Union County constitutes the eighty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.94.

IC 33-33-82
Chapter 82. Vanderburgh County

IC 33-33-82-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-2
Judicial circuit
Sec. 2. Vanderburgh County constitutes the first judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-3
Magistrate
Sec. 3. The judge of the Vanderburgh circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-4
Judicial powers
Sec. 4. All inherent powers of judicial mandate in Vanderburgh County remain vested in the judges of the county.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-5
Establishment of superior court; judges
Sec. 5. There is established a superior court in Vanderburgh County that consists of seven (7) judges who hold office for six (6) years and until their successors are elected and qualified.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-6
Magistrates
Sec. 6. (a) The judges of the Vanderburgh superior court may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5.
(b) A magistrate continues in office until jointly removed by the judges.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-7
Name
Sec. 7. The court shall be known as the Vanderburgh Superior Court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-8
Seal

Sec. 8. The court shall have a seal consisting of a circular disk containing the words "Vanderburgh Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-9
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-82-10
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-82-11
Court of record; force and effect of judgments, decrees, and orders
Sec. 11. The superior court is a court of record and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-12
Power and authority of judges
Sec. 12. (a) The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.
(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-13
Power of judges same as circuit court judges
Sec. 13. The judges of the superior court have the same powers to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and transact the business of the court as conferred on circuit courts or the judges of the circuit court; and to appoint officers necessary to facilitate the business of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-14
Location of court sessions
Sec. 14. (a) The Vanderburgh superior court shall hold sessions in the Vanderburgh County courthouse in Evansville or its

replacement.

(b) The board of county commissioners of Vanderburgh County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-15

Dockets; books, papers, and records

Sec. 15. The clerk, under the direction of the superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records necessary for the court.

All books, papers and proceedings of the court shall be kept distinct and separate from those of other records.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-16

Order books; signature of judges

Sec. 16. The superior court shall maintain order books as the court determines necessary for the entire court. An order book may be signed on behalf of the court by any of the sitting judges of the court and the signature constitutes authentication of the actions of each of the judges in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-17

Court reporter and bailiff

Sec. 17. Each judge of the superior court shall appoint a court reporter, a bailiff, and a riding bailiff for the court whose salaries shall be fixed by the court and paid as provided by law and who serves at the pleasure of the judge making the appointment.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-18

Additional officers and personnel

Sec. 18. The superior court may appoint additional officers and personnel as necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-19

Probation officers

Sec. 19. The court shall appoint probation officers who shall perform the same duties and receive the same compensation as is provided by law.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-20

Laws and rules applicable to practice and procedure

Sec. 20. All laws of the state and all rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-21

Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-82-22

Appeals from orders or judgments

Sec. 22. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law and rules governing appeals to the court of appeals and the supreme court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-23

Process of court

Sec. 23. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-24

Presiding judge

Sec. 24. The superior court, by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

As added by P.L.98-2004, SEC.12.

IC 33-33-82-25

Judges; acting in concert; majority decision

Sec. 25. When any action of the entire court is required, the sitting judges of the court shall act in concert. If there is a disagreement, the

decision of the majority of the sitting judges controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-26
Transfer of causes from circuit court

Sec. 26. The judge of the circuit court may, with the consent of the superior court, transfer any action, cause, or proceeding 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.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-27
Transfer of causes to circuit court

Sec. 27. Any judge of the superior court may, with the consent of the judge of the circuit court transfer any action, cause, or proceeding 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.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-28
Circuit court judge sitting as superior court judge

Sec. 28. The judge of the Vanderburgh circuit court may sit as a judge of the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were a judge of the superior court with all the rights and powers as if the judge were an elected judge of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-29
Budget estimates

Sec. 29. The superior court shall submit its budget estimates annually to the auditor of the county for presentment and approval by the county council, as provided in IC 36-2-5.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-30
Small claims and misdemeanor division

Sec. 30. The Vanderburgh superior court has a standard small claims and misdemeanor division.
As added by P.L.98-2004, SEC.12.

IC 33-33-82-31
Judges; nonpartisan elections; declaration of candidacy; eligibility

Sec. 31. (a) The judge of the Vanderburgh circuit court and each of the seven (7) judges of the Vanderburgh superior court shall be

elected in nonpartisan elections every six (6) years.

(b) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one (1) of the eight (8) judgeships affected by this chapter shall file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2, signed by the candidate and designated which judgeship the candidate seeks. Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). To be eligible for election, a candidate must be:

(1) domiciled in the county of Vanderburgh;

(2) a citizen of the United States; and

(3) admitted to the practice of law in Indiana.

(c) If an individual who files a declaration under subsection (b) ceases to be a candidate after the final date for filing a declaration under subsection (b), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(d) All candidates for each respective judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(e) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.37.

IC 33-33-83

Chapter 83. Vermillion County

IC 33-33-83-1

Judicial circuit; small claims and misdemeanor division

Sec. 1. (a) Vermillion County constitutes the forty-seventh judicial circuit.

(b) The Vermillion circuit court has a standard small claims and misdemeanor division.

As added by P.L.98-2004, SEC.12.

IC 33-33-84
Chapter 84. Vigo County

IC 33-33-84-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-2
Judicial circuit
Sec. 2. Vigo County constitutes the forty-third judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-3
Establishment of superior court; judges
Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has five (5) judges who shall hold their office for six (6) years and until their successors have been elected and qualified.
As added by P.L.98-2004, SEC.12. Amended by P.L.246-2005, SEC.223.

IC 33-33-84-4
Seal
Sec. 4. The superior court shall have a seal consisting of a circular disk containing the words "Vigo Superior Court of Indiana", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-84-6
Court of record; force and effect of judgments and orders
Sec. 6. The judgments, decrees, orders, and proceedings of the superior court have the same force and effect and shall be enforced in the same manner as those of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-7
Power and authority of judges
Sec. 7. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all records and proceedings in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-8
Additional powers of superior court

Sec. 8. The judges of the superior court have the same powers to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and transact the business of the court as conferred on circuit courts or the circuit court judges; and to appoint such officers necessary to facilitate the business of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-9
Personnel

Sec. 9. (a) The superior court may appoint commissioners, probate commissioners, referees, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, as the court believes are necessary to facilitate and transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of the salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor upon the order of the court, and be entered on record. The officers and persons appointed shall perform the duties as are prescribed by the court. Any such commissioners, probate commissioners, referees, juvenile referees, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(b) Any probate commissioner appointed by the court may be vested by the court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in the court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before the court, the enforcement of court rules and regulations, and making of reports to the court, including the taking and hearing of evidence together with the commissioner's findings and conclusions, under the final jurisdiction and decision of the judges of the court.

(c) Any juvenile referee appointed by the court may be vested by the court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning the referee's doings under final jurisdiction and decision of the judges of

the court.

(d) A probate commissioner and juvenile referee may summon witnesses to testify before the commissioner and juvenile referee, administer oaths, and take acknowledgments in connection with and in furtherance of their duties and powers.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-10

Location of court sessions

Sec. 10. (a) The Vigo superior court shall hold its sessions in the Vigo County courthouse or its replacement in Terre Haute.

(b) The board of county commissioners of Vigo County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-11

Books, papers, and records

Sec. 11. The clerk, under the direction of the superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as may be necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other records.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-12

Order book

Sec. 12. The superior court shall maintain order books as the court may determine necessary for the entire court, which may be signed on behalf of the court by any of the sitting judges of the court. The signature constitutes authentication of the actions of each of the judges in the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-13

Court reporter, bailiff, and secretary

Sec. 13. Each judge of the superior court shall appoint a court reporter, a bailiff, and a secretary for the court whose salaries shall be fixed by the court and paid as provided by law, and who serve at the pleasure of the judge making the appointment.

As added by P.L.98-2004, SEC.12.

IC 33-33-84-14
Appointment of additional personnel

Sec. 14. The superior court may appoint additional officers and personnel as may be necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-15
Probation officers

Sec. 15. The superior court shall appoint probation officers who shall perform the same duties and receive the same compensation as is provided by law.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-16
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-84-17
Process of court

Sec. 17. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-18
Presiding judge

Sec. 18. The superior court, by rules adopted by the court, may designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and seeing that the court operates efficiently and judicially.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-19
En banc; disagreements

Sec. 19. The judges of the superior court may sit en banc and act in concert. The judge of the circuit court may also sit en banc with the judges of the superior court. If there is a disagreement while sitting en banc, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-20
Authority of judge to sit in either court

Sec. 20. The judge of the Vigo circuit court may sit as a judge of

the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were an elected judge of the superior court.
As added by P.L.98-2004, SEC.12.

IC 33-33-84-21
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-85
Chapter 85. Wabash County

IC 33-33-85-1
Judicial circuit
Sec. 1. Wabash County constitutes the twenty-seventh judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-85-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Wabash superior court.
(b) The Wabash superior court is a standard superior court as described in IC 33-29-1.
(c) Wabash County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-85-3
Judge; location of court sessions
Sec. 3. The Wabash superior court has one (1) judge who shall hold sessions in:
(1) the Wabash County courthouse in Wabash; or
(2) other places in the county that the Wabash County executive provides.
As added by P.L.98-2004, SEC.12.

IC 33-33-85-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-85-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-86
Chapter 86. Warren County

IC 33-33-86-1
Judicial circuit

Sec. 1. Warren County constitutes the twenty-first judicial circuit.
As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.95.

IC 33-33-87
Chapter 87. Warrick County

IC 33-33-87-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-2
Judicial circuit; joint appointment of magistrate
Sec. 2. (a) Warrick County constitutes the second judicial circuit.
(b) The judge of the Warrick circuit court and the judges of the Warrick superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.
(c) The magistrate continues in office until jointly removed by the judge of the Warrick circuit court and the judges of the Warrick superior courts.
As added by P.L.98-2004, SEC.12. Amended by P.L.100-2013, SEC.2.

IC 33-33-87-3
Establishment of superior court
Sec. 3. There are established two (2) courts of record to be known as "Warrick superior court No. 1" and "Warrick superior court No. 2".
As added by P.L.98-2004, SEC.12.

IC 33-33-87-4
Seal
Sec. 4. Each superior court shall have a seal consisting of a circular disk containing the words "Warrick Superior Court No. 1" or "Warrick Superior Court No. 2" and a design as each court may determine.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-5
Force and effect of superior court actions
Sec. 5. Each superior court's judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-6
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-87-7
Transfer of actions and proceedings
Sec. 7. (a) The judge of the circuit court may, with the consent of a superior court, transfer any action, cause, or proceeding 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 court.

(b) The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the 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.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action, cause, or proceeding filed and docketed in the court to the other court to be redocketed and disposed of as if originally filed with the other court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-8
Sitting of judges

Sec. 8. (a) The judge of the Warrick circuit court may, with a superior court's permission, sit and act as a judge of the superior court in all matters before the court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were an elected judge of the superior court.

(b) The judge of the Warrick superior court No. 1 or Warrick superior court No. 2 may, with the circuit court's permission, sit and to act as a judge of the circuit court in all matters pending before the circuit court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were the elected judge of the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-9
Powers of judges

Sec. 9. (a) The Warrick superior court No. 1 or Warrick superior court No. 2 may make rules for conducting the business of the court.

(b) The Warrick superior court No. 1 or the Warrick superior court No. 2 may issue warrants and issue and direct all processes that are necessary in exercising the jurisdiction conferred under this chapter. The Warrick superior court No. 1 or Warrick superior court No. 2 may make all proper judgments, sentences, decrees, and orders, issue all process, and do all acts necessary or proper to carry the jurisdiction conferred under this chapter into effect.

(c) The Warrick superior court No. 1 or the Warrick superior court No. 2 has the same power as the circuit court or a judge of the circuit court in relation to the attendance of witnesses, the punishment of contempts, and the enforcing of a court's orders. The Warrick superior court No. 1 or Warrick superior court No. 2 may

administer oaths and give all necessary certificates for the authentication of the records and proceedings of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-10
Judges; term

Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1) judge of the Warrick superior court No. 2 who shall hold office for six (6) years, beginning on the first day of January after a judge's election and until the judge's successor is elected and qualified.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-11
Judges; discipline

Sec. 11. The judge of the Warrick superior court No. 1 and the Warrick superior court No. 2 shall be subject to all disciplinary rules promulgated by the supreme court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-12
Election

Sec. 12. The voters of Warrick County shall elect every six (6) years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-13
Qualifications

Sec. 13. To be eligible to hold office as a superior court judge, a person must:

(1) be a resident of Warrick County; and
(2) be admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.17; P.L.201-2011, SEC.96.

IC 33-33-87-14
Vacancy

Sec. 14. Any vacancy occurring in the office of the judge of the superior court shall be filled by appointment by the governor in the same manner as are vacancies in the office of the judge of the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-15
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-87-16
Practice and procedure

Sec. 16. (a) All laws and rules adopted by the supreme court enacted governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior courts.

(b) Notwithstanding subsection (a), in cases on the civil small claims docket, the following exceptions to the laws and rules described in subsection (a) apply:

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

(2) If at the trial of the cause the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiff's claim or 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.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

As added by P.L.98-2004, SEC.12.

IC 33-33-87-17
Trial by jury

Sec. 17. Whenever a trial by jury is demanded, a judge of the superior court may call a jury from the list provided to the court, although the filing of a small claim shall be considered a waiver of trial by jury by the plaintiff. The defendant may, not later than ten (10) days after being served, make demand for a trial by jury by affidavit stating that there are questions of fact requiring a trial by jury, specifying them, and stating that the demand is intended in good faith. The court shall then cause the claim to be transferred to the regular docket and the defendant shall pay the filing fee charged for filing civil actions in circuit court. Upon transfer a claim loses its status as a small claim and is subject to all ordinary rules and procedure.

As added by P.L.98-2004, SEC.12. Amended by P.L.118-2007, SEC.24.

IC 33-33-87-18
Satisfaction of judgment

Sec. 18. When the judgment or order in the small claims division

of the superior court is against the defendant, the defendant shall pay the judgment or order immediately or at any time and upon such terms and conditions as the judge prescribes. If the judge orders that the judgment shall be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during compliance with the order. The stay may be modified or vacated by the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-19
Judgments; lien on real estate

Sec. 19. All judgments rendered in the small claims division of a superior court shall be properly recorded in the judgment docket book of the court. The judgments are liens on real estate in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-20
Appeals

Sec. 20. An appeal of a judgment from a standard small claims and misdemeanor division of a superior court shall be taken in the same manner and under the same rules and statutes and with the same assessment of costs as cases appealed from the circuit courts. The appeal in a small claims case must be commenced and perfected within thirty (30) days after the entry of judgment or the right to appeal is waived.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-21
Bailiff; court reporter; additional personnel

Sec. 21. Each superior court shall appoint a bailiff, a court reporter, and the additional personnel necessary to carry out the business of the court. The duties, salaries, and terms of the bailiff and recorder shall be regulated in the same manner as provided for the circuit court.
As added by P.L.98-2004, SEC.12.

IC 33-33-87-22
Location of court sessions

Sec. 22. (a) Warrick superior court No. 1 and Warrick superior court No. 2 shall hold sessions in:

(1) the Warrick County courthouse in Boonville; or
(2) any other place in Warrick County as the board of county commissioners may provide.

(b) The board of county commissioners of Warrick County shall:

(1) provide and maintain a suitable and convenient courtroom for the holding of a superior court, suitable and convenient jury rooms, offices for the judges and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of a court.

(c) The county council shall appropriate sufficient funds for the rooms, facilities, furniture, and equipment.

As added by P.L.98-2004, SEC.12.

IC 33-33-88
Chapter 88. Washington County

IC 33-33-88-1
Judicial circuit

Sec. 1. Washington County constitutes the forty-second judicial circuit.

As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.97.

IC 33-33-88-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Washington superior court.

(b) The Washington superior court is a standard superior court as described in IC 33-29-1.

(c) Washington County comprises the judicial district of the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-88-3
Judge; location of court sessions

Sec. 3. The Washington superior court has one (1) judge who shall hold sessions in:

(1) the Washington County courthouse in Salem; or

(2) other places in the county that the Washington County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-88-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-88-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-89
Chapter 89. Wayne County

IC 33-33-89-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-89-2
Judicial circuit
Sec. 2. Wayne County constitutes the seventeenth circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-89-3
Establishment of superior court
Sec. 3. There is established a court of record to be known as the Wayne superior court No. 1. The court consists of one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor has been elected and qualified. The judge shall be elected every six (6) years at the general election.
As added by P.L.98-2004, SEC.12.

IC 33-33-89-4
Judicial district
Sec. 4. Wayne County constitutes the judicial district of the Wayne superior court No. 1.
As added by P.L.98-2004, SEC.12.

IC 33-33-89-5
Bailiff and court reporter
Sec. 5. The judge of the superior court shall appoint a bailiff and an official court reporter for the court, to serve during the pleasure of the court. The judge shall fix their per diem or salary within the limits and in the manner as provided by law concerning bailiffs and official court reporters. The bailiff and court reporter shall be paid monthly out of the treasury of Wayne County in the manner provided by law.
As added by P.L.98-2004, SEC.12.

IC 33-33-89-6
Location of court sessions
Sec. 6. (a) The superior court shall hold its sessions in the Wayne County courthouse in Richmond.
(b) The board of commissioners of Wayne County shall:
(1) provide and maintain in the courthouse:
(A) a suitable and convenient courtroom for the holding of the court; and
(B) a suitable and convenient jury room and offices for the presiding judge and the official court reporter; and

(2) shall provide all necessary furniture and equipment for the rooms and offices and all necessary dockets, books, and records for the court.

As added by P.L.98-2004, SEC.12.

IC 33-33-89-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-89-8
Judicial powers

Sec. 8. (a) The judge of the Wayne superior court No. 1:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgment of deeds;

(4) give all necessary certificates for the authentication of records and proceedings of the court; and

(5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-89.2
Chapter 89.2. Wayne Superior Court No. 2

IC 33-33-89.2-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-2
Judicial circuit
Sec. 2. There is established a court of record to be known as the Wayne superior court No. 2. The court has one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election and until the judge's successor is elected and qualified. The judge of the court shall be elected every six (6) years at the general election.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-3
Establishment of superior court; judge; election
Sec. 3. Wayne County constitutes the judicial district of the Wayne superior court No. 2. The court shall have a seal containing the words "Wayne Superior Court No. 2, of Wayne County, Indiana.".
As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-4
Judicial district
Sec. 4. The judge of the Wayne superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation within the limits and in the manner as may be provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Wayne County in the manner provided by law.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-5
Bailiff and court reporter
Sec. 5. The terms of the Wayne Superior Court No. 2 shall be held in a judicial district under IC 33-23-2.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-6
Location of court sessions
Sec. 6. (a) The Wayne superior court No. 2 shall hold its sessions in a place to be determined by the county council of Wayne County.
(b) The board of county commissioners of Wayne County:
(1) shall provide and maintain in the courthouse:
(A) a suitable and convenient courtroom for the holding of

court; and

(B) suitable and convenient jury room and offices for the judge and the official court reporter; and

(2) shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court.

(c) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-7
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-89.2-8
Judicial powers

Sec. 8. The judge of the Wayne superior court No. 2:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court No. 2;

(2) has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders; and

(3) may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

As added by P.L.98-2004, SEC.12.

IC 33-33-89.2-9
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-89.2-10
Repealed

(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-89.3
Chapter 89.3. Wayne Superior Court No. 3

IC 33-33-89.3-1
Application
Sec. 1. IC 33-29-1 does not apply to this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-2
Establishment of superior court
Sec. 2. There is established a court of record having general jurisdiction to be known as the Wayne superior court No. 3 (referred to as "the court" in this chapter). The court may have a seal containing the words "Wayne Superior Court No. 3, Wayne County, Indiana". Wayne County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-3
Judge; election
Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Wayne County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.
(b) To be eligible to hold office as judge of the court, a person must:
(1) be a resident of Wayne County;
(2) be admitted to the bar of Indiana; and
(3) have practiced law at least five (5) years.
As added by P.L.98-2004, SEC.12. Amended by P.L.161-2011, SEC.18; P.L.201-2011, SEC.98.

IC 33-33-89.3-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-89.3-5
Judicial powers
Sec. 5. The judge of the court has the same powers relating to the conduct of business of the court as the judge of the Wayne circuit court and the judges of Wayne superior courts No. 1 and No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgements of deeds, and give all necessary certificates for the authentication of records and proceedings of the judge's court.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-6
Personnel

Sec. 6. The judge of the court may appoint a bailiff, official court reporter, referee, commissioner, and any other personnel as the judge considers necessary to facilitate and transact the business of the court. The judge of the court shall fix their compensation within the limits and in the manner as provided by law concerning these officers and employees. These personnel serve at the pleasure of the court and are paid monthly in the manner of payment for officers and employees of Wayne circuit court and Wayne superior courts No. 1 and No. 2.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-7
Books, dockets, and papers
Sec. 7. The clerk, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-8
Location of court sessions
Sec. 8. (a) The court shall hold its sessions in a place to be determined and provided by the county council of Wayne County.
(b) The board of county commissioners of Wayne County:
(1) shall provide and maintain in the courthouse a suitable and convenient courtroom for holding the court and suitable and convenient jury room and offices for the judge, official court reporter, and staff of the court; and
(2) shall provide all necessary furniture and equipment for the rooms, offices, and employees of the court and all necessary dockets, books, and records for the court.
(c) The county council shall make all necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-9
Repealed
(Repealed by P.L.118-2007, SEC.38.)

IC 33-33-89.3-10
Sitting of judges
Sec. 10. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter in the small claims and minor offenses division of the court, as if the judge were an elected judge of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-11

Transfer of actions and proceedings

Sec. 11. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, transfer any action, cause, or proceeding filed and docketed in the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, to the court by transferring all original papers and instruments filed in such an action, cause, or proceeding. The action, cause, or proceeding shall be treated as if originally filed with the court. The judge of the court may, with the consent of the judge of the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, transfer any action, cause, or proceeding filed and docketed in the court, except a cause properly docketed in the small claims or minor offenses division of the court, to the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, by transferring all original papers and instruments filed in the action, cause, or proceeding. The action, cause, or proceeding shall be treated as if originally filed with the transferee court. However, if any cause, action, or proceeding transferred under this section is later transferred on change of venue to a court of another county or if any cause is appealed to the court of appeals or supreme court of Indiana, then the party taking the change of venue or appeal may have a transcript made of the proceedings in each court, certified by the clerk of that court. The transcript has the same force and effect and gives the court to which it is taken on change of venue or appeal the same jurisdiction, as though this transcript had been originally made when the cause was transferred to the transferee court.

As added by P.L.98-2004, SEC.12.

IC 33-33-89.3-12
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-90
Chapter 90. Wells County

IC 33-33-90-1
Judicial circuit

Sec. 1. Wells County constitutes the twenty-eighth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-90-2
Establishment of standard superior court

Sec. 2. (a) There is established a court of record to be known as the Wells superior court.

(b) The Wells superior court is a standard superior court as described in IC 33-29-1.

(c) Wells County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-90-3
Judge; location of court sessions

Sec. 3. The Wells superior court has one (1) judge who shall hold sessions in:

(1) the Wells County courthouse in Bluffton; or

(2) other places in the county that the Wells County executive may provide.

As added by P.L.98-2004, SEC.12.

IC 33-33-90-4
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-90-5
Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-91
Chapter 91. White County

IC 33-33-91-1
Judicial circuit
Sec. 1. White County constitutes the thirty-ninth judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-91-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the White superior court.
(b) The White superior court is a standard superior court as described in IC 33-29-1.
(c) White County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-91-3
Judge; location of court sessions
Sec. 3. The White superior court has one (1) judge who shall hold sessions in:
(1) the White County courthouse in Monticello; or
(2) other places in the county that the board of county commissioners of White County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-91-4
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-91-5
Repealed
(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-92
Chapter 92. Whitley County

IC 33-33-92-1
Judicial circuit
Sec. 1. Whitley County constitutes the eighty-second judicial circuit.
As added by P.L.98-2004, SEC.12.

IC 33-33-92-2
Establishment of standard superior court
Sec. 2. (a) There is established a court of record to be known as the Whitley superior court.
(b) The Whitley superior court is a standard superior court as described in IC 33-29-1.
(c) Whitley County comprises the judicial district of the court.
As added by P.L.98-2004, SEC.12.

IC 33-33-92-3
Judge; location of court sessions
Sec. 3. The Whitley superior court has one (1) judge who shall hold sessions in:
(1) the Whitley County courthouse in Columbia City; or
(2) other places in the county that the board of county commissioners of Whitley County may provide.
As added by P.L.98-2004, SEC.12.

IC 33-33-92-4
Small claims referee
Sec. 4. (a) If the Whitley county executive establishes the position of small claims referee to serve the Whitley superior court, the judge of the Whitley superior court may appoint a part-time small claims referee under IC 33-29-3 to assist the court in the exercise of its small claims jurisdiction.
(b) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) as recommended by the judge of the Whitley superior court to be paid by the county after the compensation is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.
(c) The Whitley County executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including furniture and equipment, as necessary.
(d) The Whitley superior court shall employ administrative staff necessary to support the functions of the small claims referee.
(e) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.
As added by P.L.98-2004, SEC.12.

IC 33-33-92-5

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-33-92-6

Repealed

(Repealed by P.L.201-2011, SEC.115.)

IC 33-34

ARTICLE 34. MARION COUNTY SMALL CLAIMS COURTS

IC 33-34-1

Chapter 1. Establishment and General Provisions

IC 33-34-1-1

Judge

Sec. 1. As used in this article, "judge" means the judge of a small claims court established under this chapter unless otherwise indicated.

As added by P.L.98-2004, SEC.13.

IC 33-34-1-2

Establishment of courts

Sec. 2. (a) There are established township small claims courts in each county containing a consolidated city.

(b) The name of each court shall be the "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

As added by P.L.98-2004, SEC.13.

IC 33-34-1-3

Not a court of record

Sec. 3. The small claims court is not a court of record.

As added by P.L.98-2004, SEC.13.

IC 33-34-1-4

Terms of court

Sec. 4. The small claims court shall meet in continuous session.

As added by P.L.98-2004, SEC.13.

IC 33-34-1-5

Circuit court judge

Sec. 5. The judge of the circuit court shall extend aid and assistance to the judges in the conduct of the township small claims courts.

As added by P.L.98-2004, SEC.13.

IC 33-34-1-6

Full-time or part-time divisions

Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following a hearing conducted under section 7 of this chapter.

As added by P.L.98-2004, SEC.13. Amended by P.L.65-2004, SEC.13.

IC 33-34-1-7

Public hearings

Sec. 7. A hearing must be conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public concerning:

(1) whether a small claims court should be established or abolished in the township, if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the small claims court should be full time or part time;

(3) the location of the small claims court courtroom and offices; and

(4) other relevant matters.

As added by P.L.98-2004, SEC.13. Amended by P.L.65-2004, SEC.14; P.L.174-2006, SEC.2.

IC 33-34-1-8

Notice of hearings concerning small claims court

Sec. 8. The township trustee shall give ten (10) days notice of all hearings held under section 7 of this chapter in one (1) or more newspapers of general circulation in the county.

As added by P.L.98-2004, SEC.13.

IC 33-34-1-9

Township board order

Sec. 9. Not more than two (2) weeks after a hearing is conducted under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order concerning:

(1) whether a small claims court shall be established or abolished in the township if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the small claims court if any, shall function full time or part time;

(3) the location of the small claims court courtroom and offices under IC 33-34-6-1; and

(4) other relevant matters.

As added by P.L.98-2004, SEC.13. Amended by P.L.65-2004, SEC.15; P.L.174-2006, SEC.3.

IC 33-34-2
Chapter 2. Judges

IC 33-34-2-1
Election

Sec. 1. A judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the small claims court is located.

As added by P.L.98-2004, SEC.13. Amended by P.L.174-2006, SEC.4.

IC 33-34-2-2
Qualifications

Sec. 2. A judge must meet the qualifications prescribed by IC 3-8-1-30.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-3
Term of office

Sec. 3. The term of office of a judge is four (4) years, beginning January 1 after election and continuing until a successor is:

(1) elected; and
(2) qualified.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-4
Court schedule

Sec. 4. (a) The circuit court judge may establish a regular hourly schedule for the performance of duties by full-time or part-time township small claims courts and each judge shall maintain that schedule.

(b) If the circuit court judge does not establish a regular hourly schedule, the judge shall perform the judge's duties at regular, reasonable hours.

(c) Regardless of whether a regular hourly schedule has been established as set forth in subsection (a), a judge shall hold sessions in addition to the judge's regular schedule whenever the business of the judge's court requires.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-5
Salary

Sec. 5. (a) The salary of a judge who serves full time must be in an amount determined by the township board of the township in which the small claims court is located.

(b) The salary of each judge who serves part time must be in an amount determined by the township board and approved by the city-county council.

(c) The salary of a judge may not be reduced during the judge's term of office.

(d) At any other time, salaries of any full-time or part-time judge may be increased or decreased by the township board of the township in which the small claims court is located.
As added by P.L.98-2004, SEC.13.

IC 33-34-2-6
Salary payment; conflict of duties

Sec. 6. (a) The annual salary of a judge shall be paid in twelve (12) equal monthly installments by the township trustee.

(b) The judge may not receive remuneration other than a salary set under section 5 of this chapter for the performance of the judge's official duties except payments for performing marriage ceremonies.
As added by P.L.98-2004, SEC.13.

IC 33-34-2-7
Other employment

Sec. 7. (a) A judge serving part-time may participate in other gainful employment if the employment does not:

(1) interfere with the exercise of the judge's judicial office; or
(2) involve any conflict of interest in the performance of the judge's judicial duties.

(b) A judge serving full time may practice law if the practice does not conflict in any way with the judge's official duties and does not:

(1) cause the judge to be unduly absent from the court; or
(2) interfere with the ready and prompt disposal of the judge's judicial duties.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-8
Retirement fund; eligibility

Sec. 8. The:

(1) judge of a small claims court; and
(2) employees of the court;

may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.
As added by P.L.98-2004, SEC.13.

IC 33-34-2-9
Vacations

Sec. 9. (a) A vacation of one (1) month per year shall be provided for a judge who serves in a full-time capacity.

(b) The circuit court judge may authorize the appointment of a judge pro tempore to handle the judicial business of the vacationing judge, if the circuit court judge considers it necessary.
As added by P.L.98-2004, SEC.13.

IC 33-34-2-10
Discipline

Sec. 10. (a) A judge is subject to disciplinary action for the grounds and in the manner set forth in IC 33-38-14.

(b) The commission on judicial qualifications for judges of the superior and probate courts is the commission on judicial qualifications for the judges of the small claims courts.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-11

Oath

Sec. 11. Before assuming the duties of a judge, a judge must take an oath to:

(1) faithfully perform the duties of the judge's office; and

(2) support and defend to the best of the judge's ability the constitution and laws of Indiana and the United States.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-12

Bond

Sec. 12. (a) A judge shall:

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

(A) faithful discharge of the duties of the office; and

(B) payment or delivery to the proper persons of whatever money or other property may come into the judge's hands when acting as judge; and

(2) file the bond with the county recorder.

The bond must also extend to cover a person that is appointed to act as judge under IC 33-34-5-4.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-13

Seal

Sec. 13. (a) A judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal must contain the words "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

(b) Deeds, mortgages, powers of attorney, state warrants, and all other instruments of writing pertaining to the judge's official duty, attested by the seal and signature of the judge, are presumptive evidence of the official character of the court or judge in all courts in Indiana without further authentication.

As added by P.L.98-2004, SEC.13.

IC 33-34-2-14

Resignation

Sec. 14. (a) The resignation of a judge shall be delivered to the clerk of the circuit court. The clerk shall advise the circuit court and appropriate township board.

(b) A vacancy occurring in a judgeship must be filled under IC 3-13-10.

As added by P.L.98-2004, SEC.13.

IC 33-34-3

Chapter 3. Jurisdiction, Rules, and Procedure

IC 33-34-3-1

Venue in township small claims court within county

Sec. 1. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a small claims court may be:

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

(b) The venue determination to be made under subsection (a) must be made in the following order:

(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.

(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.

(3) Venue is in the township (in a county of the small claims court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

(c) Venue of any claim between landlord and tenant must be in the township where the real estate is located.

(d) If a written motion challenging venue is received by the small claims court, the court shall rule whether required venue lies in the township of filing.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-2

Contract and tort jurisdiction

Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-3
Possessory actions

Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars ($6,000). The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars ($6,000). These jurisdictional limitations are not affected by interest and attorney's fees.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-4
Emergency possessory actions

Sec. 4. The court has original and concurrent jurisdiction with the circuit and superior court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-5
Jurisdiction denied

Sec. 5. The small claims court has no jurisdiction:

(1) in actions seeking injunctive relief or involving partition of real estate;

(2) in actions to declare or enforce any lien except as provided in section 14 of this chapter;

(3) in actions in which the appointment of a receiver is asked; or

(4) in suits for dissolution or annulment of marriage.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-6
Adoption of rules

Sec. 6. The judge of the circuit court, assisted by the judges of the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

(1) according to a simplified procedure; and

(2) in the spirit of sections 7 and 9 of this chapter.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-7
Rules of practice

Sec. 7. A simplified procedure shall be established by rule to enable any person, including the state, to:

(1) file the necessary papers; and

(2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-8
Service of process

Sec. 8. (a) Upon the filing of a complaint, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-9
Trial

Sec. 9. A trial:

(1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and

(2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-10
No trial by jury

Sec. 10. There may not be a trial by jury in the small claims court.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-11
Waiver of trial by jury; transfer of claim

Sec. 11. (a) A filing of a civil claim in the small claims court constitutes a waiver of trial by jury by the plaintiff.

(b) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims court shall transfer the claim to the superior court of the county. The defendant shall pay all costs necessary for filing the claim in the superior court as if the cause had been filed initially in that court.

(c) A notice of claim filed in the small claims court must include a statement that reflects the provisions of subsection (b).

As added by P.L.98-2004, SEC.13.

IC 33-34-3-12
Judicial notice

Sec. 12. The small claims court shall take judicial notice of municipal, city, and town ordinances.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-13
Satisfaction of judgment

Sec. 13. (a) If the judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the judge orders.

(b) If the judge orders that the judgment be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the court.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-14
Judgments; lien on real estate

Sec. 14. (a) All judgments rendered in civil actions may be recorded in the judgment docket book of the proper division of the small claims court.

(b) A judgment entered by a small claims court is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(c) The clerk of the small claims court shall keep a docket in which judgments shall be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

As added by P.L.98-2004, SEC.13.

IC 33-34-3-15
Appeals

Sec. 15. (a) All appeals from judgments of the small claims court shall be taken to the circuit court or superior court of the county and tried de novo.

(b) The rules of procedure for appeals must be in accordance with the rules established by the circuit court and superior court.

(c) The appellant shall pay all costs necessary for the filing of the case in the circuit court or superior court, as if the appeal were a case that had been filed initially in that court.

As added by P.L.98-2004, SEC.13. Amended by P.L.201-2011, SEC.99.

IC 33-34-4
Chapter 4. Powers

IC 33-34-4-1
Administer oaths; certify records
Sec. 1. A judge may:
(1) administer oaths;
(2) take and certify acknowledgements of deeds; and
(3) give all necessary certificates for the authentication of the records and proceedings of the small claims court.
As added by P.L.98-2004, SEC.13.

IC 33-34-4-2
Witnesses; contempt and enforcement of orders
Sec. 2. The small claims court has the same power as the circuit court in relation to the:
(1) attendance of witnesses;
(2) punishment of contempts; and
(3) enforcement of its orders.
As added by P.L.98-2004, SEC.13.

IC 33-34-4-3
Process; judgments
Sec. 3. A judge may:
(1) issue and direct all process to individuals and corporations necessary to exercise the jurisdiction of the court;
(2) make all proper judgment, sentences, decrees, and orders; and
(3) do all acts necessary or proper in conformity with state laws; assisted as necessary by the clerk of the circuit court.
As added by P.L.98-2004, SEC.13.

IC 33-34-4-4
Marriages
Sec. 4. Each judge may solemnize marriages.
As added by P.L.98-2004, SEC.13.

IC 33-34-5

Chapter 5. Transfer of Cases, Absent Judge, and Special Judge

IC 33-34-5-1

Transfer to other township small claims court

Sec. 1. The circuit court judge may transfer cases from one (1) township small claims court to another as necessary.

As added by P.L.98-2004, SEC.13.

IC 33-34-5-2

Transfer of cases from another court

Sec. 2. A judge of the circuit or superior court may order a cause filed in the circuit or superior court to be transferred to the small claims court if the:

(1) small claims court has jurisdiction of the cause concurrent with the circuit or superior court; and

(2) judge consents to the transfer.

As added by P.L.98-2004, SEC.13.

IC 33-34-5-3

Interchange of judges

Sec. 3. The judges of the small claims court may sit in place of each other and perform each other's duties:

(1) at the direction of or with the approval of the circuit court judge; and

(2) with the consent of the respective judges.

As added by P.L.98-2004, SEC.13.

IC 33-34-5-4

Judge unable to preside; appointment

Sec. 4. (a) If a judge is unable to preside over the judge's small claims court during any number of days, the judge may appoint in writing a person qualified to be a small claims judge under IC 33-34-2-2 to preside in place of the judge.

(b) The written appointment shall be entered on the order book or record of the circuit court. The appointee shall, after taking the oath prescribed for the judges, conduct the business of the small claims court subject to the same rules and regulations as judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the township trustee as accruable to the small claims judge in whose place the appointee is serving.

As added by P.L.98-2004, SEC.13. Amended by P.L.174-2006, SEC.5.

IC 33-34-5-5

Judge's absence

Sec. 5. (a) A judge absent from the bench for more than thirty (30)

days shall deposit the dockets, books, and papers of the office with the:

(1) small claims judge of another township; or

(2) circuit court;

as directed by the circuit court judge.

(b) A:

(1) judge with whom the docket of another judge is deposited during a vacancy or an absence; and

(2) successor of any judge who has the dockets of the successor's predecessor in the successor's possession;

may perform all duties that the judge might do legally in relation to the judge's own dockets.

(c) Process shall be returned to the judge who has the legal custody of the docket at the day of return.

As added by P.L.98-2004, SEC.13. Amended by P.L.174-2006, SEC.6.

IC 33-34-5-6

Special judge

Sec. 6. (a) Only another judge may serve as a special judge in the small claims court.

(b) Except for mileage and travel expense, a judge serving as a special judge under this section may not receive compensation in addition to the salary provided under this article.

As added by P.L.98-2004, SEC.13.

IC 33-34-6
Chapter 6. Facilities and Personnel

IC 33-34-6-1
Courtroom and office

Sec. 1. The township trustee shall provide a courtroom and an office for each judge in a convenient location within the township that has:

(1) adequate access;
(2) sufficient parking facilities;
(3) a separate and appropriate courtroom;
(4) proper space and facilities for the bailiff, clerks, and other employees; and
(5) enough room for files and supplies.

As added by P.L.98-2004, SEC.13. Amended by P.L.174-2006, SEC.7.

IC 33-34-6-2
Supplies and maintenance

Sec. 2. A township shall:

(1) furnish all:
(A) supplies, including all blanks, forms, stationery, and papers of every kind, required for use in all cases in the township small claims court; and
(B) furniture, books, and other necessary equipment and supplies; and
(2) provide for all necessary maintenance and upkeep of the facilities where court is held.

As added by P.L.98-2004, SEC.13. Amended by P.L.174-2006, SEC.8.

IC 33-34-6-3
Clerks

Sec. 3. Each township shall provide an appropriate and competitive salary of at least five thousand six hundred dollars ($5,600) for the number of clerks for the small claims court sufficient to:

(1) operate efficiently; and
(2) adequately serve the citizens doing business with the court.

As added by P.L.98-2004, SEC.13.

IC 33-34-6-4
Constable; election; deputies; compensation

Sec. 4. (a) The voters of each township having a small claims court shall elect a constable for the small claims court at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:

(1) name of the candidate; and
(2) court for which the candidate is to serve.

(b) Each small claims court shall have a constable who:

(1) acts as the bailiff of the court;

(2) serves the court's personal service of process;

(3) has police powers to:

(A) make arrests;

(B) keep the peace; and

(C) carry out the orders of the court;

(4) must meet the qualifications prescribed by IC 3-8-1-31;

(5) is compensated for each process that is delivered to effect personal service when serving as the bailiff for the court;

(6) is responsible for:

(A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and

(B) all the official acts of the deputies;

(7) is compensated solely from the service of process fees collected under IC 33-34-8-1; and

(8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

(1) perform all the official duties required to be performed by the constable;

(2) possess the same statutory and common law powers and authority as the constable;

(3) must take the same oath required of the constable;

(4) are compensated solely from the service of process fees collected under IC 33-34-8-1; and

(5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) If there is an:

(1) emergency; or

(2) inability of a constable to carry out the constable's duties;

the judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

As added by P.L.98-2004, SEC.13.

IC 33-34-7

Chapter 7. Records; Reports; Accounting

IC 33-34-7-1

Accounting rules and forms

Sec. 1. The state board of accounts shall provide rules, in cooperation with the appropriate county officers, to specify the:

(1) forms; and

(2) records;

for the handling and reporting of money and other property by or in connection with the small claims court.

As added by P.L.98-2004, SEC.13.

IC 33-34-7-2

Caseload reports

Sec. 2. Each judge shall prepare, certify, and file quarterly reports on March 31, June 30, September 30, and December 31 of each year with the circuit court judge, which must include the:

(1) total case filings;

(2) terminations; and

(3) cases remaining open;

broken down by the type of case, in a form approved by and distributed under the direction of the circuit court judge.

As added by P.L.98-2004, SEC.13.

IC 33-34-7-3

Records

Sec. 3. The judge of the circuit court, with the assistance of the clerk of the circuit court, the judges of the small claims courts, and the state board of accounts, shall, at the expense of the townships:

(1) provide the forms, blanks, court calendar books, judgment dockets, and fee books; and

(2) make rules and instructions to direct the judges in keeping records and making reports.

The clerk of the circuit court shall keep full and permanent records and reports of each judge's past and current proceedings, indexed and available for reference as a public record.

As added by P.L.98-2004, SEC.13.

IC 33-34-8
Chapter 8. Fees and Costs

IC 33-34-8-0.2
Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 33-11.6-4-15 (before its repeal, now codified at section 1 of this chapter) by P.L.141-2002 apply only to small claims actions initiated after June 30, 2002.
As added by P.L.220-2011, SEC.536.

IC 33-34-8-1
Fees and costs

Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.
(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.
(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.
(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.
(5) A redocketing fee, if any, of five dollars ($5).
(6) A document storage fee under IC 33-37-5-20.
(7) An automated record keeping fee under IC 33-37-5-21.
(8) A late fee, if any, under IC 33-37-5-22.
(9) A public defense administration fee under IC 33-37-5-21.2.
(10) A judicial insurance adjustment fee under IC 33-37-5-25.
(11) A judicial salaries fee under IC 33-37-5-26.
(12) A court administration fee under IC 33-37-5-27.
(13) Before July 1, 2017, a pro bono legal services fee under IC 33-37-5-31.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.
As added by P.L.98-2004, SEC.13. Amended by P.L.85-2004, SEC.15; P.L.95-2004, SEC.3; P.L.2-2005, SEC.99; P.L.176-2005, SEC.2; P.L.136-2012, SEC.12.

IC 33-34-8-2
Transcripts

Sec. 2. The person who is designated by a judge to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

As added by P.L.98-2004, SEC.13.

IC 33-34-8-3
Payment, distribution, and deposit of costs and fees

Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ Township of Marion County Small Claims Court (with the name of the township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the homeowner protection unit account established by IC 4-6-12-9 and the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2;

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(F) one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, by the court under IC 33-37-5-31; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township.

As added by P.L.98-2004, SEC.13. Amended by P.L.176-2005, SEC.3; P.L.174-2006, SEC.9; P.L.122-2008, SEC.2; P.L.182-2009(ss), SEC.391; P.L.136-2012, SEC.13.

IC 33-34-8-4
Quarterly accounting

Sec. 4. Fees, costs, and any other amounts collected by the courts shall be accounted for quarterly to the clerk of the circuit court on:

(1) March 31;
(2) June 30;
(3) September 30; and
(4) December 31;

of each year.

As added by P.L.98-2004, SEC.13.

IC 33-35

ARTICLE 35. CITY AND TOWN COURTS

IC 33-35-1

Chapter 1. Establishment; Election of Judges

IC 33-35-1-1

Authority to establish or abolish; election of judge; notice

Sec. 1. (a) During 2006 and every fourth year after that, a second or third class city or a town may by ordinance establish or abolish a city or town court. An ordinance to establish a city or town court must be adopted not less than one (1) year before the judge's term would begin under section 3 of this chapter.

(b) The judge for a court established under subsection (a) shall be elected under IC 3-10-6 or IC 3-10-7 at the municipal election in November 2007 and every four (4) years thereafter.

(c) A court established under subsection (a) comes into existence on January 1 of the year following the year in which a judge is elected to serve in that court.

(d) A city or town court in existence on January 1, 1986, may continue in operation until it is abolished by ordinance.

(e) A city or town that establishes or abolishes a court under this section shall give notice of its action to the division of state court administration of the office of judicial administration under IC 33-24-6.

As added by P.L.98-2004, SEC.14. Amended by P.L.164-2006, SEC.141.

IC 33-35-1-2

Town court judge election in general election year; ordinance

Sec. 2. (a) This section applies to a town that:

(1) adopts an ordinance under IC 3-10-6-2.6; and

(2) subsequently adopts an ordinance to establish a town court under section 1 of this chapter.

(b) Notwithstanding section 1 of this chapter, the judge of the town court shall be elected at the next municipal election not conducted in a general election year. The successors of the judge shall be elected at the first general election following the municipal election and every four (4) years thereafter.

As added by P.L.98-2004, SEC.14.

IC 33-35-1-3

City or town court judge; term; bond

Sec. 3. (a) The judge of a city or town court shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the city or town.

(b) Except as provided in subsections (c) and (d), the term of office of a judge elected under this section is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) This subsection applies to a town that adopts an ordinance

under IC 3-10-6-2.6. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is one (1) year; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(d) This subsection applies to a town that adopts an ordinance under IC 3-10-7-2.7. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is three (3) years; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning noon January 1 after election and continuing until a successor is elected and qualified.

(e) Before beginning the duties of office, the judge shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the duties of office.

As added by P.L.98-2004, SEC.14.

IC 33-35-1-4

City court judge; eligibility

Sec. 4. To be eligible to hold the office of city court judge, as provided by Article 6, Section 6, of the Constitution of the State of Indiana, the judge must be a resident of the city during the term of office or the office becomes vacant.

As added by P.L.98-2004, SEC.14.

IC 33-35-1-5

Town court judge; oath; bond

Sec. 5. Before beginning the duties of office, the judge of a town court must:

(1) take and subscribe to the same oath of office as judges of circuit courts; and

(2) execute a bond payable to the town in the penal sum of five thousand dollars ($5,000), conditioned upon the faithful performance of the duties of the judge's office with good and sufficient surety.

The bond must be approved by the legislative body of the town and filed in the office of the town clerk-treasurer.

As added by P.L.98-2004, SEC.14.

IC 33-35-1-6

Interlocal agreements; ordinance violations

Sec. 6. A city or town that has not established a court under this chapter may enter into an interlocal agreement under IC 36-1-7 with a city or town that:

(1) has established a court under this chapter; and

(2) is located in the same judicial circuit as the city or town that has not established a court;

to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a court established by the city or town under this chapter.

As added by P.L.55-2010, SEC.1.

IC 33-35-2

Chapter 2. Judge's Powers and Jurisdiction

IC 33-35-2-1

Judge of city or town court; powers and duties; special judge

Sec. 1. (a) A judge of a city or town court:

(1) may adopt rules for conducting the business of the court;

(2) has all powers incident to a court of record in relation to:

(A) the attendance of witnesses;

(B) the punishment of contempts;

(C) the enforcement of its orders; and

(D) the issuance of commissions for taking depositions in cases pending in the court;

(3) may administer oaths; and

(4) may give all necessary certificates for the authentication of the records and proceedings of the court.

(b) If the judge is temporarily absent or unable to act, the judge shall appoint a reputable practicing attorney to preside in the judge's absence as special judge. The special judge:

(1) has all the powers and rights; and

(2) shall perform all the duties;

of the judge of the court as fully as the regular judge appointing the special judge.

As added by P.L.98-2004, SEC.14.

IC 33-35-2-2

Town and city courts; seal

Sec. 2. A judge of a city or town court shall provide, at the expense of the town or city, a seal for the court that must contain on the face the words: "(Town or City) Court of _____, Indiana.". A description of the seal, together with an impress of it, shall be put on the records of the court.

As added by P.L.98-2004, SEC.14.

IC 33-35-2-3

City court; jurisdiction over crimes, infractions, and violations

Sec. 3. A city court has the following jurisdiction over crimes, infractions, and ordinance violations:

(1) Jurisdiction of all violations of the ordinances of the city.

(2) Jurisdiction of all misdemeanors and all infractions.

(3) If the city that established the city court has entered into an interlocal agreement described in IC 33-35-1-6 with another city or a town, jurisdiction of all other ordinance violations described in the interlocal agreement.

As added by P.L.98-2004, SEC.14. Amended by P.L.55-2010, SEC.2.

IC 33-35-2-4

City court; concurrent civil jurisdiction; limitations

Sec. 4. A city court has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not

exceed five hundred dollars ($500). However, the city court does not have jurisdiction in actions for:

(1) slander;

(2) libel;

(3) foreclosure of mortgage on real estate, in which the title to real estate is in issue;

(4) matters relating to a decedent's estate, appointment of guardians, and all related matters; and

(5) actions in equity.

As added by P.L.98-2004, SEC.14.

IC 33-35-2-5

Certain city or town courts; concurrent jurisdictions; limitations

Sec. 5. The city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000). The court has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

(1) actions for slander or libel;

(2) matters relating to decedents' estates, appointment of guardians, and all related matters;

(3) dissolution of marriage actions; or

(4) injunction or mandate actions.

As added by P.L.98-2004, SEC.14.

IC 33-35-2-6

City courts in third class cities that are not county seats; civil jurisdiction; limitations

Sec. 6. A city court in a third class city that is not a county seat and to which section 5 of this chapter does not apply has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed three thousand dollars ($3,000). However, the city court does not have:

(1) jurisdiction in actions for:

(A) slander;

(B) libel;

(C) foreclosure of mortgages on real estate, in which the title to real estate is in issue;

(D) all matters relating to a decedent's estate, appointment of guardians and all related matters; and

(E) actions in equity; and

(2) original jurisdiction in which the principal defendant resides within another city having a city court with a civil jurisdiction.

Judgments rendered in the city court, when a certified transcript is filed with the clerk of the circuit court, have the same force as

judgments rendered in the circuit court.
As added by P.L.98-2004, SEC.14.

IC 33-35-2-6.5
Certain city courts; concurrent civil jurisdiction; limitations

Sec. 6.5. A city court in a city having a population of more than ten thousand five hundred (10,500) but less than eleven thousand (11,000) has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed one thousand five hundred dollars ($1,500). However, the city court does not have jurisdiction in actions for:

(1) slander;
(2) libel;
(3) foreclosure of mortgage on real estate, in which the title to real estate is in issue;
(4) matters relating to a decedent's estate, appointment of guardians, and all related matters; and
(5) actions in equity

As added by P.L.74-2012, SEC.4.

IC 33-35-2-7
Proceedings where title to land is put in issue

Sec. 7. If in a proceeding in a city court the title to land is put in issue by plea supported by affidavit, or manifestly appears from the proof on trial to be in issue, the court shall, without further proceeding, certify the case and papers to the circuit or other court having jurisdiction in the county in which the case is being tried. However, if the title to land is put in issue by affidavit or verified pleading, the court shall at once hear and determine whether title is in issue, and, if the proof supports the issue, then the case shall be certified for final determination, including the issue of title.
As added by P.L.98-2004, SEC.14.

IC 33-35-2-8
Town courts; jurisdiction

Sec. 8. (a) A town court has exclusive jurisdiction of all violations of the ordinances of the town.

(b) A town court also has jurisdiction of all misdemeanors and all infractions.

(c) If the town that established the town court has entered into an interlocal agreement described in IC 33-35-1-6 with a city or another town, the town court has jurisdiction of all other ordinance violations described in the interlocal agreement.
As added by P.L.98-2004, SEC.14. Amended by P.L.55-2010, SEC.3.

IC 33-35-3

Chapter 3. Personnel; Expenses; Costs

IC 33-35-3-1

City court officers; town court officers

Sec. 1. (a) The officers of a city court are a:

(1) judge;

(2) clerk; and

(3) bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-2

Clerk of city court in second or third class cities; powers and duties

Sec. 2. (a) In second class cities, the city clerk is the clerk of the city court. The city clerk of a third class city is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

(b) A city clerk of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

(c) The clerk may administer oaths.

(d) The clerk of a city or town court shall:

(1) issue all process of the court, affix the seal of the court to the process, and attest to the process;

(2) keep a complete record and docket of all cases showing:

(A) the name of a person who was arrested and brought before the court;

(B) the disposition of the case; and

(C) an account of the:

(i) fees;

(ii) fines;

(iii) penalties;

(iv) forfeitures;

(v) judgments;

(vi) executions;

(vii) decrees; and

(viii) orders;

in as near to the same manner as the records are kept by the clerk of the circuit court; and

(3) collect all:

(A) fees;

(B) fines;

(C) penalties and forfeitures;

(D) judgments;

(E) executions; and

(F) money;

accruing to the city or town from the enforcement of ordinances.

(e) At the close of each week, the clerk shall make and deliver to the city controller of a second class city, clerk-treasurer of a third class city, or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment.

(f) At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

(g) In cities in which the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

(h) The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-8.

As added by P.L.98-2004, SEC.14. Amended by P.L.1-2006, SEC.506.

IC 33-35-3-3

Bailiff of city courts

Sec. 3. (a) The bailiff of a city court must be a police officer of the city assigned to the court by the chief of police, under direction of the board of public safety. However, the judge of the city court may appoint another person to serve as bailiff.

(b) The bailiff shall give bond payable to the city in the penal sum of one thousand dollars ($1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of the bailiff's duties. The bond shall be filed in the office of the controller or clerk-treasurer.

(c) The bailiff shall do the following:

(1) Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.

(2) Take charge of all executions issued by the court and see to the collection of the executions.

(3) Keep, in books to be furnished by the controller or clerk-treasurer, an accurate account and docket of all executions that come into the bailiff's hands, showing the:

(A) names of the defendants;

(B) date and number of the execution;

(C) amount of fines, fees, or penalties imposed; and

(D) disposition of the execution.

(4) Make and deliver a written report to the clerk of the court on Tuesday of each week, showing all money collected by the bailiff during the previous week, giving the:

(A) names of the defendants;

(B) number of executions; and

(C) amount of fines, fees, or penalties collected;

and pay the money to the clerk, taking the clerk's receipt for the payments.

(d) The salary of the bailiff shall be fixed as salaries of other police officers are fixed.

(e) The bailiff of a city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be appointed by the judge of the court. The bailiff shall serve and execute all processes issued by the court and is entitled to receive a salary fixed by the common council of the city. In addition, the bailiff may collect a fee from a defendant for the bailiff's own use on all execution sales of property under an execution or attachment as follows:

(1) On the first fifty dollars ($50), ten percent (10%).

(2) On more than fifty dollars ($50) and not more than three hundred dollars ($300), five percent (5%).

(3) On all sums over three hundred dollars ($300), three percent (3%).

(4) Any additional sum necessarily expended by the bailiff in collecting the judgment.

A bailiff may use the bailiff's private vehicle in the performance of the bailiff's duties and is entitled to receive a sum for mileage equal to the sum paid per mile to state officers and employees. The payment to the bailiff is subject to the approval of the judge. The judge shall include in the budget for the court sufficient money to provide for the anticipated claims of the bailiff. The common council shall make annual appropriations that are necessary to carry out this subsection.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-4

Town marshal; service of process

Sec. 4. The town marshal or a deputy marshal shall serve all process issuing from the town court.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-5

City court referees

Sec. 5. (a) The common council of a city having a city court may create the position of city court referee to assist the city court judge in the administration of the judge's duties and the disposition of matters pending in the court. The common council may authorize more than one (1) referee. After authorization is granted, the judge shall appoint one (1) or more referees. The referee or referees serve at the pleasure of the judge.

(b) A referee shall take the same oath of office as provided for the judge and must have the same qualifications for office as required for the judge. A referee may administer oaths in the performance of the referee's duty and use the seal of the court. In all cases coming before the referee, the referee shall comply with the requirements of procedure provided for the hearing of cases by the court. The referee shall make a return of the referee's findings and recommendations in writing to the court, and the court shall proceed to enter the order, judgment, or decree that the court considers proper.

(c) The salary of a referee shall be fixed by the judge subject to the approval of the common council of the city. The common council shall appropriate sufficient money to pay the referee.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-6

Prosecuting attorney or city attorney; prosecutions in city court

Sec. 6. (a) The prosecuting attorney of the judicial circuit in which the city is located shall prosecute all cases in a city court for violation of statutes.

(b) The city attorney shall prosecute all cases of city ordinance violations.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-7

Books, dockets, papers, and printed blanks

Sec. 7. A judge of a city or town court shall provide, at the expense of the city or town, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-8

Repealed

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

IC 33-35-3-9

City courts in certain counties; disposition of costs; costs paid in advance

Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the

controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee, the small claims garnishee service fee, and the small claims service fee prescribed under IC 33-37-4-5 (before its repeal) or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of Small claims costs fee, small claims service fee, and additional fees dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

As added by P.L.98-2004, SEC.14. Amended by P.L.174-2006, SEC.10; P.L.1-2007, SEC.220.

IC 33-35-4

Chapter 4. Court Sessions; Compensation; Restrictions on Activities of Judges

IC 33-35-4-1

City and town court; sessions

Sec. 1. (a) A city court judge shall hold regular sessions of the city court at a place to be provided and designated by the legislative body of the city.

(b) A town court judge shall hold sessions of the town court as the business of the court demands at a place to be provided and designated by the legislative body of the town.

As added by P.L.98-2004, SEC.14.

IC 33-35-4-2

Compensation of judges

Sec. 2. (a) Special judges of a city court are entitled to the compensation allowed special judges in the circuit court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the city controller or clerk-treasurer.

(b) A city court judge may not receive any fees or compensation other than the judge's salary, as established under subsection (e).

(c) A city court judge of each of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is entitled to receive, for additional services that this article requires to be performed, three thousand five hundred dollars ($3,500) per year in addition to the salary otherwise provided. The fiscal body of the city shall appropriate the money necessary to pay the additional compensation.

(d) A town court judge is entitled to receive the compensation that is prescribed by the fiscal body of the town.

(e) A city court judge is entitled to receive compensation that is prescribed by the fiscal body of the city.

As added by P.L.98-2004, SEC.14.

IC 33-35-4-3

Proceeding to procure liquor license; city court judge not to act as attorney for applicant; violation; offense

Sec. 3. A city court judge may not act as attorney, agent, or counsel for the applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1 or aid or assist in any manner in the procuring of such a license. A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.98-2004, SEC.14.

IC 33-35-5

Chapter 5. Records; Procedures; Practices

IC 33-35-5-1

City court; governing laws and rules

Sec. 1. City courts are governed by the laws and rules governing the practice, pleading, and processes in circuit courts.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-2

City or town court; change of venue

Sec. 2. A change of venue may not be taken from a city or town court. However, a defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for the circuit court.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-3

City court; warrants or other processes

Sec. 3. All warrants or other processes issued by the city court must be:

(1) directed to the chief of police of the city or any person specially deputized by the city court; and

(2) executed, served, and returned by the chief, by any police officer of the city, or by the specially deputized person.

The members of the police force of the city shall cause all persons arrested by the police force for a violation of any law to be taken before the city court for trial or examination.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-4

Certain city courts; books of records in civil cases

Sec. 4. (a) City courts of the three (3) cities having the largest populations in counties having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall keep the following books of record on the civil side of the court:

(1) A loose leaf minute book, similar to that kept by the circuit court, each case to be numbered consecutively in order of its filing.

(2) Index and cross-index book, containing the names of all parties to each action with the number of the case opposite the name.

(3) A fee book as is provided for city courts.

(4) An order book in which all orders of a cause are written consecutively when final judgment or order is entered.

(b) The case should bear the same number as originally given to the case when filed and must be arranged in the order book consecutively according to the original number given to the case when filed. All orders, proceedings, records of issuing execution,

returns of execution, and satisfactions of execution shall be grouped together, if practical, on one (1) page or on consecutive pages when there is not sufficient room to group it on one (1) page. All costs in a cause shall be taxed on the margin of the page containing the final order or judgment. All orders not connected with a specific case, such as general appointments made by the judge, shall be entered in the minute book under a separate number and recorded in the record book under that number.
As added by P.L.98-2004, SEC.14.

IC 33-35-5-5
City court; issues of fact to be tried by judge unless demand for jury trial

Sec. 5. All issues of fact pending in city courts shall be tried by the judge, unless either party demands a jury trial. The jury must consist of six (6) qualified residents of the city, to be summoned by the bailiff by venire issued by the judge. City residents shall be selected for jury service according to the procedures set out in IC 33-28-5.
As added by P.L.98-2004, SEC.14. Amended by P.L.118-2007, SEC.25.

IC 33-35-5-6
Style of city or town court

Sec. 6. The style of the city or town court is "The (City or Town) Court of _____," according to the name of the city or town.
As added by P.L.98-2004, SEC.14.

IC 33-35-5-7
Courts not of record; judges; requirements

Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) A person selected as judge of the following courts must be an attorney in good standing under the requirements of the supreme court:

(1) Anderson city court.
(2) Avon town court.
(3) Brownsburg town court.
(4) Carmel city court.
(5) A city or town court located in Lake County.
(6) Muncie city court.
(7) Noblesville city court.
(8) Plainfield town court.
(9) Greenwood city court.
(10) Martinsville city court.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-8
Effect of judgments, orders, and proceedings in town and city courts; orders of sale and executions affecting real estate

Sec. 8. (a) All judgments, decrees, orders, and proceedings of city and town courts have the same force as those of the circuit court. A judgment becomes a lien on real estate when a transcript of the judgment is filed with the clerk of the circuit court.

(b) All orders of sale and executions affecting real estate from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be issued by the clerk of the circuit court to the sheriff upon the filing of a certified copy of the judgment. When the copy is filed, the court rendering the judgment has no further jurisdiction of the case except to furnish a transcript for appeal. The life of a lien may be continued in force when the action is started in the city court, as though the action were filed in the circuit court, by filing with the clerk of the circuit court a certificate, certified to by the judge of the city court and containing:

(1) the names of the parties to the suit;
(2) the nature of the action;
(3) the description of the property affected; and
(4) the amount in controversy.

The judge shall enter minutes on the docket showing the issuing of the certificates.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-9

Appeals from city and town courts; procedure

Sec. 9. (a) An appeal from a judgment of a city court may be taken to the circuit, superior, or probate court of the county and tried de novo.

(b) An appeal from a judgment of a town court may be taken to the superior, circuit, or probate court of the county within thirty (30) days after the rendition of the judgment and tried de novo.

(c) A prisoner against whom punishment is adjudged by a city court may appeal to the circuit, superior, or probate court of the county within thirty (30) days after the judgment. If the prisoner, within the thirty (30) days, enters into recognizance for the prisoner's appearance in court and causes to be filed in the court, within forty-five (45) days, all other papers, documents, and transcripts necessary to complete the appeal, the appeal stays all further proceedings on the judgment in the court below. However, the prisoner may remain in jail on the prisoner's sentence instead of furnishing a recognizance, and an appeal without recognizance does not stay the execution of the court below.

As added by P.L.98-2004, SEC.14. Amended by P.L.201-2011, SEC.100.

IC 33-35-5-10

Appeals from certain city and town courts; procedure

Sec. 10. (a) A party in a civil action who desires to take an appeal from the city court of the three (3) cities having the largest

populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall file a bond, to the approval of the city court, within thirty (30) days after the date of rendition of final judgment, and the motion to correct errors within ten (10) days after the rendition of final judgment. The transcript and motion shall be filed in the court to which the appeal is taken within thirty (30) days after the motion has been signed by the court.

(b) All errors saved shall be reviewed as far as justice warrants, and for that purpose, a complete transcript of all the evidence is not required. An error occurring during the trial, not excepted to at the time, may be made available upon appeal by setting it forth in a motion for a new trial. Upon application within the time fixed, either of the parties to the suit may obtain either:

(1) a correct statement, to be prepared by the party requesting the signing of the same, of the facts in a narrative form appearing on the trial and of all questions of law involved in the case and the decisions of the court upon the questions of law; or

(2) a correct stenographic report;

and the expense of procuring the correct statement or correct stenographic report shall be paid by the party requesting the correct statement or correct stenographic report.

(c) The appeal shall be:

(1) submitted on the date filed in the court to which the appeal is taken;

(2) advanced on the docket of that court; and

(3) as determined at the earliest practical date, without any extension of time for filing of briefs;

but the court to which an appeal is taken may, on application, hear oral arguments.

(d) If judgment is affirmed on appeal, it may be increased by ten percent (10%), in addition to any interest that may be allowed, if the appeal is found to be frivolous.

(e) A change of venue may be taken from the judge to whom the case is appealed as provided by law for taking changes of venue from the judge of the circuit court.

(f) The court to which an appeal is taken shall render its opinion in abbreviated form by simply citing the controlling authorities in the case, unless it appears that some new question of practice, procedure, or law is involved that would warrant a more extensive opinion.

As added by P.L.98-2004, SEC.14.

IC 33-36

ARTICLE 36. ORDINANCE VIOLATIONS BUREAUS

IC 33-36-1

Chapter 1. Definitions

IC 33-36-1-1

Definitions; applicability

Sec. 1. The definitions in IC 36-1-2 apply throughout this article.

As added by P.L.98-2004, SEC.15.

IC 33-36-2
Chapter 2. Establishment

IC 33-36-2-1
Establishment of ordinance violations bureau; clerk

Sec. 1. The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

As added by P.L.98-2004, SEC.15.

IC 33-36-2-2
Clerk or clerk-treasurer to serve as violations clerk if ordinance violations bureau not established

Sec. 2. If the legislative body does not establish an ordinance violations bureau under section 1 of this chapter, the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk for purposes of this chapter.

As added by P.L.98-2004, SEC.15.

IC 33-36-2-3
Violations clerk; duties

Sec. 3. The violations clerk may accept:

(1) written appearances;
(2) waivers of trial;
(3) admissions of violations; and
(4) payment of civil penalties up to a specific dollar amount set forth in an ordinance adopted by the legislative body, but not more than two hundred fifty dollars ($250);

in ordinance violation cases, subject to the schedule prescribed under IC 33-36-3 by the legislative body.

As added by P.L.98-2004, SEC.15. Amended by P.L.169-2006, SEC.44.

IC 33-36-2-4
Interlocal agreements; ordinance violations

Sec. 4. A city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under this chapter may enter into an interlocal agreement under IC 36-1-7 with a municipal corporation that:

(1) has established an ordinance violations bureau under this chapter; and
(2) is located in the same judicial circuit as the city or town that has not established a court or an ordinance violations bureau;

to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of an ordinance violations bureau established by the city or town under this chapter.

As added by P.L.55-2010, SEC.4.

IC 33-36-3

Chapter 3. Schedule of Ordinance and Code Provisions; Violations

IC 33-36-3-1

Schedule of ordinance and code provisions; civil penalties

Sec. 1. (a) Upon the appointment or designation of the violations clerk as provided by IC 33-36-2-1, the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(b) Civil penalties shall be paid to, receipted by, and accounted for by the clerk under procedures provided for by the state board of accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the legislative body.

As added by P.L.98-2004, SEC.15.

IC 33-36-3-2

Right to trial

Sec. 2. A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under section 1 of this chapter.

As added by P.L.98-2004, SEC.15.

IC 33-36-3-3

Denial; exercise of the right to trial

Sec. 3. If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

As added by P.L.98-2004, SEC.15.

IC 33-36-3-4

Repealed

(Repealed by P.L.88-2006, SEC.9.)

IC 33-36-3-5

Failure to appear or to satisfy assessed civil penalty; report; prosecution

Sec. 5. (a) If a person:

(1) denies an ordinance or code violation under this article;

(2) fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or

(3) fails to deny or admit the violation under this article;

the clerk shall report this fact to the official having the responsibility

to prosecute ordinance violation cases for the municipal corporation.

(b) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

As added by P.L.98-2004, SEC.15.

IC 33-36-3-6

Court costs fee; admitted ordinance violations

Sec. 6. (a) An ordinance violation admitted under this article does not constitute a judgment for the purposes of IC 33-37. An ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.

(b) An ordinance violation processed under this chapter may not be considered for the purposes of IC 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts.

As added by P.L.98-2004, SEC.15. Amended by P.L.1-2010, SEC.134.

IC 33-36-3-7

Disposition of civil penalties and costs collected

Sec. 7. (a) Subject to subsection (b), all sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

(b) If a city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under IC 33-36-2 has entered into an interlocal agreement described in IC 33-36-2-4 with a municipal corporation, the sums collected by the violations clerk that involve the city or town that has not established a court or an ordinance violations bureau shall be accounted for and paid as provided in the interlocal agreement.

As added by P.L.98-2004, SEC.15. Amended by P.L.55-2010, SEC.5.

IC 33-37

ARTICLE 37. COURT FEES

IC 33-37-1

Chapter 1. Applicability and Definitions

IC 33-37-1-1

Application of article

Sec. 1. This article applies to all proceedings in the following courts:

(1) Circuit courts (Article 7, Section 7 of the Constitution of the State of Indiana, IC 33-28, and IC 33-33).

(2) Superior courts (IC 33-29 and IC 33-33).

(3) Probate courts (IC 33-31).

(4) City and town courts (IC 33-35).

As added by P.L.98-2004, SEC.16. Amended by P.L.201-2011, SEC.101.

IC 33-37-1-2

"Clerk"

Sec. 2. As used in this article, "clerk" refers to any of the following:

(1) A clerk of a circuit court under IC 33-32-2-1.

(2) The clerk of a city or town court under IC 33-35.

(3) The judge of a city or town court that does not have a clerk.

As added by P.L.98-2004, SEC.16.

IC 33-37-1-3

Costs for all proceedings in action

Sec. 3. (a) The costs imposed by this article are for all proceedings in the action.

(b) The costs imposed by this article include fees.

As added by P.L.98-2004, SEC.16. Amended by P.L.106-2010, SEC.5.

IC 33-37-1-4

Publication by notice; fees; proof

Sec. 4. (a) If publication by notice is required by law in any action, the party or the attorney for the party from whom the notice is required shall pay the cost of publication directly to the publisher of the notice.

(b) The party or the attorney for the party shall file with the clerk proof of publication of the notice.

As added by P.L.98-2004, SEC.16.

IC 33-37-1-5

Automated judicial system; formal written commitment

Sec. 5. (a) As used in this section, "formal written commitment" means:

(1) adopting a resolution or ordinance; and

(2) entering into an agreement.

(b) In the context of this article, a county, city, or town that has made a formal written commitment to convert to or adopt the state's automated judicial system is considered to be operating under the state's automated judicial system once the conversion to the system is complete.

As added by P.L.284-2013, SEC.4.

IC 33-37-2

Chapter 2. General Court Costs Provisions for Criminal Actions

IC 33-37-2-1

Application of chapter

Sec. 1. This chapter applies in criminal actions.

As added by P.L.98-2004, SEC.16.

IC 33-37-2-2

Costs as separate from sentence; suspension of costs; liability for costs

Sec. 2. (a) Costs in a criminal action are not a part of the sentence and may be suspended only under section 3 of this chapter. However, if:

(1) two (2) or more charges against a person are joined for trial; and

(2) the person is convicted of two (2) or more offenses in the trial;

the court may waive the person's liability for costs for all but one (1) of the offenses.

(b) If a person is acquitted or an indictment or information is dismissed by order of the court, the person is not liable for costs.

As added by P.L.98-2004, SEC.16. Amended by P.L.156-2007, SEC.1.

IC 33-37-2-3

Imposition of costs; suspension of costs; indigency hearing; time for payment; default

Sec. 3. (a) Except as provided in subsection (b), when the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order the person to pay:

(1) the entire amount of the costs at the time sentence is pronounced;

(2) the entire amount of the costs at some later date; or

(3) specified parts of the costs at designated intervals.

(b) A court may impose costs and suspend payment of all or part of the costs until the convicted person has completed all or part of the sentence. If the court suspends payment of the costs, the court shall conduct a hearing at the time the costs are due to determine whether the convicted person is indigent. If the convicted person is not indigent, the court shall order the convicted person to pay the costs:

(1) at the time the costs are due; or

(2) in a manner set forth in subsection (a)(2) through (a)(3).

(c) If a court suspends payment of costs under subsection (b), the court retains jurisdiction over the convicted person until the convicted person has paid the entire amount of the costs.

(d) Upon any default in the payment of the costs:

(1) an attorney representing the county may bring an action on a debt for the unpaid amount;

(2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars ($20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due; or

(3) the court may institute contempt proceedings to enforce the court's order for payment of the costs.

(e) If, after a hearing under subsection (a) or (b), the court determines that a convicted person is able to pay part of the costs of representation, the court shall order the person to pay an amount of not more than the cost of the defense services rendered on behalf of the person. The clerk shall deposit the amount paid by a convicted person under this subsection in the county's supplemental public defender services fund established under IC 33-40-3-1.

(f) A person ordered to pay part of the cost of representation under subsection (e) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and Indiana law.

As added by P.L.98-2004, SEC.16. Amended by P.L.156-2007, SEC.2.

IC 33-37-2-4

Prosecution for offense by inmate of state penal institution; state's liability for costs

Sec. 4. (a) The state shall pay all costs of trial in a prosecution for an offense committed:

(1) by an inmate of a state correctional facility; and

(2) in the county in which the correctional facility is located.

(b) The costs of trial to be paid under this section include:

(1) court fees; and

(2) expenses incurred by the county sheriff in returning the defendant to the jurisdiction of the court and keeping the defendant in custody until trial.

As added by P.L.98-2004, SEC.16.

IC 33-37-2-5

Fees prescribed by IC 33-37-4-1; fine or penalty in addition to costs

Sec. 5. The fees prescribed by IC 33-37-4-1 are costs and may be collected from a defendant against whom a conviction is entered. A fine or penalty imposed is in addition to costs.

As added by P.L.98-2004, SEC.16.

IC 33-37-3

Chapter 3. General Court Costs Provisions for Civil Actions

IC 33-37-3-1

Collection of fees in civil or paternity actions brought by or on behalf of state or political subdivisions

Sec. 1. (a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or the political subdivision.

(b) This section does not prevent collecting fees from a defendant when the state or political subdivision is successful in its action.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-2

Indigent persons; relief from or waiver of fees and court costs in civil actions or appointment of guardian

Sec. 2. (a) Except as provided in subsection (b), a person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs if the person files a statement in court, under oath and in writing:

(1) declaring that the person is unable to make the payments or to give security for the payments because of the person's indigency;

(2) declaring that the person believes that the person is entitled to the redress sought in the action; and

(3) setting forth briefly the nature of the action.

(b) If a person brings a civil action or petition for the appointment of a guardian under IC 29-3-5, a clerk shall waive the payment of required fees or other court costs by the person without court approval if:

(1) the person is represented by an attorney:

(A) who is employed by Indiana Legal Services or another civil legal aid program; or

(B) who:

(i) is serving as a pro bono attorney; and

(ii) obtained the person as a client through a direct referral from a pro bono district associated with one (1) of the fourteen (14) administrative districts in Indiana established by the Indiana Rules of Court Administrative Rule 3(A); and

(2) the attorney files a statement with the clerk that:

(A) seeks relief from paying the required fees or other court costs;

(B) declares that the person believes that the person is entitled to the redress sought in the action;

(C) sets forth briefly the nature of the action;

(D) is accompanied by an approved affidavit of indigency; and

(E) is signed by the attorney.

(c) This section does not prohibit a court from reviewing and modifying a finding of indigency by the court or a clerk if a person who received relief from the payment of required fees or other court costs ceases to qualify for the relief.

As added by P.L.98-2004, SEC.16. Amended by P.L.89-2009, SEC.1.

IC 33-37-3-3

Actions commenced by person confined by department of correction

Sec. 3. (a) When an offender confined by the department of correction commences an action or a proceeding without paying fees or other court costs under section 2 of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined a certified copy of the prisoner's trust fund account statement for the six (6) months immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under section 2 of this chapter.

(b) The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

(1) the average monthly deposits to the offender's account; or

(2) the average monthly balance in the offender's account;

for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings.

(c) If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by section 2 of this chapter and the statement of account required by subsection (a), the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

(d) If the court approves the application to waive all fees, the court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid not later than forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. Process concerning the offender's case may not be served until the fee is paid.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-4

Recovery of costs

Sec. 4. A party for whom judgment is entered in a civil action is entitled to recover costs.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-5
Prepayment of fees; appeals to circuit courts

Sec. 5. The prepayment of fees under this chapter is not required in an appeal of a civil matter to a circuit court from a court of inferior jurisdiction.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-6
Inclusion of service of process by mail in court costs fee

Sec. 6. Court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-7
Private service of process; reimbursement of cost

Sec. 7. If personal service of process is carried out by a process server other than the sheriff, the party who paid for the private service is entitled to reimbursement of the cost of the private service as a part of any judgment that party may recover.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-8
Name change actions; separate fee

Sec. 8. Notwithstanding IC 33-37-4-4, the clerk may not collect a separate civil fee for a name change action initiated under IC 31-15-2-18.

As added by P.L.98-2004, SEC.16.

IC 33-37-3-9
Prepayment of fees; exceptions

Sec. 9. Prepayment of fees is not required in proceedings for either of the following:

(1) Adoption.

(2) The appointment of a guardian.

As added by P.L.98-2004, SEC.16.

IC 33-37-4

Chapter 4. Collection of Court Cost Fees

IC 33-37-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 4 and 6 of this chapter by P.L.174-2006 apply only to cases filed after June 30, 2006.

As added by P.L.220-2011, SEC.537.

IC 33-37-4-1

Criminal costs fees; additional fees

Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A public defense administration fee (IC 33-37-5-21.2).

(16) A judicial insurance adjustment fee (IC 33-37-5-25).

(17) A judicial salaries fee (IC 33-37-5-26).

(18) A court administration fee (IC 33-37-5-27).

(19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and

(2) a monthly user's fee of ten dollars ($10) for each month that

the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.16; P.L.95-2004, SEC.4; P.L.2-2005, SEC.100; P.L.176-2005, SEC.4; P.L.182-2009(ss), SEC.392.

IC 33-37-4-2

Infraction or ordinance violation costs fee; additional fees

Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(5) A highway work zone fee (IC 33-37-5-14).
(6) A deferred prosecution fee (IC 33-37-5-17).
(7) A jury fee (IC 33-37-5-19).
(8) A document storage fee (IC 33-37-5-20).
(9) An automated record keeping fee (IC 33-37-5-21).
(10) A late payment fee (IC 33-37-5-22).
(11) A public defense administration fee (IC 33-37-5-21.2).
(12) A judicial insurance adjustment fee (IC 33-37-5-25).
(13) A judicial salaries fee (IC 33-37-5-26).
(14) A court administration fee (IC 33-37-5-27).
(15) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
(3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.
(2) The defendant denied the violation under IC 33-36-3.
(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and
(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.17; P.L.95-2004, SEC.5; P.L.2-2005, SEC.101; P.L.176-2005, SEC.5; P.L.182-2009(ss), SEC.393.

IC 33-37-4-3
Juvenile costs fee; additional fees

Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 31-34 (children in need of services).
(2) IC 31-37 (delinquent children).
(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A marijuana eradication program fee (IC 33-37-5-7).
(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(6) A document storage fee (IC 33-37-5-20).
(7) An automated record keeping fee (IC 33-37-5-21).
(8) A late payment fee (IC 33-37-5-22).
(9) A public defense administration fee (IC 33-37-5-21.2).
(10) A judicial insurance adjustment fee (IC 33-37-5-25).
(11) A judicial salaries fee (IC 33-37-5-26).
(12) A court administration fee (IC 33-37-5-27).
(13) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).
(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.18; P.L.95-2004, SEC.6; P.L.2-2005, SEC.102; P.L.176-2005, SEC.6.

IC 33-37-4-4
Civil costs fee; additional fees

Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).

(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
(4) Proceedings in paternity under IC 31-14.
(5) Proceedings in small claims court under IC 33-34.
(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A support and maintenance fee (IC 33-37-5-6).
(3) A document storage fee (IC 33-37-5-20).
(4) An automated record keeping fee (IC 33-37-5-21).
(5) A public defense administration fee (IC 33-37-5-21.2).
(6) A judicial insurance adjustment fee (IC 33-37-5-25).
(7) A judicial salaries fee (IC 33-37-5-26).
(8) A court administration fee (IC 33-37-5-27).
(9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
(10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).
(11) For a mortgage foreclosure action, a mortgage foreclosure counseling and education fee (IC 33-37-5-32) (before its expiration on January 1, 2015).
(12) Before July 1, 2017, a pro bono legal services fee (IC 33-37-5-31).

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.19; P.L.95-2004, SEC.7; P.L.2-2005, SEC.103; P.L.176-2005, SEC.7; P.L.174-2006, SEC.15; P.L.105-2009, SEC.22; P.L.136-2012, SEC.14; P.L.231-2013, SEC.12.

IC 33-37-4-5
Repealed

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

IC 33-37-4-6
Small claims costs fee, small claims service fee, and additional fees

Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

(1) From the party filing the action:
(A) a small claims costs fee of thirty-five dollars ($35);
(B) a small claims service fee of ten dollars ($10) for each named defendant that is not a garnishee defendant; and
(C) if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars ($10) for each garnishee or garnishee defendant in excess of three (3).
(2) From any party adding a defendant that is not a garnishee defendant, a small claims service fee of ten dollars ($10) for each defendant that is not a garnishee defendant added in the action.
(3) From any party adding a garnishee or garnishee defendant,

a small claims garnishee service fee of ten dollars ($10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action.

However, a clerk may not collect a small claims costs fee, small claims service fee, or small claims garnishee service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee, small claims service fee, and small claims garnishee service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A public defense administration fee (IC 33-37-5-21.2).
(5) A judicial insurance adjustment fee (IC 33-37-5-25).
(6) A judicial salaries fee (IC 33-37-5-26).
(7) A court administration fee (IC 33-37-5-27).
(8) Before July 1, 2017, a pro bono legal services fee (IC 33-37-5-31).

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.21; P.L.95-2004, SEC.9; P.L.2-2005, SEC.105; P.L.176-2005, SEC.8; P.L.174-2006, SEC.11; P.L.136-2012, SEC.15.

IC 33-37-4-7
Probate costs fee; additional fees

Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).
(2) IC 29 (probate).
(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A public defense administration fee (IC 33-37-5-21.2).
(5) A judicial insurance adjustment fee (IC 33-37-5-25).
(6) A judicial salaries fee (IC 33-37-5-26).
(7) A court administration fee (IC 33-37-5-27).
(8) Before July 1, 2017, a pro bono legal services fee (IC 33-37-5-31).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.22; P.L.95-2004, SEC.10; P.L.2-2005, SEC.106; P.L.176-2005, SEC.9; P.L.136-2012, SEC.16.

IC 33-37-4-8

Actions listed in IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7; change of venue

Sec. 8. (a) This section applies in all actions listed in sections 4, 6, and 7 of this chapter.

(b) In an action in which there has been or will be a change of venue or transfer from one (1) county to another, the clerk of the court from which the action is transferred shall collect from the party seeking change of venue a fee equal to that required by sections 4, 6, and 7 of this chapter. The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred.

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2007, SEC.221.

IC 33-37-4-9

Proration of court costs not required on receipt

Sec. 9. The clerk is not required to show on each receipt for court costs collected the proration of court costs:

(1) remitted to the auditor of state, the county auditor, and the municipality as specified in IC 33-37-7; or

(2) collected for any funds specified in IC 33-37-5.

As added by P.L.98-2004, SEC.16.

IC 33-37-4-10

Fee bills; issuance; collection; lien

Sec. 10. (a) Not later than seventy-five (75) days after judgment is entered in an action, the clerk shall issue an itemized fee bill for the collection of fees that were charged against the party in that action and that remain unpaid. The clerk shall present the fee bill for collection to the sheriff of a county in which the debtor party resides or in which the debtor party has property.

(b) The sheriff shall do the following:

(1) Collect the amount due under the fee bill.

(2) Return the fee bill to the clerk not more than sixty (60) days after the day the fee bill was issued.

(c) After presented to the sheriff, a fee bill has the effect of an execution and operates as a lien upon the real and personal property of the debtor.

(d) A successor of an officer may issue fee bills for the fees of the officer's predecessors in office in the manner provided under this

chapter. A clerk may issue the fee bills of the sheriff or the former sheriffs of the county in the same manner.
As added by P.L.98-2004, SEC.16.

IC 33-37-5

Chapter 5. Collection of Additional Fees

IC 33-37-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 15 and 28 of this chapter by P.L.174-2006 apply only to cases filed after June 30, 2006.

As added by P.L.220-2011, SEC.538.

IC 33-37-5-0.2

Repealed

(Repealed by P.L.63-2012, SEC.38.)

IC 33-37-5-1

Preparing transcript or copy of record; fee

Sec. 1. (a) This section applies to a document fee for preparing a transcript or copy of any record. However, this section does not apply to either of the following:

(1) The preparation or copying of a record:

(A) through the use of enhanced access under IC 5-14-3; or

(B) by a governmental entity using an electronic device.

(2) The transmitting of a document by facsimile machine or other electronic device.

(b) Except as provided in subsection (c), the clerk shall collect a fee of one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

(c) The legislative body of a county may adopt by ordinance a schedule of document fees to be collected by a clerk under this section. If an ordinance has been adopted, the clerk shall collect document fees according to the schedule. However, the document fee collected by the clerk under this subsection may not exceed one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-2

Clerk's record perpetuation fund

Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

(1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section 20 of this chapter.

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2.

(4) The fees required under IC 29-1-7-3.1 for deposit of a will.

(5) Automated record keeping fees deposited in the fund under IC 33-37-7-2(m).

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

(3) Case management system.

As added by P.L.98-2004, SEC.16. Amended by P.L.238-2005, SEC.56; P.L.1-2006, SEC.507; P.L.229-2011, SEC.257; P.L.128-2012, SEC.180.

IC 33-37-5-3

Document fee; certificate under seal

Sec. 3. Notwithstanding IC 5-14-3, the clerk shall collect a document fee of one dollar ($1) for each certificate under seal attached in authentication of a copy of any record, paper, or transcript.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-4

Document fee; transcript of judgment to become real estate lien

Sec. 4. The clerk shall collect a document fee of three dollars ($3) for preparing or recording a transcript of a judgment to become a lien on real estate.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-5

Forwarding document fees

Sec. 5. The clerk shall forward document fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-37-7-12(a).

As added by P.L.98-2004, SEC.16.

IC 33-37-5-6

Support and maintenance payments; fees

Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk or the state central collection unit.

(b) The clerk or the state central collection unit shall collect a fee in addition to support and maintenance payments. The fee is fifty-five dollars ($55) for each calendar year.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-32-4-6 and IC 33-37-7-2(f), if a fee is collected under this section by the clerk, the clerk shall forward the fee to the county auditor in accordance with IC 33-37-7-12(a). If a fee is collected under this section by the central collection unit, the fee shall be deposited in the state general fund.

(f) Income payors required to withhold income under IC 31-16-15 shall pay the annual fee required by subsection (b) through the income withholding procedures described in IC 31-16-15.
As added by P.L.98-2004, SEC.16. Amended by P.L.1-2006, SEC.508; P.L.146-2006, SEC.59 and P.L.148-2006, SEC.33; P.L.103-2007, SEC.49; P.L.128-2012, SEC.181.

IC 33-37-5-7
Marijuana eradication program fee

Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under IC 15-16-7-8, if:

(1) a weed control board has been established in the county under IC 15-16-7-3; and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars ($300).
As added by P.L.98-2004, SEC.16. Amended by P.L.2-2008, SEC.71.

IC 33-37-5-8
Alcohol and drug services program fee; law enforcement continuing education program fee

Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).

(b) The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of four dollars ($4).
As added by P.L.98-2004, SEC.16. Amended by P.L.97-2008, SEC.6.

IC 33-37-5-9
Drug abuse, prosecution, interdiction, and correction fee

Sec. 9. (a) This section applies to criminal actions.

(b) The court shall assess a drug abuse, prosecution, interdiction, and correction fee of at least two hundred dollars ($200) and not more than one thousand dollars ($1,000) against a person convicted of an offense under IC 35-48-4.

(c) In determining the amount of the drug abuse, prosecution, interdiction, and correction fee assessed against a person under subsection (b), a court shall consider the person's ability to pay the fee.

(d) The clerk shall collect the drug abuse, prosecution, interdiction, and correction fee set by the court when a person is

convicted of an offense under IC 35-48-4.
As added by P.L.98-2004, SEC.16.

IC 33-37-5-10
Countermeasures fee; collection

Sec. 10. (a) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200) in each action in which:

(1) a person is found to have:
(A) committed an offense under IC 9-30-5;
(B) violated a statute defining an infraction under IC 9-30-5; or
(C) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult; and
(2) the person's driving privileges are suspended by the court or the bureau of motor vehicles as a result of the finding.

(b) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200) in each action in which:

(1) a person is charged with an offense under IC 9-30-5; and
(2) by a plea agreement or an agreement of the parties that is approved by the court:
(A) judgment is entered for an offense under:
(i) IC 9-21-8-50;
(ii) IC 9-21-8-52;
(iii) IC 7.1-5-1-3; or
(iv) IC 7.1-5-1-6; and
(B) the defendant agrees to pay the alcohol and drug counter measures fee.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-11
Alcohol abuse deterrent fee; medical fee; collection

Sec. 11. (a) This section applies to an action in a circuit court in a county that has established a program under IC 9-30-9.

(b) The probation department shall collect an alcohol abuse deterrent program fee and a medical fee set by the court under IC 9-30-9-8 and deposit the fee into the supplemental adult probation services fund.
As added by P.L.98-2004, SEC.16.

IC 33-37-5-12 Version a
Child abuse prevention fee

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:
(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) rape (IC 35-42-4-1);
(G) criminal deviate conduct (IC 35-42-4-2);
(H) child molesting (IC 35-42-4-3);
(I) child exploitation (IC 35-42-4-4);
(J) vicarious sexual gratification (IC 35-42-4-5);
(K) child solicitation (IC 35-42-4-6);
(L) incest (IC 35-46-1-3);
(M) neglect of a dependent (IC 35-46-1-4);
(N) child selling (IC 35-46-1-4); or
(O) child seduction (IC 35-42-4-7); and

(2) the victim of the offense is less than eighteen (18) years of age.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-12 Version b
Child abuse prevention fee

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:
(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) rape (IC 35-42-4-1);
(G) criminal deviate conduct (IC 35-42-4-2) (repealed);
(H) child molesting (IC 35-42-4-3);
(I) child exploitation (IC 35-42-4-4);
(J) vicarious sexual gratification (IC 35-42-4-5);
(K) child solicitation (IC 35-42-4-6);
(L) incest (IC 35-46-1-3);
(M) neglect of a dependent (IC 35-46-1-4);
(N) child selling (IC 35-46-1-4); or
(O) child seduction (IC 35-42-4-7); and

(2) the victim of the offense is less than eighteen (18) years of age.

As added by P.L.98-2004, SEC.16. Amended by P.L.158-2013, SEC.340; P.L.214-2013, SEC.29.

IC 33-37-5-13
Domestic violence prevention and treatment fee

Sec. 13. The court shall order a person to pay a domestic violence prevention and treatment fee of fifty dollars ($50) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:
(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) domestic battery (IC 35-42-2-1.3); or
(G) rape (IC 35-42-4-1); and
(2) the victim:
(A) is a spouse or former spouse of the person who committed an offense under subdivision (1);
(B) is or was living as if a spouse of the person who committed the offense of domestic battery under subdivision (1)(F); or
(C) has a child in common with the person who committed the offense of domestic battery under subdivision (1)(F).

As added by P.L.98-2004, SEC.16.

IC 33-37-5-14
Highway work zone fee; application

Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-13-2-183).

(b) The clerk shall collect a highway worksite zone fee of fifty cents ($0.50). However, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents ($25.50) if:
(1) the criminal action, infraction, or ordinance violation is:
(A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); or
(B) failure to merge (as provided in IC 9-21-8-7.5); and
(2) the judge orders the clerk to collect the fee for exceeding a worksite speed limit or failure to merge.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2013, SEC.114.

IC 33-37-5-15
Service of process fee

Sec. 15. (a) The sheriff shall collect a service of process fee of thirteen dollars ($13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff. A service of process fee collected under this subsection may be collected only one (1) time per case for the duration of the case.

(b) The sheriff shall collect from the person who filed the civil action a service of process fee of sixty dollars ($60), in addition to any other fee for service of process, if:
(1) a person files a civil action outside Indiana; and
(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(c) A sheriff shall transfer fees collected under this section to the

county auditor of the county in which the sheriff has jurisdiction.

(d) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

As added by P.L.98-2004, SEC.16. Amended by P.L.174-2006, SEC.12; P.L.156-2007, SEC.3.

IC 33-37-5-16

Judgments; collection, transfer, and deposit of funds

Sec. 16. In addition to any other duties, a clerk shall do the following:

(1) Collect and transfer additional judgments to a county auditor under IC 9-18-2-41.

(2) Deposit funds collected as judgments in the state highway fund under IC 9-20-18-12.

(3) Deposit funds in the conservation officers fish and wildlife fund under IC 14-22-38-4, IC 14-22-38-5, and IC 14-22-40-8.

(4) Deposit funds collected as judgments in the state general fund under IC 34-28-5-4.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-17

Deferred prosecution fees

Sec. 17. (a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of one hundred twenty dollars ($120) for court costs.

As added by P.L.98-2004, SEC.16. Amended by P.L.176-2005, SEC.10.

IC 33-37-5-18

Safe schools fee

Sec. 18. (a) In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court shall assess a safe schools fee of at least two hundred dollars ($200) and not more than one thousand dollars ($1,000).

(b) In determining the amount of the safe schools fee assessed against a person under subsection (a), a court shall consider the person's ability to pay the fee.

(c) The clerk shall collect the safe schools fee set by the court when a person is convicted of an offense in which the possession or use of a firearm was an element of the offense.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-19

Criminal conviction; jury fees

Sec. 19. (a) The clerk shall collect a jury fee of two dollars ($2) in each action in which a defendant is found to have committed a crime, violated a statute defining an infraction, or violated an ordinance of a municipal corporation.

(b) The fee collected under this section shall be deposited into the county user fee fund established by IC 33-37-8-5.

As added by P.L.98-2004, SEC.16.

IC 33-37-5-20

Document storage fee

Sec. 20. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect a document storage fee of two dollars ($2).

As added by P.L.98-2004, SEC.16.

IC 33-37-5-21

Automated record keeping fee

Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect an automated record keeping fee of:

(1) seven dollars ($7) after June 30, 2013, and before July 1, 2015, in all actions except actions described in subdivision (2);

(2) five dollars ($5) after June 30, 2013, and before July 1, 2015, with respect to actions resulting in the accused person entering into a:

(A) pretrial diversion program agreement under IC 33-39-1-8; or

(B) deferral program agreement under IC 34-28-5-1; and

(3) five dollars ($5) after June 30, 2015.

As added by P.L.98-2004, SEC.16. Amended by P.L.234-2007, SEC.69; P.L.182-2009(ss), SEC.394; P.L.229-2011, SEC.258; P.L.284-2013, SEC.5.

IC 33-37-5-21.2

Public defense administration fee

Sec. 21.2. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding to enforce a statute defining an infraction.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a public defense administration fee of five dollars ($5).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have committed an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a public defense administration fee of five

dollars ($5).
As added by P.L.85-2004, SEC.23. Amended by P.L.176-2005, SEC.11; P.L.1-2006, SEC.509; P.L.229-2011, SEC.259.

IC 33-37-5-22
Late payment fee

Sec. 22. (a) Except as provided in subsections (e) and (f), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:
(A) committed a crime;
(B) violated a statute defining an infraction;
(C) violated an ordinance of a municipal corporation; or
(D) committed a delinquent act.

(2) The defendant is required to pay:
(A) court costs, including fees;
(B) a fine; or
(C) a civil penalty.

(3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.

(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:
(A) The end of the business day on which the court enters the conviction or judgment.
(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars ($25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in an action under IC 33-34 shall pay a late fee of twenty-five dollars ($25) if the plaintiff or defendant:

(1) is required to pay court fees or costs under IC 33-34-8-1;

(2) is not determined by the court imposing the court costs to be indigent; and

(3) fails to pay the costs in full before the later of the following:
(A) The end of the business day on which the court enters the judgment.
(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to

make timely payment of the fee.

(f) Notwithstanding IC 33-37-4-2(f), IC 34-28-5-5(a), and IC 34-28-5-5(b), the defendant shall pay a late payment fee of twenty-five dollars ($25) if the defendant:

(1) is found to have committed a violation constituting a Class D infraction or Class C infraction under IC 5-16-9-5 or IC 5-16-9-8 for unlawfully parking in a space reserved for a person with a physical disability;

(2) is required to pay a fine or civil judgment;

(3) is not determined by the court imposing the fine or civil judgment to be indigent; and

(4) fails to pay the fine or civil judgment in full before the later of:

(A) the end of the business day on which the court imposes the fine or civil judgment; or

(B) the end of the period specified in a payment schedule set for the payment of fines and civil judgments under rules adopted for the operation of the court.

However, the court may suspend a late payment fee under this section if the court finds that the defendant has demonstrated good cause for failure to make timely payment of the fee.

As added by P.L.98-2004, SEC.16. Amended by P.L.143-2013, SEC.1.

IC 33-37-5-23 Version a

Sexual assault victims assistance fee

Note: This version of section amended by P.L.214-2013, SEC.30. See also following version of this section amended by P.L.158-2013, SEC.341, effective 7-1-2014.

Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least five hundred dollars ($500) and not more than five thousand dollars ($5,000) against an individual convicted in Indiana of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal on July 1, 2014).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

(11) Promotion of human trafficking (IC 35-42-3.5-1(a)).

(12) Promotion of human trafficking of a minor (IC 35-42-3.5-1(b)).

(13) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).

(14) Human trafficking (IC 35-42-3.5-1(d)).

As added by P.L.98-2004, SEC.16. Amended by P.L.214-2013, SEC.30.

IC 33-37-5-23 Version b

Sexual assault victims assistance fee

Note: This version of section amended by P.L.158-2013, SEC.341, effective 7-1-2014. See also preceding version of this section amended by P.L.214-2013, SEC.30.

Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000) against an individual convicted in Indiana of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2) (repealed).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a Class A or Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

As added by P.L.98-2004, SEC.16. Amended by P.L.158-2013, SEC.341.

IC 33-37-5-24

Problem solving court fee

Sec. 24. (a) This section applies to a proceeding in a problem solving court under IC 33-23-16.

(b) The clerk shall collect a problem solving court fee if payment of the fee is ordered by a problem solving court under IC 33-23-16-23.

As added by P.L.98-2004, SEC.16. Amended by P.L.108-2010, SEC.5.

IC 33-37-5-25

Judicial insurance adjustment fee

Sec. 25. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding to enforce a statute defining an infraction.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;
(3) found to have committed an infraction; or
(4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

As added by P.L.95-2004, SEC.11. Amended by P.L.2-2005, SEC.107; P.L.1-2006, SEC.510.

IC 33-37-5-26
Judicial salaries fee

Sec. 26. (a) This subsection does not apply to the following:
(1) A criminal proceeding.
(2) A proceeding for an infraction violation.
(3) A proceeding for an ordinance violation.
(4) A small claims action.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial salaries fee equal to the amount specified in the schedule in subsection (d).

(b) In each small claims action filed in a court described in IC 33-37-1-1 or IC 33-34, the clerk shall collect a judicial salaries fee specified in the schedule in subsection (e).

(c) In each action in which a person is:
(1) convicted of an offense;
(2) required to pay a pretrial diversion fee;
(3) found to have committed an infraction; or
(4) found to have violated an ordinance;

the clerk shall collect a judicial salaries fee specified in the schedule in subsection (d).

(d) Beginning:
(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars ($15);
(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is sixteen dollars ($16);
(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is seventeen dollars ($17);
(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eighteen

dollars ($18);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is nineteen dollars ($19); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twenty dollars ($20).

(e) Beginning:

(1) after June 30, 2005, and ending before July 1 of the first state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is ten dollars ($10);

(2) after June 30 immediately preceding the first state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the second state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is eleven dollars ($11);

(3) after June 30 immediately preceding the second state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the third state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is twelve dollars ($12);

(4) after June 30 immediately preceding the third state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fourth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is thirteen dollars ($13);

(5) after June 30 immediately preceding the fourth state fiscal year in which salaries are increased under IC 33-38-5-8.1 and ending before July 1 of the fifth state fiscal year after June 30, 2006, in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fourteen dollars ($14); and

(6) after June 30 immediately preceding the fifth state fiscal year in which salaries are increased under IC 33-38-5-8.1, the judicial salaries fee to which this subsection applies is fifteen dollars ($15).

As added by P.L.176-2005, SEC.12. Amended by P.L.3-2008, SEC.241.

IC 33-37-5-26.2

DNA sample processing fee

Sec. 26.2. In each action in which a person is:

(1) convicted of an offense;
(2) required to pay a pretrial diversion fee;
(3) found to have committed an infraction; or
(4) found to have violated an ordinance;

the clerk shall collect a DNA sample processing fee of two dollars ($2).

As added by P.L.176-2005, SEC.13. Amended by P.L.174-2006, SEC.13.

IC 33-37-5-27
Court administration fee

Sec. 27. (a) This subsection does not apply to the following:
(1) A criminal proceeding.
(2) A proceeding to enforce a statute defining an infraction.
(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1, and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of five dollars ($5).

(b) In each action in which a person is:
(1) convicted of an offense;
(2) required to pay a pretrial diversion fee;
(3) found to have committed an infraction; or
(4) found to have violated an ordinance;

the clerk shall collect a court administration fee of five dollars ($5).

As added by P.L.176-2005, SEC.14. Amended by P.L.80-2006, SEC.16; P.L.122-2008, SEC.3.

IC 33-37-5-28
Civil action service fee; garnishee service fee

Sec. 28. (a) Except as provided in subsection (c), this section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).

(b) The clerk shall collect the following:
(1) From the party filing the civil action, a service fee of ten dollars ($10) for each additional defendant that is not a garnishee defendant named other than the first named defendant.
(2) From any party adding a defendant that is not a garnishee defendant, a service fee of ten dollars ($10) for each defendant that is not a garnishee defendant added in the civil action.
(3) From a party that has named more than three (3) garnishees or garnishee defendants, a garnishee service fee of ten dollars ($10) for each garnishee or garnishee defendant in excess of three (3).
(4) From a party adding a garnishee or garnishee defendant, a garnishee service fee of ten dollars ($10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a garnishee service fee for the first three (3) garnishees or garnishee defendants named in the action.

(c) This section does not apply to an action in which service is

made by publication in accordance with Indiana Trial Rule 4.13.
As added by P.L.176-2005, SEC.15. Amended by P.L.174-2006, SEC.14.

IC 33-37-5-29
Repealed
(Repealed by P.L.108-2010, SEC.10.)

IC 33-37-5-30
Expired
(Expired 1-1-2013 by P.L.105-2009, SEC.23.)

IC 33-37-5-31
Pro bono legal services fee
Sec. 31. In each:
(1) civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a);
(2) small claims action in which:
(A) a party is required to pay a township docket fee under IC 33-34-8-1(a)(1); or
(B) the clerk is required to collect a small claims costs fee under IC 33-37-4-6; or
(3) probate action in which the clerk is required to collect a probate costs fee under IC 33-37-4-7(a);
the clerk shall, before July 1, 2017, collect a pro bono legal services fee of one dollar ($1).
As added by P.L.136-2012, SEC.17.

IC 33-37-5-32
Civil costs
Sec. 32. (a) This section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a). The clerk shall collect a fifty dollar ($50) mortgage foreclosure counseling and education fee from a party filing an action to foreclose a mortgage.
(b) This section expires January 1, 2015.
As added by P.L.231-2013, SEC.13.

IC 33-37-6
Chapter 6. Credit Card Service Fee

IC 33-37-6-1
Application

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

As added by P.L.98-2004, SEC.16.

IC 33-37-6-2
Discharge of debt liability; vendor transaction charge or discount fee; contracts with payment processing companies authorized

Sec. 2. (a) A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. Subject to subsection (d), if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank card or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(c) Subject to subsection (d), the clerk may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(d) The clerk shall collect and deposit in the appropriate fund an amount not less than the amount the clerk would collect and deposit if the clerk received payment by a means other than a bank card or credit card.

As added by P.L.98-2004, SEC.16. Amended by P.L.65-2004, SEC.16; P.L.171-2006, SEC.8.

IC 33-37-6-3
Use of credit card service fee

Sec. 3. (a) The clerk shall forward credit card service fees collected under section 2 of this chapter to the county auditor or the

city or town fiscal officer in accordance with IC 33-37-7-12(a).

(b) Funds described in subsection (a) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

As added by P.L.98-2004, SEC.16.

IC 33-37-7
Chapter 7. Distribution of Court Fees

IC 33-37-7-1
Repealed
(Repealed by P.L.1-2006, SEC.588.)

IC 33-37-7-2 Version a
Circuit court clerk's distribution of fees
Note: This version of section effective until 7-1-2013. See also following version of this section, effective 7-1-2013.
Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:
(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-3(a) (juvenile costs fees).
(4) IC 33-37-4-4(a) (civil costs fees).
(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
(6) IC 33-37-4-7(a) (probate costs fees).
(7) IC 33-37-5-17 (deferred prosecution fees).
(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:
(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
(3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
(7) The following:
(A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed

under subsection (a).

(B) For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county

at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January 1, 2015).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor twenty percent (20%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.25; P.L.95-2004, SEC.13; P.L.2-2005, SEC.108; P.L.176-2005, SEC.16; P.L.126-2006, SEC.3; P.L.174-2006, SEC.16; P.L.104-2008, SEC.5; P.L.122-2008, SEC.4; P.L.105-2009, SEC.24; P.L.182-2009(ss), SEC.395; P.L.170-2011, SEC.14; P.L.229-2011, SEC.260; P.L.128-2012, SEC.182; P.L.136-2012, SEC.18; P.L.231-2013, SEC.14.

IC 33-37-7-2 Version b

Circuit court clerk's distribution of fees

Note: This version of section effective 7-1-2013. See also preceding version of this section, effective until 7-1-2013.

Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees

collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) The following:

(A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(C) This clause applies after June 30, 2013, and before July 1, 2015. For a county not operating under the state's automated judicial system, five dollars ($5) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under

IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January 1, 2015).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor the following part of

the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund:

(1) Twenty percent (20%), before July 1, 2013, and after June 30, 2015.

(2) Two dollars ($2) of each fee collected, after June 30, 2013, and before July 1, 2015.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.25; P.L.95-2004, SEC.13; P.L.2-2005, SEC.108; P.L.176-2005, SEC.16; P.L.126-2006, SEC.3; P.L.174-2006, SEC.16; P.L.104-2008, SEC.5; P.L.122-2008, SEC.4; P.L.105-2009, SEC.24; P.L.182-2009(ss), SEC.395; P.L.170-2011, SEC.14; P.L.229-2011, SEC.260; P.L.128-2012, SEC.182; P.L.136-2012, SEC.18; P.L.231-2013, SEC.14; P.L.284-2013, SEC.6.

IC 33-37-7-3
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 33-37-7-4
Fees collected by clerk of circuit court; county share

Sec. 4. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs

fees).
(3) IC 33-37-4-3(a) (juvenile costs fees).
(4) IC 33-37-4-4(a) (civil costs fees).
(5) IC 33-37-4-6(a)(1) (small claims costs fees).
(6) IC 33-37-4-7(a) (probate costs fees).
(7) IC 33-37-5-17 (deferred prosecution fees).

(b) This section applies after June 30, 2005.

As added by P.L.98-2004, SEC.16.

IC 33-37-7-5
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 33-37-7-6
Fees collected by clerk of circuit court; city or town share

Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit or superior court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-3(a) (juvenile costs fees).
(4) IC 33-37-4-4(a) (civil costs fees).
(5) IC 33-37-4-6(a)(1) (small claims costs fees).
(6) IC 33-37-4-7(a) (probate costs fees).
(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.
STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.
STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.
STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section applies after June 30, 2005.

As added by P.L.98-2004, SEC.16. Amended by P.L.201-2011, SEC.102.

IC 33-37-7-7
Repealed

(Repealed by P.L.1-2006, SEC.588.)

IC 33-37-7-8
City or town court clerk's and fiscal officer's distribution of fees

Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-4(a) (civil costs fees).
(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26. The funds retained by the city or town shall be prioritized to fund city or town court operations.

(j) The clerk of a city or town court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a

successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.27; P.L.95-2004, SEC.15; P.L.2-2005, SEC.109; P.L.176-2005, SEC.17; P.L.174-2006, SEC.17; P.L.224-2007, SEC.120; P.L.182-2009(ss), SEC.396; P.L.136-2012, SEC.19.

IC 33-37-7-9

Auditor's transfer of funds to treasurer; treasurer's deposit of certain funds

Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state nine million two hundred seventy-seven thousand twenty-three dollars ($9,277,023) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 5-2-6.8-3 an amount equal to eight and three-hundredths percent (8.03%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to thirty-eight and fifty-five hundredths percent (38.55%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and fifty-six hundredths percent (2.56%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ten and twenty-seven hundredths percent (10.27%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to eleven and ninety-three hundredths percent (11.93%);

(6) the motor vehicle highway account an amount equal to nineteen and forty-nine hundredths percent (19.49%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to twenty-five hundredths percent (0.25%);

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and sixty-three hundredths percent (1.63%); and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to seven and twenty-nine hundredths percent (7.29%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1 three million seven hundred thousand dollars ($3,700,000).

As added by P.L.98-2004, SEC.16. Amended by P.L.85-2004, SEC.28; P.L.176-2005, SEC.18; P.L.1-2006, SEC.511; P.L.174-2006, SEC.18; P.L.122-2008, SEC.5; P.L.130-2009, SEC.20; P.L.229-2011, SEC.262.

IC 33-37-7-10

Counties having judicial circuit in which IC 31-1-23 or IC 31-1-24 applies; appropriation

Sec. 10. (a) In a county having a judicial circuit in which either IC 31-12-1 or IC 31-12-2 applies, the county fiscal body shall annually appropriate an amount necessary to carry out the administration and the purposes of the programs established under these chapters.

(b) Requests for funding under this section must be submitted under IC 36-2-5-4 or IC 36-3-6-4.

As added by P.L.98-2004, SEC.16.

IC 33-37-7-11

Counties with pension trusts; appropriations; claims by sheriff

Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate thirteen dollars ($13) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2006, SEC.512; P.L.174-2006, SEC.19.

IC 33-37-7-12

Forwarding and deposit of fees; duties of clerk and county and municipal officers

Sec. 12. (a) Except:

(1) for the state share prescribed by section 2 of this chapter for semiannual distribution; and

(2) as provided under section 2(g) of this chapter, IC 33-32-4-6, and IC 33-37-5-2;

not later than thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to the county auditor if the clerk is a clerk of a circuit court, and to the city or town fiscal officer if the clerk is the clerk of a city or town court.

(b) If part of the fee is collected on behalf of another person for service as a juror or witness, the county auditor or city or town fiscal officer shall forward that part of the fee to the person not later than forty-five (45) days after the auditor or fiscal officer receives the claim for the fee.

(c) Except for amounts deposited in a user fee fund established under IC 33-37-8, the county auditor shall distribute fees received from the clerk to the following:

(1) The county treasurer for deposit in the county general fund, if the fee belongs to the county.

(2) The fiscal officer of a city or town, if the fee belongs to the city or town under section 6 of this chapter.

(d) Except for amounts deposited in a user fee fund established under IC 33-37-8, the city or town fiscal officer shall deposit all fees received from a clerk in the city's or town's treasury.

(e) The clerk shall forward the state share of each fee to the state treasury at the clerk's semiannual settlement for state revenue.

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2006, SEC.513.

IC 33-37-8
Chapter 8. Local User Fee Funds

IC 33-37-8-1
"City or town fund"
Sec. 1. As used in this chapter, "city or town fund" refers to the city or town user fee fund established under section 3 of this chapter.
As added by P.L.98-2004, SEC.16.

IC 33-37-8-2
"County fund"
Sec. 2. As used in this chapter, "county fund" refers to the county user fee fund established under section 5 of this chapter.
As added by P.L.98-2004, SEC.16.

IC 33-37-8-3
City or town user fee fund
Sec. 3. (a) A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund is administered by the fiscal officer of the city or town.
(b) The city or town fund consists of the following fees collected by a clerk under this article:
(1) The pretrial diversion program fee.
(2) The alcohol and drug services fee.
(3) The law enforcement continuing education program fee.
(4) The deferral program fee.
(5) The problem solving court fee.
As added by P.L.98-2004, SEC.16. Amended by P.L.60-2006, SEC.5; P.L.42-2011, SEC.65; P.L.187-2011, SEC.8.

IC 33-37-8-4
City or town funds; appropriations; deferral and pretrial diversion programs
Sec. 4. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.
(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:
(1) Personnel expenses related to the operation of the program.
(2) Special training for:
(A) a prosecuting attorney;
(B) a deputy prosecuting attorney;
(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or
(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.
(4) Victim assistance.
(5) Electronic legal research.
(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.
(7) Expenses of a criminal investigation and prosecution.
(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:
(A) substance abuse;
(B) child abuse;
(C) domestic violence;
(D) operating while intoxicated; and
(E) juvenile delinquency.
(9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

As added by P.L.98-2004, SEC.16. Amended by P.L.176-2005, SEC.19; P.L.229-2011, SEC.263.

IC 33-37-8-5
County user fee fund

Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-37-9-9:
(1) The pretrial diversion program fee.
(2) The informal adjustment program fee.
(3) The marijuana eradication program fee.
(4) The alcohol and drug services program fee.
(5) The law enforcement continuing education program fee.
(6) The deferral program fee.
(7) The jury fee.
(8) The problem solving court fee.

(c) All of the jury fee and two dollars ($2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

As added by P.L.98-2004, SEC.16. Amended by P.L.60-2006, SEC.6; P.L.146-2008, SEC.676; P.L.42-2011, SEC.66; P.L.187-2011, SEC.9.

IC 33-37-8-6
County funds; appropriations; deferral and pretrial diversion

programs

Sec. 6. (a) Except as provided in subsection (b), upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be disbursed only by the adoption of an ordinance appropriating the funds for one (1) or more of the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for:

(A) a prosecuting attorney;

(B) a deputy prosecuting attorney;

(C) support staff for a prosecuting attorney or deputy prosecuting attorney; or

(D) a law enforcement officer.

(3) Employment of a deputy prosecutor or prosecutorial support staff.

(4) Victim assistance.

(5) Electronic legal research.

(6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(7) Expenses of a criminal investigation and prosecution.

(8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:

(A) substance abuse;

(B) child abuse;

(C) domestic violence;

(D) operating while intoxicated; and

(E) juvenile delinquency.

(9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

As added by P.L.98-2004, SEC.16. Amended by P.L.176-2005, SEC.20; P.L.229-2011, SEC.264.

IC 33-37-8-7

Pretrial diversion program fund

Sec. 7. (a) This section applies when a county auditor has established a pretrial diversion program fund to receive funds initially deposited in the county fund from the collection of the pretrial diversion program fee. Whenever a prosecuting attorney:

(1) certifies to the county fiscal body that the amount in the pretrial diversion program fund exceeds the amount needed to

finance the pretrial diversion program services during the calendar year; and

(2) states the amount of the excess funds in the certification;

the fiscal body may adopt an ordinance to appropriate the excess funds from the pretrial diversion program fund to the office of the prosecuting attorney.

(b) Funds appropriated as described in subsection (a) may be used by the office of the prosecuting attorney for any purpose specified in the appropriation ordinance adopted by the fiscal body.

(c) A county fiscal body may not transfer funds previously appropriated to the office of the prosecuting attorney as a result of an appropriation described in subsection (a).

As added by P.L.98-2004, SEC.16.

IC 33-37-8-8

Collection of jury fees; transfer of funds to jury pay

Sec. 8. (a) This section applies to jury fees collected under IC 33-37-5-19.

(b) If a clerk certifies to a county fiscal body the amount of fees collected, the county fiscal body shall direct the county auditor to transfer the amount certified to the jury pay fund established under IC 33-37-11.

As added by P.L.98-2004, SEC.16.

IC 33-37-9
Chapter 9. State User Fee Funds

IC 33-37-9-1
"State fund"
Sec. 1. As used in this chapter, "state fund" refers to the state user fee fund established by section 2 of this chapter.
As added by P.L.98-2004, SEC.16.

IC 33-37-9-2
Establishment
Sec. 2. The state user fee fund is established. The state fund is administered by the treasurer of state.
As added by P.L.98-2004, SEC.16.

IC 33-37-9-3
Transfer of fees
Sec. 3. On June 30 and December 31 each year, the auditor of state shall transfer to the treasurer of state for deposit in the state fund the fees distributed to the auditor of state under IC 33-37-7-2(b) and IC 33-37-7-8(d).
As added by P.L.98-2004, SEC.16. Amended by P.L.1-2006, SEC.514.

IC 33-37-9-4
Distribution of amounts transferred to the state fund
Sec. 4. (a) The treasurer of state shall distribute semiannually one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established by IC 33-39-8-6.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established by IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund

established by IC 5-2-6.8-3.

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall distribute semiannually the amount remaining after the distributions are made under subsection (a) to the judicial technology and automation project fund established by IC 33-24-6-12.

As added by P.L.98-2004, SEC.16. Amended by P.L.130-2009, SEC.21.

IC 33-37-10
Chapter 10. Juror and Witness Fees

IC 33-37-10-1
Jury fees

Sec. 1. (a) A juror of a circuit, superior, county, or probate court or a member of a grand jury is entitled to the sum of the following:

(1) Except as provided in subsection (f), an amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Payment at the rate of:

(A) fifteen dollars ($15) for each day the juror is in actual attendance in court until the jury is impaneled; and

(B) forty dollars ($40) for each day the juror is in actual attendance after impaneling and until the jury is discharged.

(b) A county fiscal body may adopt an ordinance to pay from county funds a supplemental fee in addition to the fees prescribed by subsection (a)(2).

(c) A juror of a city or town court is entitled to the sum of the following:

(1) Except as provided in subsection (f), an amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Fifteen dollars ($15) per day while the juror is in actual attendance.

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by subsection (c)(2).

(e) For purposes of this section, a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that day.

(f) A county, city, or town fiscal body may adopt an ordinance providing for the payment by the county, city, or town of the parking fees incurred by jurors of circuit, superior, county, and probate courts and members of grand juries. If a county, city, or town fiscal body adopts an ordinance under this subsection, the county, city, or town may pay the parking fees incurred by a juror of a circuit, superior, county, or probate court or a member of a grand jury instead of paying the juror or grand jury member an amount for mileage at the rate provided in subsection (a)(1) or (c)(1).

As added by P.L.98-2004, SEC.16. Amended by P.L.118-2007, SEC.26.

IC 33-37-10-2
Witnesses in criminal actions

Sec. 2. (a) A witness in a criminal action may receive a fee if the witness:

(1) is summoned by the state;

(2) is named on the indictment or information; and

(3) testifies under oath to a material fact in aid of the

prosecution.

(b) A fee paid under subsection (a) is the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) For each day of attendance in court equal to:

(A) fifteen dollars ($15) for witnesses subpoenaed under IC 35-37-5-4; or

(B) five dollars ($5) for all other witnesses.

As added by P.L.98-2004, SEC.16.

IC 33-37-10-3

Witnesses in certain actions

Sec. 3. A witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) Five dollars ($5) for each day of attendance in court.

As added by P.L.98-2004, SEC.16. Amended by P.L.1-2007, SEC.222.

IC 33-37-10-4

Witness and juror fees; noting and forwarding claims; affidavit fees; disbursements

Sec. 4. (a) The clerk shall note witness and juror fees when the fees are claimed and forward the claims to the county auditor or city or town fiscal officer.

(b) The clerk is not entitled to a fee for providing an affidavit or other proof of attendance to a juror or witness.

(c) The county auditor or city or town fiscal officer shall disburse juror or witness fees claimed under this section as provided in IC 33-37-7-12.

As added by P.L.98-2004, SEC.16.

IC 33-37-11
Chapter 11. Jury Pay Fund

IC 33-37-11-1
"Jury pay fund"

Sec. 1. As used in this chapter, "jury pay fund" refers to the jury pay fund established under section 2 of this chapter.

As added by P.L.98-2004, SEC.16.

IC 33-37-11-2
Establishment

Sec. 2. (a) A jury pay fund is established for each county to supplement the cost of paying jury fees. The jury pay fund is administered by the county auditor.

(b) The jury pay fund consists of amounts deposited by the county auditor under IC 33-37-8-5(c) and the fees collected under IC 33-37-5-19 from defendants who:

(1) committed a crime;
(2) violated a statute defining an infraction; or
(3) violated an ordinance of a municipal corporation.

As added by P.L.98-2004, SEC.16.

IC 33-37-11-3
Appropriation of cost of jury fees

Sec. 3. (a) Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

(b) After all claims received by a county fiscal body during a month have been paid under subsection (a), the county fiscal body may appropriate any unused and unencumbered money remaining in the jury pay fund to maintain and improve the jury system in the county.

As added by P.L.98-2004, SEC.16. Amended by P.L.118-2007, SEC.27.

IC 33-38

ARTICLE 38. JUDGES

IC 33-38-1

Chapter 1. Certain Judgeship's Eligibility; Term of Office; Travel Expenses

IC 33-38-1-1

Admission to the practice of law

Sec. 1. A person is not eligible to hold the office of judge of any probate or superior court unless, in addition to other prerequisites to eligibility provided by Indiana law, the person is admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-1-2

Multiple county judicial circuits and superior court district; traveling expenses

Sec. 2. Each judge of each:

(1) judicial circuit containing more than one (1) county; and

(2) superior court district containing more than one (1) county;

shall be paid two thousand dollars ($2,000) per year to reimburse the judge for traveling and other necessary expenses. Two thousand dollars ($2,000) for each judge is appropriated annually from the state general fund not otherwise appropriated.

As added by P.L.98-2004, SEC.17. Amended by P.L.201-2011, SEC.103.

IC 33-38-1-3

Beginning date; expiration date

Sec. 3. The term of office of a person:

(1) elected judge of the court of appeals or of any circuit, superior, probate, criminal, or juvenile court begins on the first day of January after the person's election; and

(2) elected or appointed to any judgeship expires on December 31 after the election of the respective successors.

As added by P.L.98-2004, SEC.17.

IC 33-38-2

Chapter 2. Appointment of Bailiffs in Certain Counties

IC 33-38-2-1

Judge to appoint bailiff and riding bailiff

Sec. 1. The judge of the circuit, superior, criminal, probate, and juvenile courts in each county having a population of at least thirty-five thousand (35,000) shall appoint a bailiff and may appoint a riding bailiff for the judge's court, whose per diem shall be fixed by the court to be paid from the county treasury.

As added by P.L.98-2004, SEC.17.

IC 33-38-2-2

Bailiff or sheriff; county with population less than 35,000

Sec. 2. In counties having a population of less than thirty-five thousand (35,000), the judge of the circuit court may appoint a bailiff. However, if a bailiff is not appointed, the sheriff of the county shall perform the duties of the bailiff.

As added by P.L.98-2004, SEC.17.

IC 33-38-3

Chapter 3. Copy of Appointment of a City or Municipal Judge to the Clerk of Circuit Court

IC 33-38-3-1

Certified copy; clerk of circuit court

Sec. 1. When a person is appointed as judge of a city or municipal court, a certified copy of the appointment shall be sent by the appointing authority to the clerk of the circuit court of the county in which the city is located.

As added by P.L.98-2004, SEC.17.

IC 33-38-3-2

Certified copy; recorded

Sec. 2. The appointment described in section 1 of this chapter shall be recorded in the order book of the circuit court, and the record authorizes the clerk to certify that the judge is the:

(1) appointed;
(2) qualified; and
(3) acting;

judge of the city or municipal court for which the judge was appointed.

As added by P.L.98-2004, SEC.17.

IC 33-38-4

Chapter 4. Chief Clerk in Marion and Lake Counties

IC 33-38-4-1

Appointment

Sec. 1. The judge of the circuit court in a county having a population of at least four hundred thousand (400,000) may appoint a chief clerk for the court.

As added by P.L.98-2004, SEC.17.

IC 33-38-4-2

Salary

Sec. 2. The salary for the chief clerk:

(1) shall be fixed by the judge of the court;

(2) may not be more than four thousand eight hundred dollars ($4,800) per year; and

(3) shall be paid in monthly installments from the county treasury of the county in which the court is located.

As added by P.L.98-2004, SEC.17.

IC 33-38-4-3

Powers

Sec. 3. The chief clerk may administer oaths that are convenient or necessary to be administered in the discharge of the clerk's duties, for which there is no charge or expense incurred.

As added by P.L.98-2004, SEC.17.

IC 33-38-4-4

Qualifications

Sec. 4. The chief clerk must be:

(1) a graduate of an approved law school; and

(2) admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-4-5

Appropriation

Sec. 5. The county council of the county shall appropriate the money requested by the presiding judge of the circuit court for payment of the salary of the chief clerk, not exceeding the maximum amount of salary provided for by this section.

As added by P.L.98-2004, SEC.17.

IC 33-38-5
Chapter 5. Salaries

IC 33-38-5-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to sections 6 and 8 of this chapter by P.L.159-2005 apply only to increase the part of an annual salary payable after June 30, 2005.
As added by P.L.220-2011, SEC.540.

IC 33-38-5-1
Appropriation; state general fund contributions
Sec. 1. There is appropriated from the state general fund a sufficient amount to pay the state general fund contributions under this chapter.
As added by P.L.98-2004, SEC.17.

IC 33-38-5-2
Appropriation; county salaries
Sec. 2. The county councils of the counties of the state shall appropriate annually a sufficient amount to pay the county salaries under this chapter.
As added by P.L.98-2004, SEC.17.

IC 33-38-5-3
Multiple county judicial circuits
Sec. 3. (a) This section applies to a judicial circuit that is composed of more than one (1) county.
(b) The counties comprising a circuit to which this section applies are considered one (1) county for purposes of this chapter. Each county in the circuit shall pay part of the county salary in the same proportion as the county's individual classification factor bears to the classification factor of the judicial circuit.
As added by P.L.98-2004, SEC.17.

IC 33-38-5-4
Grading of counties
Sec. 4. For purposes of this chapter, each county is:
(1) graded on the basis of population and gross assessed valuation; and
(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).
As added by P.L.98-2004, SEC.17.

IC 33-38-5-5
Classes of counties; population; gross assessed valuation
Sec. 5. (a) The nine (9) classes of the several counties of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of

accounts not later than July 1 of each year. They are as follows:

(1) Population.

(2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The results obtained under subdivision (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).

(4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

Classification Factors

	High	Low	Class
No limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	no limit	9

As added by P.L.98-2004, SEC.17.

IC 33-38-5-6

Total annual salary for full-time judges

Sec. 6. (a) The annual salary of each full-time judge of a circuit, superior, municipal, county, or probate court is one hundred ten thousand five hundred dollars ($110,500), as adjusted after June 30, 2006, under section 8.1 of this chapter, paid by the state. In addition, a judge under this section may receive any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same

calendar year; and

(3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

As added by P.L.98-2004, SEC.17. Amended by P.L.159-2005, SEC.1.

IC 33-38-5-7

Juvenile court magistrate; source of salary

Sec. 7. Of the annual salary of a juvenile court magistrate, the county served by the magistrate shall pay forty-one thousand three hundred ninety-three dollars ($41,393). The balance of the annual salary shall be paid by the state from the state general fund.

As added by P.L.98-2004, SEC.17.

IC 33-38-5-8

Total annual salary; supreme court justices; appellate court judges

Sec. 8. (a) The annual salary for each justice of the supreme court is one hundred thirty-three thousand six hundred dollars ($133,600), as adjusted after June 30, 2006, under section 8.1 of this chapter.

(b) The annual salary for each judge of the court of appeals is one hundred twenty-nine thousand eight hundred dollars ($129,800), as adjusted after June 30, 2006, under section 8.1 of this chapter.

(c) The state shall pay the annual salaries prescribed in subsections (a) through (b) from the state general fund.

(d) In addition to salary, the state shall pay to a justice or judge, in equal monthly payments on the first day of each month from money in the state general fund not otherwise appropriated, the following annual subsistence allowances to assist in defraying expenses relating to or resulting from the discharge of the justice's or judge's

official duties:

(1) Five thousand five hundred dollars ($5,500) to the chief justice of the supreme court.

(2) Five thousand five hundred dollars ($5,500) to the chief judge of the court of appeals.

(3) Three thousand dollars ($3,000) to each justice of the supreme court who is not the chief justice.

(4) Three thousand dollars ($3,000) to each judge of the court of appeals who is not the chief judge.

A justice or judge is not required to make an accounting for an allowance received under this subsection.

(e) The state may not furnish automobiles for the use of justices or judges compensated under this section.

As added by P.L.98-2004, SEC.17. Amended by P.L.159-2005, SEC.2.

IC 33-38-5-8.1

Salary increases for judges and justices in certain state fiscal years

Sec. 8.1. (a) Except as otherwise provided in this section, the part of the total salary of an official:

(1) paid by the state; and

(2) set under section 6 or 8 of this chapter;

is increased in each state fiscal year in which the general assembly does not amend the section of law under which the salary is determined to provide a salary increase for the state fiscal year.

(b) The percentage by which salaries are increased in a state fiscal year under this section is equal to the statewide average percentage, as determined by the budget director, by which the salaries of state employees in the executive branch who are in the same or a similar salary bracket exceed, for the state fiscal year, the salaries of executive branch state employees in the same or a similar salary bracket that were in effect on July 1 of the immediately preceding state fiscal year.

(c) The amount of a salary increase under this section is equal to the amount determined by applying the percentage increase for the particular state fiscal year to the salary payable by the state, as previously adjusted under this section, that is in effect on June 30 of the immediately preceding state fiscal year. However, a salary increase that would otherwise occur under this section in the state fiscal year beginning July 1, 2011, or in the state fiscal year beginning July 1, 2012, shall not occur unless the increase for that state fiscal year is approved by the chief justice of the supreme court.

(d) An official is not entitled to receive a salary increase under this section in a state fiscal year in which state employees described in subsection (b) do not receive a statewide average salary increase.

(e) If a salary increase is required under this section, the budget director shall augment judicial appropriations, including the line items for personal services for the supreme court, local judges' salaries, and county prosecutors' salaries, in the state biennial budget in an amount sufficient to pay for the salary increase from the

sources of funds determined by the budget director.
As added by P.L.159-2005, SEC.3. Amended by P.L.229-2011, SEC.265.

IC 33-38-5-8.2
Health care adjustment for employees of judicial branch; judicial branch insurance adjustment account

Sec. 8.2. (a) As used in this section, "account" refers to the judicial branch insurance adjustment account established by subsection (d).

(b) As used in this section, "employees of the judicial branch" includes the following:

(1) Each judge described in section 6 of this chapter.
(2) Each magistrate:
(A) described in section 7 of this chapter; and
(B) receiving a salary under IC 33-23-5-10.
(3) Each justice and judge described in section 8 of this chapter.
(4) The judge described in IC 33-26.
(5) A prosecuting attorney whose entire salary is paid by the state.

(c) Employees of the judicial branch are entitled to a health care adjustment in any year that the governor provides a health care adjustment to employees of the executive branch.

(d) The judicial branch insurance adjustment account within the state general fund is established for the purpose of providing health care adjustments under subsection (c). The account shall be administered by the supreme court.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(g) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(h) Money in the account is annually appropriated to the supreme court for the purpose of this section.

(i) If the funds appropriated for compliance with this section are insufficient, there is annually appropriated from the state general fund sufficient funds to carry out the purpose of this section.
As added by P.L.95-2004, SEC.16. Amended by P.L.2-2005, SEC.110.

IC 33-38-5-9
Schedule of working hours for courts

Sec. 9. (a) A judge described in section 6 of this chapter, the justices of the supreme court, and the judges of the court of appeals shall:

(1) formulate;
(2) post in a prominent place; and
(3) make available to the public;

a schedule of the working hours during which the court will be open and during which each judge or justice will be present.

(b) A judge or justice shall hold the court open and be available in the court during:

(1) regular business hours; or

(2) the hours specified on the schedule, if the business of the court requires evening or weekend sessions.

(c) A judge or justice may be absent from the court due to official business, matters relating to the judge's or justice's judicial office, illness, serious personal matters, or regular vacation.

As added by P.L.98-2004, SEC.17.

IC 33-38-5-10

Lowering of classification; limitation

Sec. 10. The classification of salary schedules for judges may not be lowered below the classification first fixed by the state board of accounts under this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-6
Chapter 6. Judges' Retirement System

IC 33-38-6-1
"Americans with Disabilities Act"
Sec. 1. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.
As added by P.L.98-2004, SEC.17.

IC 33-38-6-2
"Board"
Sec. 2. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.
As added by P.L.98-2004, SEC.17. Amended by P.L.23-2011, SEC.23.

IC 33-38-6-2.5
"Electronic funds transfer"
Sec. 2.5. As used in this chapter, IC 33-38-7, and IC 33-38-8, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).
As added by P.L.13-2011, SEC.5.

IC 33-38-6-3
"Employer"
Sec. 3. As used in this chapter, "employer" means the state of Indiana.
As added by P.L.98-2004, SEC.17.

IC 33-38-6-4
"Fiscal year"
Sec. 4. As used in this chapter, "fiscal year" means the period beginning July 1, in any year, and ending June 30 of the succeeding year.
As added by P.L.98-2004, SEC.17.

IC 33-38-6-5
"Fund"
Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by section 12 of this chapter.
As added by P.L.98-2004, SEC.17.

IC 33-38-6-6
"Internal Revenue Code"
Sec. 6. As used in this chapter, "Internal Revenue Code":
(1) means the Internal Revenue Code of 1954, as in effect September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-7
"Judge"

Sec. 7. As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.
(2) Court of appeals.
(3) Indiana tax court.
(4) Circuit court of a judicial circuit.
(5) Superior court of a county.
(6) Criminal court of a county having a separate criminal court.
(7) Probate court of a county having a separate probate court.
(8) Juvenile court of a county having a separate juvenile court.
(9) Municipal court of a county.
(10) County court of a county.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-8
"Judge pro tempore service"

Sec. 8. As used in this chapter, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

(1) is not covered by IC 33-38-7 or IC 33-38-8; and
(2) is served by a person who has other service that is covered by IC 33-38-7 or IC 33-38-8.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-9
"Participant"

Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund. After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.6.

IC 33-38-6-10
"Salary"

Sec. 10. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-11
"Services"

Sec. 11. As used in this chapter, "services" means the period

beginning on the first day a person first becomes a judge or, after December 31, 2010, a judge or full-time magistrate, and ending on the date under consideration and includes all intervening employment as a judge or, after December 31, 2010, a judge or full-time magistrate.
As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.7.

IC 33-38-6-12
Indiana judges' retirement fund

Sec. 12. The Indiana judges' retirement fund is established and consists of:

(1) each participant's contribution to the fund;
(2) gifts, grants, devises, and bequests in money, property, or other forms made to the fund;
(3) interest on investments or on deposits of the funds; and
(4) contributions or payments to the fund made in the manner provided by the general assembly, including appropriations from the state general fund as provided by this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-13
Qualification of fund under Internal Revenue Code

Sec. 13. The fund must satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter IC 33-38-7, or IC 33-38-8:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter, IC 33-38-7, and IC 33-38-8.
(2) A part of the corpus or income of the fund may not be used or diverted to a purpose other than the exclusive benefit of the participants and their beneficiaries.
(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits a participant would otherwise receive under the fund.
(4) If the fund is terminated or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.
(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin not later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) The salary taken into account under this chapter, IC 33-38-7, or IC 33-38-8 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-14

Administration of fund

Sec. 14. The board shall administer the fund in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the act.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-15

Law governing participation, contributions, withdrawals, and benefits; Family and Medical Leave Act; Uniformed Services Employment and Reemployment Act

Sec. 15. (a) Conditions for participation in the fund, contributions to the fund, withdrawal from the fund, and eligibility for and computation of benefits for participants and their survivors are governed by IC 33-38-7 and IC 33-38-8.

(b) Notwithstanding any provision of this chapter, IC 33-38-7, or IC 33-38-8, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A participant on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act but is not entitled to receive credit for service for benefit purposes.

(c) Notwithstanding any provision of this chapter, IC 33-38-7, and IC 33-38-8, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

As added by P.L.98-2004, SEC.17.

IC 33-38-6-16

Referendum of judges concerning federal Social Security agreement

Sec. 16. (a) The governor may conduct, or cause to be conducted, a referendum for the judges who are covered by the provisions of the judges' retirement fund to determine whether the judges covered by the retirement fund shall be excluded from or included in the agreement negotiated under the provisions of Section 218 of the federal Social Security Act (as defined in IC 5-10.1-1-9). The referendum must be conducted in full compliance with all the requirements of Section 218(d) of the federal Social Security Act. The governor shall designate the board as the agency to conduct and supervise the referendum, and the expense of conducting the referendum shall be paid from funds appropriated to the fund.

(b) If the majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the negative, the board may request that a subsequent referendum be conducted in the same manner and with the same effect described in subsection (a). However, a subsequent referendum may not be conducted within one (1) year after the date of the prior referendum.

(c) If a majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the affirmative, both the:

(1) judges covered by the retirement fund; and

(2) judges who waived their right to be covered by the provisions of the retirement fund;

shall be included in the agreement negotiated by the state with the Secretary of the United States Department of Health and Human Services in the same manner provided in IC 5-10.1-4 for the inclusion of services covered by the retirement systems specified in IC 5-10.1-4-1 in the agreement.

(d) Each judge whose services are covered by Social Security is required to pay during the period of the judge's service the employee contributions required by the agreement. The contributions shall begin on the effective date of the judge's coverage and are subject to the terms and conditions of IC 5-10.1.

(e) The auditor of state shall pay the employer contributions required under the agreement wholly from funds appropriated to the fund, and the contributions begin on the effective date of the modification that adds the judges of the fund to the federal-state agreement. The employer contributions shall be paid in the manner provided in the agreement.

(f) The modification of the federal-state agreement to effectuate the participation of the judges in the agreement must be effective for services performed on a date fixed and determined by the board.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-17

Appropriation from state general fund

Sec. 17. (a) For purposes of this chapter, there is appropriated for each biennium a sum of money, computed on an actuarially funded basis, as follows:

(1) From the state general fund for participants' retirement

benefits, the amount determined by the board, on recommendation of an actuary, which, when added to the part of the fund held for benefits at the date of the appropriation, is equal to the total liability of the fund for benefits to the end of the biennium.

(2) From the earnings on the fund, for administration purposes, the amount required during the biennium, as determined by the board on the basis of experience. The amount required for administration shall be paid out as the operating expenses of other state departments are paid.

(b) The biennial appropriation provided in this section shall be credited to the board annually in equal installments in July of each year of the biennium.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-18

Use of appropriated funds

Sec. 18. The amount appropriated under section 17 of this chapter for participants' retirement benefits shall be used for retirement benefits under IC 33-38-7 and IC 33-38-8.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-19

Fund construed as a trust

Sec. 19. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to secure payment of benefits to the participants and their beneficiaries, as prescribed in IC 33-38-7 and IC 33-38-8.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-20

Use of fund for administrative costs

Sec. 20. In addition to the purpose set forth in section 19 of this chapter, the fund may be used for the payment of the costs of administering this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-21

Warrants to participants

Sec. 21. (a) When drawing a salary warrant for a participant, the auditor of state and the county auditor shall deduct from the amount of the warrant the participant's contribution, if any, to the fund in the amount certified in the vouchers or an order issued by the director.

(b) The auditor of state and the county auditor shall draw a warrant to the fund for the total contributions withheld from the participants each month. The warrant drawn to the fund together with a list of participants and the amount withheld from each participant shall be transmitted immediately to the director.

(c) After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a

participant under this section by electronic funds transfer in accordance with section 21.5 of this chapter.
As added by P.L.98-2004, SEC.17. Amended by P.L.13-2011, SEC.6.

IC 33-38-6-21.5
Submission of contributions, reports, and records electronically

Sec. 21.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2011, under this chapter, IC 33-38-7, and IC 33-38-8.

(b) An employer shall submit through the use of electronic funds transfer:

(1) employer payments made to fund the retirement, disability, and survivor benefits described in this chapter, IC 33-38-7, and IC 33-38-8; and

(2) contributions paid by or on behalf of a participant under section 21 of this chapter, IC 33-38-7-10, or IC 33-38-8-11.

(c) An employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter, IC 33-38-7, or IC 33-38-8.

(d) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter, IC 33-38-7, or IC 33-38-8.
As added by P.L.13-2011, SEC.7.

IC 33-38-6-22
Salary warrants indicating deductions of contributions

Sec. 22. The auditor of state and the county auditor in the preparation of salary warrants to participants shall indicate on the payroll voucher the following information, in addition to other things:

(1) The amount of the participant's contribution to the fund deducted from the salary of the participant.

(2) The net amount payable to the participant, after the deduction of the participant's contribution.
As added by P.L.98-2004, SEC.17.

IC 33-38-6-23
Administration of fund; confidentiality of fund records

Sec. 23. (a) The board of trustees of the Indiana public retirement system (referred to as "the system" in this section) shall administer the fund, which may be commingled for investment purposes with any public pension and retirement fund administered by the system.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8.

(2) In accordance with the powers and duties granted it in IC 5-10.3-3-7.1, IC 5-10.3-5-3 through IC 5-10.3-5-6, IC 5-10.5-4, and IC 5-10.5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter and

IC 33-38-7 and IC 33-38-8.

(4) Authorize deposits.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board; and

(2) the attorney general;

with respect to the fund are those specified in IC 5-10.3-3, IC 5-10.3-4, IC 5-10.5-4, and IC 5-10.5-6.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

As added by P.L.98-2004, SEC.17. Amended by P.L.94-2004, SEC.6; P.L.99-2010, SEC.9; P.L.13-2011, SEC.8; P.L.35-2012, SEC.103.

IC 33-38-6-24

Rollover to eligible retirement plan

Sec. 24. Notwithstanding any other provision of this chapter, IC 33-38-7, or IC 33-38-8, to the extent required by Internal Revenue Code Section 401(a)(31) of the Internal Revenue Code, as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31) of the Internal Revenue Code, the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-25

Service credit; contributions for service as judge or full-time magistrate

Sec. 25. (a) A judge or, after December 31, 2010, a judge or full-time magistrate, is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge or, after December 31, 2010, a judge or full-time magistrate, is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December

31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.8.

IC 33-38-6-26

Judge pro tempore service credit; conditions

Sec. 26. (a) A participant may purchase judge pro tempore service credit if:

(1) the participant has at least one (1) year of service in the fund;

(2) before the participant retires, the participant makes contributions to the fund:

(A) that are equal to the product of:

(i) the participant's salary at the time the participant actually makes a contribution for the service credit; multiplied by

(ii) a percentage rate, as determined by the actuary of the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; multiplied by

(iii) the number of years of judge pro tempore service the participant intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

(3) the fund receives verification from the applicable court that the judge pro tempore service occurred.

(b) A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

(c) A participant who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(e) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17.

IC 33-38-6-27

Reference to judges' retirement system

Sec. 27. A reference to the judges' retirement system under this chapter is considered a reference to the judges' retirement fund under this article.

As added by P.L.98-2004, SEC.17.

IC 33-38-6.9

Chapter 6.9. Application of Certain Statutes to the 1977 and the 1985 Retirement, Disability, and Death Systems

IC 33-38-6.9-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system.

As added by P.L.220-2011, SEC.541. Amended by P.L.35-2012, SEC.104.

IC 33-38-6.9-2

Application of certain amendments to prior law

Sec. 2. IC 33-13-9.1-4 (before its repeal, now codified at IC 33-38-7-11), IC 33-13-10.1-7 (before its repeal, now codified at IC 33-38-8-14), IC 33-13-10.1-9 (before its repeal, now codified at IC 33-38-8-16), and IC 33-13-10.1-10 (before its repeal, now codified at IC 33-38-8-17), all as amended by P.L.282-1995, apply to all benefits paid under IC 33-13-9.1 (before its repeal, now codified at IC 33-38-7) and IC 33-13-10.1 (before its repeal, now codified at IC 33-38-8) after June 30, 1995, but do not require the board to recompute any benefits that were paid under IC 33-13-9.1 (before its repeal, now codified at IC 33-38-7) or IC 33-13-10.1 (before its repeal, now codified at IC 33-38-8), before July 1, 1995.

As added by P.L.220-2011, SEC.541.

IC 33-38-6.9-3

Application of certain amendments to IC 33-38-7-11

Sec. 3. The amendments made to IC 33-38-7-11 by P.L.28-2005 apply:

(1) to participants in the judges' 1977 retirement, disability, and death benefit system regardless of whether the participants:

(A) retired before July 1, 2005; or

(B) retire after June 30, 2005; and

(2) only to benefits first payable after June 30, 2005.

As added by P.L.220-2011, SEC.541.

IC 33-38-6.9-4

Application of certain amendments to IC 33-38-8-13

Sec. 4. The amendments made to IC 33-38-8-13 by P.L.28-2005 apply:

(1) to participants in the judges' 1985 retirement, disability, and death benefit system regardless of whether the participants:

(A) retired before July 1, 2005; or

(B) retire after June 30, 2005; and

(2) only to benefits first payable after June 30, 2005.

As added by P.L.220-2011, SEC.541.

IC 33-38-7

Chapter 7. 1977 Retirement, Disability, and Death System

IC 33-38-7-0.2

Prior law intended to be codification of certain repealed statutes; no effect on rights, liabilities, penalties, crimes, and proceedings before September 1, 1985

Sec. 0.2. (a) As used in this section, "prior law" refers to IC 33-13-9.1 (before its repeal).

(b) As used in this section, "repealed statutes" refers to the following:

(1) IC 33-13-8-1.
(2) IC 33-13-8-4.
(3) IC 33-13-8-10.
(4) IC 33-13-8-10.1.
(5) IC 33-13-8-11.
(6) IC 33-13-8-12.
(7) IC 33-13-8-13.
(8) IC 33-13-8-14.1.

(c) The prior law was intended to be a codification and restatement of applicable or corresponding provisions of the repealed statutes. If the prior law replaces a law in the same form or in a restated form, the substantive operation and effect of that repealed statute continue uninterrupted.

(d) The prior law and the repeal of the repealed statutes do not affect:

(1) rights or liabilities accrued;
(2) penalties incurred;
(3) crimes committed; or
(4) proceedings begun;

before September 1, 1985. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced as if the prior law had not been enacted and the repealed statutes had not been repealed.

As added by P.L.220-2011, SEC.542.

IC 33-38-7-1

Application of chapter

Sec. 1. This chapter applies only to an individual who begins service as a judge before September 1, 1985.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-2

"Americans with Disabilities Act"

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-3

"Board"

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.98-2004, SEC.17. Amended by P.L.23-2011, SEC.24.

IC 33-38-7-4

"Employer"

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-5

"Fund"

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-6

"Internal Revenue Code"

Sec. 6. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-7

"Participant"

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-8

"Salary"

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-9

"Services"

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-10
Participants; contributions

Sec. 10. (a) A person who completed at least eight (8) years of service as a judge before July 1, 1953, may become a participant in the fund and be subject to this chapter if the person qualifies for benefits under section 11 of this chapter. A person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to this chapter, beginning on July 1, 1953, unless twenty (20) days before July 1, 1953, the judge files with the board a written notice of election not to participate in the fund.

(b) A person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and

(2) is not a participant in the fund;

becomes a participant in the fund and is subject to this chapter, beginning on the date the person becomes a judge, unless within twenty (20) days after that date the judge files with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) A person who irrevocably:

(1) elects not to participate in the fund; or

(2) withdraws from the fund under section 13 of this chapter;

is ineligible to participate and to receive benefits under this chapter.

(d) Participation of a judge in the fund continues until the date on which the judge:

(1) becomes an annuitant;

(2) dies; or

(3) accepts a refund;

but a person is not required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) A participant is considered to have made a one (1) time irrevocable salary reduction agreement of six percent (6%) of each payment of salary that a participant would otherwise have received for services as a judge.

(f) The auditor of state and the county auditor shall pay and credit to the fund the amounts described in subsection (e) as provided in IC 33-38-6-21 and IC 33-38-6-22. After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a participant under subsection (e) by electronic funds transfer in accordance with IC 33-38-6-21.5. However, no amounts shall be paid on behalf of a participant for more than twenty-two (22) years.

As added by P.L.98-2004, SEC.17. Amended by P.L.13-2011, SEC.9.

IC 33-38-7-11
Retirement annuities; termination of employment; requirements; computation of amount

Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date the annuity begins is not:

(A) before the date of final termination of employment by the participant; or

(B) the date thirty (30) days before the receipt of the participant's written application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:

(A) a judge (as defined in IC 33-38-6-7); or

(B) a magistrate under IC 33-23-5.

(c) A participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and

(B) is at least sixty-five (65) years of age; or

(2) who:

(A) elects to accept retirement after June 30, 1999;

(B) is at least fifty-five (55) years of age; and

(C) meets the requirements under subsection (b)(2)(B);

is entitled to an annual retirement benefit as calculated in subsection (d).

(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:

(1) the salary being paid for the office that the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%

17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. A participant who elects to accept retirement before July 1, 1977, is entitled to an annual retirement benefit that equals the average of the benefit computed under this subsection and the benefit the participant would have received under IC 33-38-6 as in effect on June 30, 1977.

(e) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (d), is less than the amount the participant would have received under IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to receive the greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (d).

(f) Except as provided in subsections (b)(2)(B) and (d), if a participant who elects to accept retirement after June 30, 1977, has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(g) A participant who is permanently disabled is entitled to an annual benefit equal to the product of:

(1) the salary being paid for the office that the participant held at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%

20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(h) The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars ($2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(i) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (h)(2).

(j) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not

still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under subsection (h), (i), or (j), is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child, if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

As added by P.L.98-2004, SEC.17. Amended by P.L.28-2005, SEC.1.

IC 33-38-7-12
Permanent disability of participants; transcripts, records, and other materials

Sec. 12. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) A participant is considered permanently disabled if the board has received a written certificate by at least two (2) licensed and practicing physicians, appointed by the board, indicating that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(c) The participant shall be reexamined by at least two (2) physicians appointed by the board at the times as the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits cease to be payable as of the date of the examination unless, on that date, the participant is:

(1) at least sixty-five (65) years of age; or

(2) at least fifty-five (55) years of age and meets the requirements under section 11(b)(2)(B) of this chapter.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-13
Withdrawal of participant from fund

Sec. 13. (a) Except as otherwise provided in this chapter, a participant:

(1) whose employment as a judge is terminated regardless of cause; and

(2) who has less than twelve (12) years service;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant plus interest at a rate specified by rule by the board, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.

As added by P.L.98-2004, SEC.17. Amended by P.L.16-2011, SEC.2.

IC 33-38-7-14
Payments to participant's surviving spouse, dependents, or estate

Sec. 14. (a) Benefits provided under this section are subject to

IC 33-38-6-13 and section 16 of this chapter.

(b) If annuities are not payable to the survivors of a participant who dies after July 1, 1983, the surviving spouse or child or children of the participant, if any, as determined by the participant, and if none survive, then any dependent or dependents surviving shall draw from the fund the amount that the participant paid into the fund plus interest at a rate specified by rule by the board. If no spouse, child or children, or other dependents survive, then the amount, plus interest at a rate specified by rule by the board and minus any payments made to the participant, shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child or children, or other dependent, or estate under this section is payable within sixty (60) days after date of the withdrawal application or in the monthly installments as the recipient may elect.

As added by P.L.98-2004, SEC.17. Amended by P.L.16-2011, SEC.3.

IC 33-38-7-15

Annuities; payment to dependent children

Sec. 15. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If a participant's spouse does not survive the participant, and a child is not designated and entitled to receive an annuity under section 11 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to an annuity in an amount equal to the annuity the participant's spouse would have received under section 11 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, then that dependent child is entitled to receive an annuity in an amount equal to the annuity the spouse was receiving or would have received under section 11 of this chapter.

(d) If there is more than one (1) dependent child, the dependent children are entitled to share the annuity equally.

(e) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-16

Benefits limitations under Internal Revenue Code

Sec. 16. Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988 (P.L.100-647). This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code

(other than Section 415(b)(2)(G)) applied without regard to Section 415(b)(2)(F) (before its repeal on June 7, 2001, by P.L.107-16) to anyone who did not first become a participant before January 1, 1990.

As added by P.L.98-2004, SEC.17. Amended by P.L.42-2011, SEC.67.

IC 33-38-7-17

Service credit; contributions after retirement for subsequent service as judge

Sec. 17. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

As added by P.L.98-2004, SEC.17.

IC 33-38-7-18

Credit for prior service; rollover distributions; trustee to trustee transfers

Sec. 18. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate either:

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior or subsequent service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the service

liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service earned as a judge in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the

applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17. Amended by P.L.68-2007, SEC.1; P.L.180-2007, SEC.8.

IC 33-38-7-19

Credit for prior service; rollover distributions; trustee to trustee transfers

Sec. 19. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of an Indiana public employees' retirement fund;

(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977

benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund that is purchased under this section is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.9; P.L.16-2011, SEC.4.

IC 33-38-8

Chapter 8. 1985 Retirement, Disability, and Death System

IC 33-38-8-1

Application of chapter

Sec. 1. This chapter applies only to an individual who:

(1) begins service as a judge after August 31, 1985;

(2) is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter; or

(3) begins service as a full-time magistrate after July 1, 2010.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.10.

IC 33-38-8-2

"Americans with Disabilities Act"

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-3

"Board"

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.98-2004, SEC.17. Amended by P.L.23-2011, SEC.25.

IC 33-38-8-4

"Employer"

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-5

"Fund"

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-6

"Internal Revenue Code"

Sec. 6. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-7
"Participant"

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund. After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.
As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.11.

IC 33-38-8-8
"Salary"

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.
As added by P.L.98-2004, SEC.17.

IC 33-38-8-9
"Services"

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge or, after December 31, 2010, a judge or full-time magistrate, and ending on the date under consideration and includes all intervening employment as a judge or, after December 31, 2010, a judge or full-time magistrate.
As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.12.

IC 33-38-8-10
Participants

Sec. 10. (a) A person who:

(1) begins service as a judge after August 31, 1985; and

(2) is not a participant in the fund;

shall become a participant in the fund.

(b) A person who is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter is, beginning January 1, 2011, a participant in the judges' 1985 benefit system under this chapter.

(c) A person who begins serving as a full-time magistrate after July 1, 2010, is a participant in the judges' 1985 benefit system under this chapter beginning on the later of the following:

(1) January 1, 2011.

(2) The date the person begins service as a full-time magistrate.
As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.13.

IC 33-38-8-10.5
Magistrate election to participate in benefit system

Sec. 10.5. A person who is serving as a full-time magistrate on July 1, 2010, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:

(1) must be made in writing;
(2) must be filed with the board, on a form prescribed by the board, before October 1, 2010; and
(3) is irrevocable.

As added by P.L.122-2008, SEC.14.

IC 33-38-8-11
Contributions

Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge or, after December 31, 2010, as a judge or full-time magistrate. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. After December 31, 2011, the auditor of state and the county auditor shall submit the contributions paid by or on behalf of a participant under subsection (a) by electronic funds transfer in accordance with IC 33-38-6-21.5. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or
(2) during any period that the participant is not serving as judge or, after December 31, 2010, as a judge or full-time magistrate.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.15; P.L.13-2011, SEC.10.

IC 33-38-8-12
Withdrawal of participant from fund

Sec. 12. (a) A participant who:

(1) ceases service:
(A) as a judge; or
(B) after December 31, 2010, as a judge or full-time magistrate;
other than by death or disability; and
(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed plus interest at a rate specified by rule by the board, payable within sixty (60) days from the date of the withdrawal application or in monthly installments as the participant may elect.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.16; P.L.16-2011, SEC.5.

IC 33-38-8-13
Retirement benefits; termination of employment; conditions

Sec. 13. A participant whose employment as a judge or, after December 31, 2010, as a judge or full-time magistrate, is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date on which the benefit begins is not:
(A) before the date of final termination of employment of the participant; or
(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:
(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;
(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or
(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed as:
(A) a judge (as defined in IC 33-38-6-7); or
(B) a magistrate under IC 33-23-5.

As added by P.L.98-2004, SEC.17. Amended by P.L.28-2005, SEC.2; P.L.122-2008, SEC.17.

IC 33-38-8-14
Retirement benefits; computation of amount

Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:
(1) applies for a retirement benefit; and
(2) is at least:
(A) sixty-five (65) years of age; or
(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:
(1) the applicable salary determined under subsection (e); multiplied by
(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%

13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(e) The applicable salary is one (1) of the following:

(1) The salary that was being paid to the participant at the time of the participant's separation from service for:

(A) a participant who applies to receive a retirement benefit from the fund before January 1, 2010; or

(B) a participant who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund, but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009.

(2) The salary being paid for the office that the participant held at the time of the participant's separation from service for a participant who:

(A) applies to receive a benefit after December 31, 2009; and

(B) is not a participant described in subdivision (1)(B).

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.18.

IC 33-38-8-15
Permanent disability of participants; certification; recovery; transcripts, reports, records, and other materials

Sec. 15. (a) A participant is considered to have a permanent disability if the board has received a written certification by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) The participant shall be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits shall cease to be payable as of the date of the examination unless, on that date, the participant is at least:

(1) sixty-five (65) years of age; or

(2) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by P.L.98-2004, SEC.17. Amended by P.L.99-2007, SEC.198.

IC 33-38-8-16
Permanent disability of participants; amount of benefits

Sec. 16. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who becomes permanently disabled is entitled to an annual benefit that equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%

22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.
As added by P.L.98-2004, SEC.17.

IC 33-38-8-17
Death of participant; benefits of surviving spouse or children

Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge or, after December 31, 2010, as a judge or full-time magistrate;

(C) had a permanent disability; or

(D) had completed at least eight (8) years of service, was not still in service as a judge or, after December 31, 2010, as a judge or full-time magistrate, and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in

equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

As added by P.L.98-2004, SEC.17. Amended by P.L.99-2007, SEC.199; P.L.122-2008, SEC.19.

IC 33-38-8-18

Death of participant; benefits of dependent children

Sec. 18. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) If a participant's spouse does not survive the participant, and there is no child designated and entitled to receive a benefit under section 17 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 17 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, the dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 17 of this chapter.

(d) If there is more than one (1) dependent child, then the dependent children are entitled to share the benefit equally.

(e) A dependent child is entitled to receive the child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-19
Death of participant; payments when no benefits payable to survivors

Sec. 19. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions, plus interest at a rate specified by rule by the board and minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant or a child or children of the participant, as designated by the participant;

(2) any other dependent or dependents of the participant, if a spouse or designated child or children does or do not survive; or

(3) the participant's estate, if a spouse, designated child or children, or other dependent does or do not survive.

(c) The amount owed a spouse, designated child or children, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the withdrawal application or in the monthly installments as the recipient elects.

As added by P.L.98-2004, SEC.17. Amended by P.L.16-2011, SEC.6.

IC 33-38-8-20
Maximum annual benefit under Internal Revenue Code

Sec. 20. Notwithstanding any other provision of this chapter, benefits paid under this chapter may not exceed the maximum annual benefit specified by Section 415 of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17.

IC 33-38-8-21
Service credit; contributions for service as judge or full-time magistrate

Sec. 21. (a) A judge or, after December 31, 2010, a judge or full-time magistrate, is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge or, after December 31, 2010, a judge or full-time magistrate, is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under

IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

(1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and

(2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.20.

IC 33-38-8-22

Judge's credit for service as full-time referee or commissioner; credit for pre-2011 service as full-time magistrate; rollover distributions; trustee to trustee transfers

Sec. 22. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) was appointed by a court to serve as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate, either:

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant as a judge in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the judge as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in

subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept,

on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.21.

IC 33-38-8-22.5

Magistrate's credit for service as full-time referee or commissioner; credit for pre-2011 service as full-time magistrate; rollover distributions; trustee to trustee transfers

Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:

(1) is a full-time magistrate participating under this chapter;

(2) was appointed by a court to serve as:

(A) a full-time referee or full-time commissioner; or

(B) before January 1, 2011, a full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund; and

(2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate that is purchased under this section is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.122-2008, SEC.22. Amended by P.L.16-2011,

SEC.7.

IC 33-38-8-23
Credit for prior service as member of Indiana public employees' retirement fund; rollover distributions; trustee to trustee transfers

Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

participating under this chapter;

(2) before becoming:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for service credit under section 22 or 22.5 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge or full-time magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's or full-time magistrate's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund that is purchased

under this section is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.17. Amended by P.L.122-2008, SEC.23; P.L.16-2011, SEC.8.

IC 33-38-8-24

Cost of living adjustments payable after December 31, 2007, and December 31, 2008

Sec. 24. (a) This subsection applies to participants, survivors, and beneficiaries receiving benefits as of December 31, 2007. The amount of the monthly benefit received by a participant, survivor, or beneficiary as of December 31, 2007, shall be increased by two percent (2%). The increase under this subsection applies to monthly benefits paid after December 31, 2007.

(b) This subsection applies to participants, survivors, and beneficiaries receiving benefits as of December 31, 2008. The amount of the monthly benefit received by a participant, survivor, or beneficiary as of December 31, 2008, shall be increased by two percent (2%). The increase under this subsection applies to monthly benefits paid after December 31, 2008.

As added by P.L.68-2007, SEC.2.

IC 33-38-8-25

Cost of living adjustments for certain participants

Sec. 25. (a) This section applies:

(1) only to a participant:

(A) who applies to receive a retirement benefit from the fund

before January 1, 2010; or

(B) who:

(i) before January 1, 2010, separates from service;

(ii) is entitled to receive a retirement benefit from the fund but does not apply before January 1, 2010, to receive a retirement benefit; and

(iii) does not earn any service credit in the fund after December 31, 2009; and

(2) only in state fiscal years beginning after June 30, 2010.

(b) If a salary increase is provided in a particular state fiscal year under IC 33-38-5-8.1, the monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which salaries are increased under IC 33-38-5-8.1(b) in that state fiscal year. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-8.1 takes effect.

(c) This subsection applies only if:

(1) a salary increase is not provided in a particular state fiscal year under IC 33-38-5-8.1; and

(2) the salary of a judge is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly in the state fiscal year.

The monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the general assembly takes effect.

(d) An increase payable under this section may not include any amount based on the percentage by which any salary provided by a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is increased.

As added by P.L.122-2008, SEC.24.

IC 33-38-9

Chapter 9. Judicial Conference of Indiana and the Indiana Judicial Center

IC 33-38-9-1

"Judicial conference" defined

Sec. 1. As used in this chapter, "judicial conference" refers to the judicial conference of Indiana established by section 3 of this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-9-2

"Trial court judges" defined

Sec. 2. As used in section 4 of this chapter, "trial court judges" refers only to those trial court judges who are members of the judicial conference under section 3 of this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-9-3

Judicial conference; membership

Sec. 3. (a) The judicial conference of Indiana is established.

(b) The membership of the judicial conference consists of the following:

(1) All justices of the supreme court.

(2) All judges of the court of appeals.

(3) The judge of the tax court.

(4) All circuit, superior, and probate court judges.

(5) All municipal court judges who are serving on a full-time basis.

(6) Any retired judge who serves as a special judge and notifies the conference of the service.

(c) A full-time magistrate under IC 33-23-5 is a nonvoting member of the conference.

As added by P.L.98-2004, SEC.17. Amended by P.L.201-2011, SEC.104.

IC 33-38-9-4

Board of directors; members; chairperson; judicial center, executive director, and staff personnel

Sec. 4. (a) The activities of the judicial conference shall be directed by a board of directors having the following members:

(1) The chief justice of Indiana.

(2) The chief judge of the court of appeals.

(3) The president of the Indiana judges association.

(4) The president of the Indiana council of juvenile court judges.

(5) One (1) judge from each of the trial court districts established by the supreme court, elected for a term of two (2) years by the trial court judges of the district.

(6) Five (5) trial court judges appointed for terms of one (1)

year by the chief justice of Indiana.

(b) The chief justice of Indiana shall serve as chairperson of the board of directors. The judicial conference, through the board of directors:

(1) shall establish a staff agency to be designated the Indiana judicial center; and

(2) may establish positions for an executive director, staff personnel, and other necessary personnel.

All personnel of the Indiana judicial center shall be appointed by the chief justice of Indiana, and their salaries shall be fixed by the supreme court, subject to appropriation by the general assembly.

As added by P.L.98-2004, SEC.17.

IC 33-38-9-5

Meetings of membership; committees; hearings; proposed legislation; review

Sec. 5. (a) The entire membership of the judicial conference shall meet:

(1) at least once a year at a time and place to be fixed by the board of directors; and

(2) at other times as may be designated by the board of directors.

(b) The judicial conference may create committees either upon action of the board of directors or by majority vote of the members attending a meeting of the judicial conference. The judicial conference, the board of directors, or any committee of the judicial conference may hold hearings on any question related to the duties set out in section 6 of this chapter. A proposal for legislation relating to courts that is made by the judicial conference shall be presented to the division of state court administration for study and recommendation by the division before being presented to the general assembly.

As added by P.L.98-2004, SEC.17.

IC 33-38-9-6

Duties of conference

Sec. 6. The judicial conference shall do the following:

(1) Promote an exchange of experience and suggestions regarding the operation of Indiana's judicial system.

(2) Promote the continuing education of judges.

(3) Seek to promote a better understanding of the judiciary.

(4) Act as administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under IC 11-13-4-3.

(5) Act as compact administrator for probationers participating in the interstate compact on juveniles under IC 11-13-4-3.

As added by P.L.98-2004, SEC.17.

IC 33-38-9-7

Attendance at meetings; per diem and travel allowances

Sec. 7. All members, including full-time magistrates, shall attend and those invited to participate may attend the meetings of the judicial conference. Per diem and travel allowances authorized by law shall be paid to the members and full-time magistrates attending from the annual appropriation to the judicial conference.
As added by P.L.98-2004, SEC.17.

IC 33-38-9-8
Roster of in-state facilities providing child services in residential settings

Sec. 8. (a) The Indiana judicial center shall maintain a roster of in-state facilities that have the expertise to provide child services (as defined in IC 31-9-2-17.8) in a residential setting to:

(1) children in need of services (as described in IC 31-34-1); or
(2) delinquent children (as described in IC 31-37-1 and IC 31-37-2).

(b) The roster under subsection (a) must include the information necessary to allow a court having juvenile jurisdiction to select an in-state placement of a child instead of placing the child in an out-of-state facility under IC 31-34 or IC 31-37. The roster must include at least the following information:

(1) Name, address, and telephone number of each facility.
(2) Owner and contact person for each facility.
(3) Description of the child services that each facility provides and any limitations that the facility imposes on acceptance of a child placed by a juvenile court.
(4) Number of children that each facility can serve on a residential basis.
(5) Number of residential openings at each facility.

(c) The Indiana judicial center shall revise the information in the roster at least monthly.

(d) The Indiana judicial center shall make the information in the roster readily available to courts with juvenile jurisdiction.
As added by P.L.98-2004, SEC.17. Amended by P.L.146-2008, SEC.677.

IC 33-38-9-9
Administration of alcohol and drug services programs; certification of problem solving courts

Sec. 9. The Indiana judicial center shall administer the following:

(1) The alcohol and drug services program under IC 12-23-14.
(2) The certification of problem solving courts under IC 33-23-16.

As added by P.L.98-2004, SEC.17. Amended by P.L.60-2006, SEC.7; P.L.108-2010, SEC.6.

IC 33-38-9-10
Reports

Sec. 10. (a) Beginning in 2011, the Indiana judicial center shall submit a report to the commission on courts established by

IC 33-23-10-1 by July 1 of each year concerning the status of problem solving courts. Each report must contain the following information:

(1) The number of problem solving courts certified by the Indiana judicial center.

(2) The number of courts that have notified the Indiana judicial center of their intention to establish a problem solving court.

(3) The number of each type of problem solving court, as set forth in IC 33-23-16-11, that have been established, including courts certified under IC 33-23-16-11(8).

(4) The success rates of problem solving courts with specific examples of successes and failures.

(5) Legislative suggestions to improve the certification or operation of problem solving courts.

(b) The first report required by this section must be submitted not later than July 1, 2011.

(c) This section expires June 30, 2014.

As added by P.L.108-2010, SEC.7.

IC 33-38-10
Chapter 10. Private Judges

IC 33-38-10-1
"Private judge" defined

Sec. 1. As used in this chapter, "private judge" means a person who is qualified to act as judge of a case under this chapter.
As added by P.L.98-2004, SEC.17.

IC 33-38-10-2
Persons who may act as private judge

Sec. 2. (a) A person who:

(1) has been but is not currently a judge of a circuit, superior, criminal, probate, municipal, or county court and has served in the capacity of judge for at least four (4) consecutive years;
(2) is admitted to the practice of law in Indiana; and
(3) is a resident of Indiana;

may act as judge for certain cases under this chapter.

(b) A person may act as a judge of a case under this chapter only if:

(1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom the parties wish to have as private judge;
(2) the case is one over which the court in which the former judge served would have had subject matter and monetary jurisdiction;
(3) the case is founded exclusively on contract, tort, or a combination of contract and tort; and
(4) the case is one in which a utility (as defined in IC 8-1-2-1) is not a party.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-3
Registration of former judges; list; petition to have case heard by private judge; appointment

Sec. 3. (a) A former judge qualified under section 2(a) of this chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

(1) compile;
(2) periodically update; and
(3) make available to the public;

a list of registered former judges.

(b) If the parties to an action wish to have the action heard before a private judge, the parties shall submit to the executive director of the division of state court administration a written petition as described in section 2(b)(1) of this chapter. After verifying that the former judge is qualified under section 2(a) of this chapter and is

registered under subsection (a), the executive director shall forward the petition to the former judge named on the petition.

(c) The regular or presiding judge of the court in which the action is filed shall appoint the private judge to hear the action if the written petition of the parties to the action and the written consent of the private judge to hear the action is presented to the regular or presiding judge:

(1) contemporaneously with the filing of the action; or

(2) after the action has been filed.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-4

Conduct of trial without jury; powers of judge; records; applicability of rules of civil procedure; appeals

Sec. 4. (a) A trial conducted by a private judge shall be conducted without a jury.

(b) A person who serves as a private judge has, for each case the private judge hears, the same powers as the judge of a circuit court in relation to:

(1) court procedure;

(2) deciding the outcome of the case;

(3) attendance of witnesses;

(4) punishment of contempts;

(5) enforcement of orders;

(6) administering oaths; and

(7) giving all necessary certificates for the authentication of the records and proceedings.

(c) All proceedings in an action heard by a private judge are of record and must be:

(1) filed with the clerk of the circuit court in the county of proper venue under the Indiana Rules of Trial Procedure; and

(2) made available to the public in the same manner as circuit court records.

(d) The Indiana Rules of Trial Procedure apply for all actions brought before a private judge. An appeal from an action or a judgment of a private judge may be taken in the same manner as an appeal from the circuit court of the county where the case is filed.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-5

Costs

Sec. 5. Costs in an action brought before a private judge shall be taxed and distributed in the same manner as costs in the circuit court of the county in which the case is filed.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-6

Clerk of court; sheriff; duties

Sec. 6. (a) The clerk of the circuit court of the county in which the case is filed serves as the clerk of the court for a case heard by a

private judge, and the sheriff of that county serves as the sheriff of the court for the case. The clerk and the sheriff shall attend the proceedings and perform the same duties relating to their offices as are required for the circuit court of the county in which the case is filed.

(b) The clerk of the circuit court of the county in which the case is filed shall provide to a private judge for each case all books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-7

Time and place of hearing; notice of proceeding

Sec. 7. (a) A case heard by a private judge may be heard:

(1) at any time; and

(2) at any place in Indiana;

that is mutually agreeable to all parties and the judge.

(b) There shall be posted in the office of the clerk of the circuit court of the county in which the case is filed, in a place accessible to the public, a notice of the date, time, and place of any proceeding, including:

(1) a hearing on a motion for judgment by default;

(2) a hearing for judgment on the pleadings;

(3) a hearing for summary judgment; and

(4) a trial upon the merits;

that could result in a judgment. The notice shall be posted at least three (3) days before the proceeding is conducted.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-8

Compensation and costs

Sec. 8. Notwithstanding the rules of trial procedure, a private judge may receive compensation for hearing a case in an amount and subject to the terms and conditions agreed to by the judge and the parties to the case. A contract for the services of a private judge must provide for the payment of the judge's compensation by the parties. In addition, the contract must include terms and conditions relating to:

(1) the compensation of all personnel; and

(2) the costs of all facilities and materials;

as determined by the clerk of the court that are used in relation to the case and not otherwise covered.

As added by P.L.98-2004, SEC.17.

IC 33-38-10-9

Adoption of rules by supreme court

Sec. 9. The supreme court shall adopt rules to carry out this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-11

Chapter 11. Temporary Judges

IC 33-38-11-1

Appointment; residence; term; juvenile law judge

Sec. 1. (a) The judge of a circuit or superior court may appoint temporary judges. Each temporary judge must be:

(1) a competent attorney admitted to the practice of law in Indiana; and

(2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts located:

(1) in the same county; or

(2) in counties that are adjacent to each other.

(c) An agreement under subsection (b) must:

(1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;

(2) specify the duration of the agreement, which may not exceed one (1) year; and

(3) permit a judge to end the participation of a court in the agreement.

As added by P.L.98-2004, SEC.17. Amended by P.L.201-2011, SEC.105.

IC 33-38-11-2

Powers; administration of oaths; certifying affidavits and depositions; subpoenas; preliminary hearings; warrants

Sec. 2. A temporary judge:

(1) may:

(A) administer all oaths and affirmations required by law;

(B) take and certify affidavits and depositions; and

(C) issue subpoenas for witnesses whose testimony is to be taken before the temporary judge;

(2) has the same power to compel the attendance of witnesses and to punish contempts as the judge of the court;

(3) may:

(A) conduct preliminary hearings in criminal matters;

(B) issue search warrants and arrest warrants; and

(C) fix bond; and

(4) may enforce court rules.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-3

Powers; hearing evidence; findings

Sec. 3. (a) Except as provided in subsection (b), a temporary judge

may hear evidence upon and report findings to the judge of the court for each probate, civil, criminal, and other case referred to the temporary judge by that judge. The temporary judge may:

(1) make the final judgment in these cases; and

(2) in a criminal case tried by the court, conduct all sentencing hearings in the case.

(b) If a defendant is being tried for a felony, the judge of the court shall conduct all sentencing hearings and make the final judgment in the case.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-4

Powers; civil jury trial

Sec. 4. A temporary judge may:

(1) conduct a jury trial;

(2) receive the verdict of the jury; and

(3) make and enter the judgment on the jury verdict;

in a civil case referred to the temporary judge by the judge of the court.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-5

Powers; criminal jury trial

Sec. 5. In a criminal jury trial referred to a temporary judge by the judge of the court, the temporary judge may conduct the trial, receive the verdict of the jury, conduct all sentencing hearings, and make all final judgments. However, if the criminal case is a case in which the defendant is being tried for a felony, the judge of the court shall:

(1) make the final judgment in the case; and

(2) conduct all sentencing hearings in the case.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-6

Limitation of rights and powers

Sec. 6. The judge of the court may:

(1) limit any of the rights or powers of the temporary judge specified in this chapter; and

(2) specifically determine the duties of the temporary judge within the limits established in this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-7

Service as judge pro tempore or special judge

Sec. 7. A temporary judge may serve as a judge pro tempore or a special judge of the court but is not entitled to additional compensation for that service.

As added by P.L.98-2004, SEC.17.

IC 33-38-11-8

Judicial mandate

Sec. 8. A temporary judge has no power of judicial mandate.
As added by P.L.98-2004, SEC.17.

IC 33-38-11-9
Compensation

Sec. 9. A temporary judge is entitled to twenty-five dollars ($25), paid by the county, for each day of service as a temporary judge.
As added by P.L.98-2004, SEC.17.

IC 33-38-11-10
Limitation on service; exceptions

Sec. 10. Except for:

(1) a temporary juvenile law judge appointed under section 1(b) of this chapter for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40; or

(2) a temporary judge appointed by a court located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000);

a temporary judge appointed under this chapter may not serve for more than sixty (60) calendar days in all during a calendar year.
As added by P.L.98-2004, SEC.17. Amended by P.L.13-2013, SEC.81.

IC 33-38-11-11
Scope of service

Sec. 11. A temporary judge appointed under this chapter may serve even though the judge of the court is present and presiding in the court.
As added by P.L.98-2004, SEC.17.

IC 33-38-12

Chapter 12. Defense and Indemnification of Judges for Civil Damages

IC 33-38-12-1

Application of chapter

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or proceeding that:

(1) results in the criminal conviction of; or

(2) is a disciplinary action or proceeding against;

a judge.

As added by P.L.98-2004, SEC.17.

IC 33-38-12-2

"Expenses" defined

Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the executive director of the division of state court administration to hire private counsel to provide the defense.

(2) A judgment.

(3) A settlement.

(4) Court costs.

(5) Discovery costs.

(6) Expert witness fees.

(7) Any other expense incurred as a result of an action or a proceeding.

As added by P.L.98-2004, SEC.17.

IC 33-38-12-3

"Judge" defined

Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

(1) Justice of the supreme court.

(2) Judge of the court of appeals.

(3) Judge of the tax court.

(4) Judge of a circuit court.

(5) Judge of a superior court.

(6) Judge of a probate court.

(7) Judge of a municipal court.

(8) Judge of a county court.

(9) Judge of a city court.

(10) Judge of a town court.

(11) Judge of a small claims court.

(12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.

(13) Bail commissioner.

(14) Magistrate.

(15) Master commissioner.

(16) Probate commissioner.
(17) Referee.
As added by P.L.98-2004, SEC.17.

IC 33-38-12-4
Payment of expenses

Sec. 4. The state shall pay the expenses incurred by a judge from a threatened, pending, or completed action or proceeding that arises from:
(1) making;
(2) performing; or
(3) failing to make or perform;
a decision, a duty, an obligation, a privilege, or a responsibility of the judge's office.
As added by P.L.98-2004, SEC.17.

IC 33-38-13

Chapter 13. The Commission on Judicial Qualifications and the Retirement, Discipline, and Removal of Justices and Judges

IC 33-38-13-1

Scope of law

Sec. 1. This chapter applies to all proceedings before the commission on judicial qualifications and masters involving the censure, retirement, or removal of justices of the supreme court and judges of the court of appeals, as provided by Article 7, Section 11 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-3

"Counsel" defined

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or commission with respect to the charges against a judge; and

(2) represent the commission before the supreme court in connection with any proceedings before the court.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-4

"Judge" defined

Sec. 4. As used in this chapter, "judge" means a judge of the court of appeals.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-5

"Mail" defined

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-6

"Masters" defined

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-7

"Presiding master" defined

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-8

Age; temporary judicial duties

Sec. 8. (a) Every justice of the supreme court and judge of the court of appeals shall retire at seventy-five (75) years of age.

(b) Notwithstanding subsection (a), the supreme court may authorize retired justices and judges to perform temporary judicial duties in any state court.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-9

Meeting of commissioners

Sec. 9. (a) The commission shall meet as necessary to discharge its statutory and constitutional responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum for the transaction of business.

(b) Meetings of the commission shall be held in Indiana as the chairman of the commission arranges.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct meetings and discharge its duties.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-10

Papers filed before and after institution of formal proceedings; confidentiality; public inspection

Sec. 10. (a) All papers filed with the commission before the institution of formal proceedings under section 14 of this chapter are confidential unless:

(1) the justice or judge against whom a recommendation has been filed elects to have the information divulged; or

(2) the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission during and after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. After the institution of formal proceedings, all hearings and proceedings before the commission or before the masters appointed under this chapter are open to the public.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-11

Privileged information

Sec. 11. Filing papers with and giving testimony before the commission or the masters appointed by the supreme court under this chapter are privileged.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-12

Complaint

Sec. 12. (a) A complaint filed with the commission must be in writing and directed to the commission or to any member of the commission.

(b) A specified form of complaint may not be required.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-13

Complaint; investigation

Sec. 13. (a) Any Indiana citizen may complain to the commission about the activities, fitness, or qualifications of a judge or justice. Upon receiving a complaint, the commission shall determine if the complaint is founded and not frivolous. If the commission determines that the complaint is frivolous or malicious, the commission shall file with the proper court charges against the complainant. The commission, without receiving a complaint, may conduct an initial inquiry on its own motion.

(b) If the commission determines it is necessary to investigate a justice or judge, the commission shall notify the justice or judge by prepaid registered or certified mail addressed to the justice or judge at the justice's or judge's chambers and last known residence. The notice must contain information concerning the following:

(1) The investigation.

(2) The nature of the complaint.

(3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.

(4) The opportunity to present matters as the justice or judge may choose.

If the investigation does not disclose sufficient cause to warrant further proceedings the justice or judge shall be so notified.

(c) The commission may do the following:

(1) Make investigations or employ special investigators.

(2) Hold confidential hearings with the complainant or the complainant's agents or attorneys.

(3) Hold confidential hearings with the judge or justice involved in the complaint.

(d) If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and

(2) the complainant issues a public statement relating to the activities or actions of the commission;

the commission may answer the statement by referring to the record

of its proceedings or the results of its investigation.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-14
Notice of formal proceedings

Sec. 14. (a) If the commission concludes, after investigation, to institute formal proceedings against a justice or judge, the commission shall give written notice of the proceedings to the justice or judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence. The proceedings must be entitled:

"BEFORE THE INDIANA JUDICIAL
QUALIFICATIONS COMMISSION
Inquiry Concerning a (Justice) Judge, No. _____".

(b) The notice must:

(1) be issued in the name of the commission;

(2) specify in ordinary and concise language the charges against the justice or judge and the alleged facts upon which the charges are based; and

(3) advise the justice or judge of the justice's or judge's right to file a written answer to the charges not more than twenty (20) days after service of the notice.

A charge is not sufficient if it merely recites the general language of the original complaint, but must specify the facts relied upon to support a particular charge.

(c) A copy of the notice shall be filed in the office of the commission.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-15
Answer

Sec. 15. Not more than twenty (20) days after service of the notice of formal proceedings, the justice or judge:

(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall mail a copy of the answer to the counsel.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-16
Setting for hearing before commission or masters

Sec. 16. (a) Upon the filing of or the expiration of time for filing an answer, the commission shall:

(1) hold a hearing concerning the discipline, retirement, or removal of the justice or judge; or

(2) request the supreme court to appoint three (3) active or retired justices or judges of courts of record as special masters to hear and take evidence and report to the commission.

(b) The commission shall:

(1) set a date, time, and place for a hearing under subsection (a); and

(2) give notice of the hearing by registered or certified mail to the justice or judge, the masters, and the counsel not less than twenty (20) days before the date of the hearing.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-17
Hearing

Sec. 17. (a) The commission or a master may proceed with a scheduled hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a justice or judge to answer or appear at the hearing may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a justice or judge to testify in the justice's or judge's behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the justice's or judge's control.

(c) The hearing shall be reported verbatim.

(d) At least four (4) commission members must be present when evidence is produced at a hearing before the commission.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-18
Evidence

Sec. 18. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-19
Rights of judge; proceedings; notice; incapacity

Sec. 19. (a) In formal proceedings involving a justice's or judge's discipline, retirement, or removal, the justice or judge may do the following:

(1) Defend against the charges by introducing evidence.

(2) Be represented by counsel.

(3) Examine and cross-examine witnesses.

(4) Issue subpoenas for attendance of witnesses to testify or produce evidentiary matter under section 31 of this chapter.

(b) The commission shall transcribe the testimony and provide a copy at no cost to the justice or judge. The justice or judge is entitled to have any part of the testimony transcribed at the justice's or judge's expense.

(c) Except as otherwise provided in this chapter, notice or any other matter shall be sent to a justice or judge by registered or certified mail to the justice or judge at the justice's or judge's office and residence unless the justice or judge requests otherwise in writing. A copy of the notice or other matter must be mailed to the justice's or judge's attorney of record.

(d) If a justice or judge has been adjudged incapacitated under

IC 29-3, the justice's or judge's guardian may claim and exercise any right and privilege and make any defense for the justice or judge with the same force and effect as if claimed, exercised, or made by the justice or judge if competent. If the rules provide for serving or giving notice or sending any matter to the justice or judge, a copy of any notice or other matter sent to the justice or judge also shall be served, given, or sent to the justice's or judge's guardian.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-20
Amendments to notice or answer

Sec. 20. The masters, at any time before the conclusion of the hearing, or the commission, at any time before its determination:

(1) may allow or require amendments to the notice of formal proceedings; and

(2) may allow amendments to the answer.

The notice may be amended to conform to proof or to set forth additional facts whether occurring before or after the commencement of the hearing. If an amendment is made, the justice or judge shall be given reasonable time both to answer the amendment and to prepare and present a defense.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-21
Report of masters

Sec. 21. (a) After a hearing, the masters shall promptly prepare and transmit to the commission an original and four (4) copies of a transcript of the hearing and an original and four (4) copies of a report that contains a brief statement of the proceedings and the masters' recommended findings of fact. The recommended findings of facts are not binding upon the commission.

(b) Upon receiving the report of the masters, the commission shall mail a copy of the report and transcript to the justice or judge and the counsel.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-22
Objections to report of masters

Sec. 22. Not more than fifteen (15) days after the commission mails a copy of the report of the masters to the justice or judge, the counsel or the justice or judge may file with the commission an original and one (1) copy of objections to the report of masters. If the counsel files objections, the counsel shall mail a copy of the objections to the justice or judge. If the justice or judge files objections, the justice or judge shall send a copy of the objections by registered or certified mail to the counsel.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-23
Appearance before commission

Sec. 23. If objections to a report of the masters under section 21 of this chapter are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the justice or judge and the counsel an opportunity to be heard before the commission in the county in which the justice or judge resides. The commission shall mail written notice of the time and place of the hearing to the justice or judge and the counsel not less than ten (10) days before the hearing.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-24
Extension of time

Sec. 24. (a) The chairman of the commission may extend the time for:

(1) filing an answer;
(2) conducting a hearing before the commission; and
(3) filing objections to the report of the masters.

(b) The presiding master may, with the approval of the chairman of the commission, extend the time for conducting a hearing before the masters.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-25
Hearings; additional evidence

Sec. 25. The commission may order a hearing to take additional evidence at any time while a matter is pending before it. The hearing must be in the county in which the justice or judge resides. The order must set the time and place of the hearing and shall indicate the matters on which evidence will be taken. The commission shall send a copy of the order to the judge and the counsel not less than ten (10) days before the hearing. If masters have been appointed, the hearing shall be before the masters, and the hearing must conform with sections 18 through 24 of this chapter and this section.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-26
Vote or recommendation for censure, retirement, or removal

Sec. 26. If the commission finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of a justice or judge. If a hearing is before the masters, the affirmative vote of four (4) members of the commission is required to recommend censure, retirement, or removal of a justice or judge. If a hearing is before the commission, the affirmative vote of four (4) members of the commission, including a majority of the members who were present at the hearing, is required to recommend censure, retirement, or removal of a justice or judge.
As added by P.L.98-2004, SEC.17.

IC 33-38-13-27
Record of commission proceedings

Sec. 27. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall record its determination and mail notice of the determination to the justice or judge and the counsel. If the commission recommends censure, retirement, or removal, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-28
Certification of commission recommendation to supreme court

Sec. 28. Upon recommending the censure, retirement, or removal of a justice or judge, the commission shall promptly file the following with the clerk of the supreme court:

(1) A copy of the recommendation certified by the chairman or secretary of the commission.
(2) A transcript of the evidence.
(3) Findings of fact and conclusions of law.

The commission shall promptly mail to the justice or judge and the counsel notice of the filing and copies of the filed documents.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-29
Petition for modification or rejection of commission's recommendation

Sec. 29. (a) Not more than thirty (30) days after a certified copy of the commission's recommendation is filed with the clerk of the supreme court, a justice or judge may petition the supreme court to modify or reject the commission's recommendation.

(b) The justice or judge shall verify the petition. The petition must be based on the record. The petition must specify the grounds relied on and must be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy on the justice or judge. Not more than twenty (20) days after service of respondent's brief, the petitioner may file a reply brief and shall serve two (2) copies on the commission and one (1) copy on the counsel.

(d) Failure to timely file a petition is considered consent to the determination on the merits based upon the record filed by the commission.

(e) To the extent necessary and not inconsistent with this section, the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-30
Jurisdiction and powers

Sec. 30. The commission has jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or hearing, including the powers to depose witnesses and to order the production of documentary evidence. A member of the commission or a master may administer oaths to witnesses in a matter under the commission's jurisdiction.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-31
Subpoenas

Sec. 31. (a) A master may issue a subpoena for:

(1) the attendance of witnesses;
(2) the production of documentary evidence; or
(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

(1) the attendance of witnesses;
(2) the production of documentary evidence; or
(3) discovery;

in a proceeding before the commission in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-32
Enforcement of subpoena

Sec. 32. If a witness in a commission proceeding:

(1) fails or refuses to attend upon subpoena; or
(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-33
Filing papers and pleadings

Sec. 33. All papers and pleadings filed with the office of the chairman of the commission are considered to have been filed with the commission.

As added by P.L.98-2004, SEC.17. Amended by P.L.2-2005, SEC.111.

IC 33-38-13-34
Discovery; admissibility of evidence; demand for formal proceeding or finding

Sec. 34. (a) In all formal proceedings, discovery is available to the commission and the judge or justice under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to

the circuit court judge in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge or justice at least twenty (20) days before the hearing:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.

(2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:

(A) are in the possession of the counsel or the commission;

(B) are relevant to the hearing; and

(C) have not previously been provided to the justice or judge.

(3) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing.

(c) Upon objection of the justice or judge, the following are not admissible in a hearing:

(1) The testimony of a witness whose name and address have not been furnished to the judge or justice under subsection (b).

(2) Documentary evidence that has not been furnished to the judge or justice under subsection (b).

(d) After formal proceedings have been instituted, the justice or judge may request in writing that the counsel furnish to the justice or judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to a charge against or a defense of the justice or judge. The counsel shall provide to the justice or judge copies of documentary evidence that:

(1) are known at any time to the counsel or in the possession at any time of the counsel or the commission;

(2) are relevant to a charge against or defense of the justice or judge; and

(3) have not previously been provided to the justice or judge.

The counsel shall comply with a request under this subsection not more than ten (10) days after receiving the request and not more than ten (10) days after the counsel becomes aware of the information or evidence.

(e) During the course of an investigation by the commission, the justice or judge whose conduct is being investigated may demand in writing that the commission:

(1) institute formal proceedings against the justice or judge; or

(2) enter a formal finding that there is not probable cause to believe that the justice or judge is guilty of any misconduct.

The commission shall comply with a request under this subsection not more than sixty (60) days after receiving the request. A copy of the request shall be filed with the supreme court. If the commission finds that there is not probable cause, the commission shall file the finding with the supreme court. A document filed with the supreme court under this subsection is a matter of public record.

As added by P.L.98-2004, SEC.17.

IC 33-38-13-35
Exclusion

Sec. 35. This chapter does not encroach upon or impair the vested rights of a justice or judge or the surviving spouse of a justice or judge under any constitutional or statutory retirement program.

As added by P.L.98-2004, SEC.17.

IC 33-38-14

Chapter 14. The Commission on Judicial Qualifications and the Discipline of Judges of Superior, Probate, Juvenile, and Criminal Courts

IC 33-38-14-1

Purpose

Sec. 1. It is the purpose of this chapter to provide that judges of superior, probate, juvenile, or criminal courts in counties described in section 9 of this chapter are subject to disciplinary action on the grounds and in the manner set forth in this chapter.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-3

"Counsel" defined

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or the commission with respect to the charges against a judge; and

(2) represent the commission before the supreme court in connection with any proceedings before the court.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-4

"Judge" defined

Sec. 4. As used in this chapter, "judge" means a judge of a superior or probate court.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-5

"Mail" defined

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-6

"Masters" defined

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-7

"Presiding master" defined

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-8

Commission on judicial qualifications

Sec. 8. Subject to section 9 of this chapter, the commission is the commission on judicial qualifications for judges of trial courts. The members of the commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the trial courts.

As added by P.L.98-2004, SEC.17. Amended by P.L.65-2004, SEC.17.

IC 33-38-14-9

Disciplinary jurisdiction over judges

Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges of trial courts.

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

As added by P.L.98-2004, SEC.17. Amended by P.L.65-2004, SEC.18.

IC 33-38-14-10

Disqualification; suspension; retirement; censure; removal

Sec. 10. (a) A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging the judge in a United States court with a crime punishable as a felony under Indiana or federal law; or

(2) a recommendation to the supreme court by the commission for the judge's removal or retirement.

(b) On recommendation of the commission or on its own motion, the supreme court may suspend a judge from office without salary if in a United States court the judge pleads guilty or no contest or is found guilty of a crime that:

(1) is punishable as a felony under Indiana or federal law; or
(2) involves moral turpitude under the law.

If the judge's conviction is reversed, the suspension terminates and the judge shall be paid the judge's salary for the period of suspension. If the judge's conviction becomes final, the supreme court shall remove the judge from office.

(c) On recommendation of the commission, the supreme court may:

(1) retire a judge for a disability that:
(A) seriously interferes with the performance of the judge's duties; and
(B) is or is likely to become permanent; and

(2) censure or remove a judge for an action that:
(A) occurs not more than six (6) years before the beginning of the judge's current term; and
(B) constitutes at least one (1) of the following:
(i) Willful misconduct in office.
(ii) Willful or persistent failure to perform the judge's duties.
(iii) Habitual intemperance.
(iv) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

A judge retired under this subsection is considered to have retired voluntarily. A judge removed under this subsection is ineligible for judicial office and, pending further order of the supreme court, is suspended from the practice of law in Indiana.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-11
Meetings of commissioners

Sec. 11. (a) The commission shall meet as necessary to discharge its statutory responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum.

(b) Commission meetings are to be held in Indiana on the call of the chairman.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct its meetings and discharge its duties.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-12
Confidentiality of proceedings; public inspection

Sec. 12. (a) Papers filed with and proceedings before the commission before the institution of formal proceedings are confidential unless:

(1) the judge against whom a recommendation is filed elects to have the information divulged; or
(2) the commission elects to answer public statements by a

complainant.

(b) Papers filed with the commission during or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission, after the institution of formal proceedings, are open to the public.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-13

Privilege

Sec. 13. Filing papers with or giving testimony before the commission or the masters under this chapter is privileged.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-14

Commission; complaint

Sec. 14. (a) Any citizen of Indiana may file with the commission a written and verified complaint on the judicial fitness of a judge of a superior, criminal, juvenile, or probate court of Indiana.

(b) A specified form of complaint may not be required.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-15

Request of justice or judge to retire; complaint by citizen or on commission's own motion; investigation

Sec. 15. (a) A judge may request retirement due to disability.

(b) A citizen of Indiana may complain to the commission about the activities, fitness, or qualifications of a judge. Upon receipt of a complaint, the commission shall determine if the complaint is frivolous. The commission may, on its own motion, inquire into the activities, fitness, or qualifications of a judge.

(c) If the commission determines it is necessary to investigate a judge, the commission shall notify the judge by prepaid registered or certified mail addressed to the judge at the judge's chambers and last known residence of the following:

(1) The investigation.

(2) The nature of the complaint.

(3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.

(4) The opportunity to present in the court of the investigation matters as the judge chooses.

(d) The commission may do the following:

(1) Conduct investigations.

(2) Employ special investigators.

(3) Hold confidential hearings with the judge's or commission's agents or attorneys.

(4) Hold confidential hearings with any judge involved.

(e) If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and

(2) the complainant subsequently issues any public statement relating to the activities or actions of the commission;

the commission may answer the statement by referring to the record of proceedings or the results of the investigations.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-16

Notice of formal proceedings

Sec. 16. (a) If the commission decides to institute formal proceedings, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against judge. The proceedings must be entitled:

"BEFORE THE INDIANA JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge, No. _____".

(b) The notice must:

(1) specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based; and

(2) advise the judge of the judge's right to file a written answer not more then twenty (20) days after service of notice.

A charge is not sufficient if it recites the general language of the original complaint.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-17

Answer

Sec. 17. Not more than twenty (20) days after service of the notice of formal proceedings, the judge:

(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall serve by mail a copy of the answer on the counsel.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-18

Setting for hearing before commission or masters

Sec. 18. (a) Upon the filing of or the expiration of the time for filing an answer, the commission shall:

(1) order a hearing before the commission on the discipline, retirement, or removal of the judge; or

(2) request the supreme court to appoint three (3) active or retired judges of courts of record as special masters to hear and take evidence on the matter and to report to the commission.

(b) The commission shall:

(1) set a time and place in the state in which the judge involved

resides for a hearing; and

(2) mail notice of the hearing to the judge, the masters, and the counsel at least twenty (20) days before the hearing date.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-19
Hearing

Sec. 19. (a) The commission, or the masters when the hearing is before the masters, may proceed with the hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a judge to answer or to appear at the hearing by itself is not evidence of the facts alleged and does not constitute grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the judge's control.

(c) The hearing shall be reported verbatim.

(d) At a hearing before the commission, not less than four (4) members must be present when the evidence is produced.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-20
Evidence

Sec. 20. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-21
Rights of a judge; notice; incapacitation

Sec. 21. (a) In formal proceedings involving the discipline, retirement, or removal of a judge, the judge may:

(1) defend against the charges by introducing evidence;

(2) be represented by counsel;

(3) examine and cross-examine witnesses; and

(4) issue subpoenas for attendance of witnesses to testify or produce evidentiary matter.

(b) If testimony is transcribed at the expense of the commission, a copy shall be provided to the judge at no cost. The judge is entitled to have testimony transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, any notice or matter sent to the judge shall be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing. A copy of the notice or matter shall be mailed to the judge's counsel.

(d) If a judge has been adjudicated incapacitated under IC 29-3, the judge's guardian may exercise any right or privilege and make any defense for the judge as if exercised or made by the judge. If any notice or matter is sent to the judge, a copy of the notice or matter

also shall be sent to the judge's guardian.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-22
Amendments to notice or answer

Sec. 22. The masters, before the conclusion of the hearing, or the commission, before its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts. If an amendment is made, the judge shall be given reasonable time to answer the amendment and to prepare and present a defense.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-23
Report of masters

Sec. 23. (a) After a hearing before the masters, the masters shall promptly transmit to the commission an original and four (4) copies of:

(1) a transcript of the hearing; and
(2) a report that contains a brief statement of the proceedings and recommended findings of fact.

The recommended findings of facts are not binding on the commission.

(b) Upon receiving the report of the masters, the commission shall promptly mail a copy of the report and transcript to the judge and the judge's counsel.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-24
Objections to report of masters

Sec. 24. Not more than fifteen (15) days after a copy of the report of the masters is mailed to the judge, the counsel or the judge may file with the commission an original and one (1) copy of objections to the report of the masters. If the counsel files objections, the counsel shall mail a copy of the objections to the judge. If the judge files objections, the judge shall mail a copy of the objections to the counsel.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-25
Appearance before commission

Sec. 25. If objections to the report of the masters are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the judge and the counsel an opportunity to be heard in the county where the judge resides. The commission shall mail to the judge and the counsel written notice of the time and place

of the hearing not less than ten (10) days before the hearing.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-26
Extension of time

Sec. 26. (a) The chairman of the commission may extend the time for:

(1) filing an answer;
(2) commencing a hearing before the commission; or
(3) filing objections to the report of the masters.

(b) The presiding master, with the approval of the chairman of the commission, may extend the time for commencing a hearing before the masters.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-27
Hearing additional evidence

Sec. 27. (a) The commission may order a hearing to take additional evidence at any time while the matter is pending before the commission. The order must set the time and place of the hearing in the county in which the judge resides and must indicate the matters on which evidence will be taken. A copy of the order shall be mailed to the judge and the counsel at least ten (10) days before the hearing.

(b) If masters have been appointed, the hearing of additional evidence is before the masters in accordance with this chapter.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-28
Vote or recommendation for discipline, retirement, or removal

Sec. 28. If the commission finds good cause, it shall recommend to the supreme court the discipline, retirement, or removal of a judge. If a hearing is before the masters, the affirmative vote of four (4) commission members is required to recommend the discipline, retirement, or removal of a judge. If a hearing is before the commission, the affirmative vote of four (4) commission members, including a majority of the members present at the hearing, is required to recommend the discipline, retirement, or removal of a judge.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-29
Record of commission proceedings

Sec. 29. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall enter its determination in the record and mail notice to the judge and the counsel. If the commission recommends the discipline, retirement, or removal of a judge to the supreme court, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-30
Certification of commission recommendation to supreme court

Sec. 30. Upon recommending the discipline, retirement, or removal of a judge, the commission shall file a copy of each of the following with the clerk of the supreme court:

(1) The recommendation certified by the chairman or secretary of the commission.
(2) The transcript.
(3) The findings of fact and conclusions of law.

The commission shall mail to the judge and the counsel notice of the filing and copies of the filed documents.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-31
Petition for modification or rejection of commission's recommendation

Sec. 31. (a) A judge may petition the supreme court to modify or reject the recommendation of the commission for discipline, retirement, or removal of the judge not more than thirty (30) days after the certified copy of the commission's recommendation is filed with the clerk of the supreme court.

(b) A petition described in subsection (a) must:

(1) be verified;
(2) be based on the record;
(3) specify the grounds relied on; and
(4) be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy of the brief on the judge.

(d) Not more than twenty (20) days after service of the respondent's brief, the judge may file a reply brief. The judge shall serve two (2) copies of the reply brief on the commission and one (1) copy of the reply brief on the counsel.

(e) Failure to timely file a petition is considered consent to the determination on the merits based on the record filed by the commission.

(f) To the extent necessary and not inconsistent with this section, the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.
As added by P.L.98-2004, SEC.17.

IC 33-38-14-32
Jurisdiction and powers

Sec. 32. The commission has jurisdiction and powers to dispose of any investigation or hearing, including the following:

(1) The power to compel the attendance of witnesses.

(2) The power to depose witnesses.

(3) The power to order the production of documentary evidence.

Any commission member or any master may administer oaths and affirmations to witnesses in a matter under the jurisdiction of the commission.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-33

Subpoenas

Sec. 33. (a) A master may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission or in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-34

Enforcement of subpoena

Sec. 34. If a witness in a commission proceeding:

(1) fails or refuses to attend upon subpoena; or

(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-35

Filing

Sec. 35. All papers and pleadings filed with the office of the chairman of the commission are considered filed with the commission.

As added by P.L.98-2004, SEC.17.

IC 33-38-14-36

Discovery; admissibility of evidence; demand for formal proceeding or finding

Sec. 36. (a) In all formal proceedings, discovery is available to the commission and the judge under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to the circuit court in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge at least twenty (20) days before a hearing:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.

(2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:

(A) are in the possession of the counsel or the commission;

(B) are relevant to the hearing; and

(C) have not been provided to the judge.

(3) Copies of all documentary evidence that the counsel expects to introduce at the hearing.

(c) On objection by a judge, the testimony of a witness whose name and address have not been furnished to the judge and documentary evidence that has not been furnished to the judge, are not admissible at a hearing.

(d) After formal proceedings have been instituted, a judge may request in writing that the counsel provide the judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to any charge against or any defense of the judge. The counsel shall provide copies of written statements, transcripts of testimony, and documentary evidence that:

(1) are in the commission counsel's possession at any time;

(2) are relevant to a charge against or defense of the judge; and

(3) have not been furnished to the judge.

The counsel shall comply with the request not more than ten (10) days after receiving the request or not more than ten (10) days after any information or evidence becomes known to the counsel.

(e) During an investigation by the commission, a judge whose conduct is being investigated may demand in writing that the commission institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe the judge is guilty of misconduct. Not more than sixty (60) days after receiving a written demand, the commission shall comply with the demand. A copy of the demand shall be filed in the supreme court and is a matter of public record. If the commission finds there is not probable cause, the finding shall be filed in the supreme court and is a matter of public record.

As added by P.L.98-2004, SEC.17.

IC 33-39

ARTICLE 39. PROSECUTING ATTORNEYS

IC 33-39-1

Chapter 1. Bond; Eligibility Requirements for Prosecuting Attorneys; Duty to Prosecute; Special Prosecutors; Pretrial Diversion

IC 33-39-1-1

"Senior prosecuting attorney" defined; affidavit

Sec. 1. (a) As used in this chapter, "senior prosecuting attorney" means a person who:

(1) was employed for at least eight (8) years as a prosecuting attorney or chief deputy prosecuting attorney; and

(2) files an affidavit requesting designation as a senior prosecuting attorney in the circuit court and each superior court in a county in which the person is willing to serve as a senior prosecuting attorney.

(b) An affidavit filed under subsection (a) must contain the following:

(1) The name of the person filing the affidavit.

(2) The person's attorney number issued by the supreme court.

(3) The length of time the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(4) The name of any county in which the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(c) The circuit or superior court shall promptly forward each affidavit received under this section to the prosecuting attorneys council of Indiana.

As added by P.L.98-2004, SEC.18. Amended by P.L.119-2007, SEC.2.

IC 33-39-1-2

Prosecuting attorney; eligibility

Sec. 2. (a) This section does not apply to a deputy prosecuting attorney appointed by a prosecuting attorney or to a special prosecutor.

(b) To be eligible to hold office as a prosecuting attorney, a person must be a resident of the judicial circuit that the person serves.

As added by P.L.98-2004, SEC.18. Amended by P.L.222-2005, SEC.37.

IC 33-39-1-3

Bond of prosecuting attorney

Sec. 3. A person elected to the office of prosecuting attorney, before entering upon the duties of the office, shall execute a bond in the manner prescribed by IC 5-4-1.

As added by P.L.98-2004, SEC.18.

IC 33-39-1-4
Duties on receiving information of felony or misdemeanor

Sec. 4. (a) When a prosecuting attorney receives information of the commission of a felony or misdemeanor, the prosecuting attorney shall cause process to issue from a court (except the circuit court) having jurisdiction to issue the process to the proper officer, directing the officer to subpoena the persons named in the process who are likely to have information concerning the commission of the felony or misdemeanor. The prosecuting attorney shall examine a person subpoenaed before the court that issued the process concerning the offense.

(b) If the facts elicited under subsection (a) are sufficient to establish a reasonable presumption of guilt against the party charged, the court shall:

(1) cause the testimony that amounts to a charge of a felony or misdemeanor to be reduced to writing and subscribed and sworn to by the witness; and

(2) issue process for the apprehension of the accused, as in other cases.

As added by P.L.98-2004, SEC.18.

IC 33-39-1-5
Felony, misdemeanor, or infraction prosecutions; other duties required by law

Sec. 5. Except as provided in IC 12-15-23-6(d), the prosecuting attorneys, within their respective jurisdictions, shall:

(1) conduct all prosecutions for felonies, misdemeanors, or infractions and all suits on forfeited recognizances;

(2) superintend, on behalf of counties or any of the trust funds, all suits in which the the counties or trust funds may be interested or involved; and

(3) perform all other duties required by law.

As added by P.L.98-2004, SEC.18.

IC 33-39-1-6
Appointment of special prosecutors; grounds; consent to appointment; powers and duties; term and compensation

Sec. 6. (a) Special prosecutors may be appointed under this section or in accordance with IC 4-2-7-7.

(b) A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and

(B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and

(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard;

finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and

(B) the court finds that the appointment is necessary to avoid the appearance of impropriety;

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and

(B) the court finds that the appointment of a special prosecutor is in the best interests of justice; and

(5) shall appoint a special prosecutor if:

(A) a previously appointed special prosecutor:

(i) files a motion to withdraw as special prosecutor; or

(ii) has become incapable of continuing to represent the interests of the state; and

(B) the court finds that the facts that established the basis for the initial appointment of a special prosecutor still exist.

The elected prosecuting attorney of the appointing jurisdiction shall receive notice of all pleadings filed and orders issued under this subdivision.

(c) Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or

(B) except as provided in subsection (d), a senior prosecuting attorney.

(d) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

(e) A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

(f) The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-31.5-2-261), the court shall order the special prosecutor to file a report of the investigation with the

court at the conclusion of the investigation. The report is a public record.

(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and

(2) may not exceed:

(A) an hourly rate based upon the regular salary of a full-time prosecuting attorney of the appointing circuit;

(B) travel expenses and reasonable accommodation expenses actually incurred; and

(C) other reasonable expenses actually incurred, including the costs of investigation, discovery, and secretarial work, if:

(i) before incurring the other reasonable expenses described in this clause, the special prosecutor submits an application to the court to receive the other reasonable expenses; and

(ii) the court approves the expenses.

The amount of compensation a special prosecutor receives for services performed during a calendar day under subdivision (2)(A) may not exceed the amount of compensation a full-time prosecuting attorney would receive in salary for the calendar day.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

(2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

(i) The combination of:

(1) the compensation paid to a senior prosecuting attorney under this chapter; and

(2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year if the senior prosecuting attorney receives retirement benefits during the calendar year. However, if the senior prosecuting attorney does not receive retirement benefits during a calendar year, the senior prosecuting attorney may be compensated as a senior prosecuting attorney for not more than two hundred (200) calendar days in total during the calendar year.

As added by P.L.98-2004, SEC.18. Amended by P.L.222-2005,

SEC.38; P.L.119-2007, SEC.3; P.L.114-2012, SEC.58.

IC 33-39-1-7
Senior prosecuting attorney appointment; minimum period of service; disciplinary sanctions

Sec. 7. A person may not be appointed a senior prosecuting attorney under section 6 of this chapter if the person:

(1) is not available for the minimum period of commitment for service as a special prosecutor; or

(2) has had a disciplinary sanction imposed by the Indiana supreme court disciplinary commission or a similar body in another state that restricts the person's ability to practice law.

As added by P.L.98-2004, SEC.18.

IC 33-39-1-8 Version a
Withholding of prosecution; applicability grounds; conditions; notification

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

(1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or

(2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:

(A) intoxication; or

(B) the operation of a vehicle;

if the offense involving intoxication or the operation of a vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

(1) who is arrested for or charged with an offense under:

(A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;

(B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;

(C) IC 35-42-2-2(c)(1);

(D) IC 35-42-2-4(b)(1); or

(E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and

(2) who held a probationary license (as defined in IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

(d) A prosecuting attorney may withhold prosecution against an

accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and

(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

(e) An agreement under subsection (d) may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;

(2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

(4) support the person's dependents and meet other family responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(f) An agreement under subsection (d)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(g) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(h) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(i) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (e)(6):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.98-2004, SEC.18. Amended by P.L.176-2005, SEC.21; P.L.234-2007, SEC.168; P.L.101-2009, SEC.16;

P.L.125-2012, SEC.410.

IC 33-39-1-8 Version b
Withholding of prosecution; applicability grounds; conditions; notification

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

(1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or

(2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:

(A) intoxication; or

(B) the operation of a vehicle;

if the offense involving intoxication or the operation of a vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

(1) who is arrested for or charged with an offense under:

(A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;

(B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;

(C) IC 35-42-2-2(c)(1);

(D) IC 35-44.1-2-13(b)(1); or

(E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and

(2) who held a probationary license (as defined in IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

(d) A prosecuting attorney may withhold prosecution against an accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and

(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

(e) An agreement under subsection (d) may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;

(2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

(4) support the person's dependents and meet other family responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(f) An agreement under subsection (d)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(g) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(h) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(i) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (e)(6):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

As added by P.L.98-2004, SEC.18. Amended by P.L.176-2005, SEC.21; P.L.234-2007, SEC.168; P.L.101-2009, SEC.16; P.L.125-2012, SEC.410; P.L.158-2013, SEC.342.

IC 33-39-1-9 Version a

Criminal charges against persons working with children; notification of employers

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)

years of age.

(2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

As added by P.L.98-2004, SEC.18.

IC 33-39-1-9 Version b

Criminal charges against persons working with children; notification of employers

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(2) Criminal deviate conduct (IC 35-42-4-2) (repealed), if the victim is less than eighteen (18) years of age.

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

As added by P.L.98-2004, SEC.18. Amended by P.L.158-2013, SEC.343; P.L.214-2013, SEC.31.

IC 33-39-2

Chapter 2. Powers and Duties

IC 33-39-2-1

Powers and duties

Sec. 1. A prosecuting attorney or deputy prosecuting attorney may:

(1) take acknowledgments of deeds or other instruments in writing;
(2) administer oaths;
(3) protest notes and checks;
(4) take the deposition of a witness;
(5) take and certify affidavits and depositions; and
(6) perform any duty now conferred upon a notary public by a statute.

An acknowledgment of a deed or another instrument taken by a prosecuting attorney or deputy prosecuting attorney may be recorded in the same manner as though a deed or another instrument were acknowledged before a notary public.

As added by P.L.98-2004, SEC.18.

IC 33-39-2-2

Seal

Sec. 2. A prosecuting attorney or deputy prosecuting attorney may not perform a duty set forth in section 1 of this chapter until the prosecuting attorney or deputy prosecuting attorney obtains a seal that stamps upon paper a distinct impression:

(1) in words or letters sufficiently indicating the official character of the prosecuting attorney or deputy prosecuting attorney; and
(2) that may include any other device chosen by the prosecuting attorney or deputy prosecuting attorney.

All acts not attested by a seal are void.

As added by P.L.98-2004, SEC.18.

IC 33-39-2-3

Statement of date of expiration of commission; appending to certificates

Sec. 3. A prosecuting attorney or deputy prosecuting attorney who performs any of the acts set forth in section 1 of this chapter shall, at the time of signing a certificate of acknowledgment of a deed, mortgage, other instrument, jurat, or other official document, append to the certificate a true statement of the date of the expiration of the commission of the prosecuting attorney or deputy prosecuting attorney. A prosecuting attorney or deputy prosecuting attorney has jurisdiction to perform the duties set forth in this chapter anywhere in Indiana.

As added by P.L.98-2004, SEC.18.

IC 33-39-2-4

Fees; violations of law

Sec. 4. A prosecuting attorney or deputy prosecuting attorney who performs an act under this chapter is entitled to the same fees as those charged by notaries public. If an act committed by a notary public would be a violation of the law, the act is a violation of the law if committed by a prosecuting attorney or deputy prosecuting attorney in the performance of an act authorized under this chapter.
As added by P.L.98-2004, SEC.18.

IC 33-39-2-5
Discharge of official duties

Sec. 5. A prosecuting attorney or a deputy prosecuting attorney may administer all oaths that are convenient and necessary to be administered in the discharge of their official duties. An oath under this section shall be administered without any charge or expense.
As added by P.L.98-2004, SEC.18.

IC 33-39-2-6
Appointment of inspector general or deputy inspector general as special deputy prosecuting attorney

Sec. 6. (a) With the consent of the inspector general, a prosecuting attorney may appoint the inspector general or a deputy inspector general who is licensed to practice law in Indiana as a special deputy prosecuting attorney to assist in any criminal proceeding involving public misconduct.

(b) With the consent of the attorney general, a prosecuting attorney may appoint the attorney general or a deputy attorney general who is licensed to practice law in Indiana as a special deputy prosecuting attorney to assist in any criminal proceeding involving environmental law.
As added by P.L.222-2005, SEC.39. Amended by P.L.137-2007, SEC.33.

IC 33-39-2-7
Youth mentoring program

Sec. 7. (a) A prosecuting attorney may establish and administer a youth mentoring program.

(b) To establish or administer a youth mentoring program described in subsection (a), a prosecuting attorney may:

(1) establish and administer an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
(2) provide staff and material support to the organization; and
(3) receive and expend charitable contributions, appropriations, and federal, state, local, or private grants.

(c) The prosecuting attorney shall provide an annual report to the county fiscal body concerning the youth mentoring program established under subsection (a). The youth mentoring program is subject to audit by the state board of accounts.
As added by P.L.119-2007, SEC.4.

IC 33-39-3

Chapter 3. Travel Expenses Reimbursed for Taking Depositions in Criminal Actions

IC 33-39-3-1

Depositions

Sec. 1. Except as provided in section 2 of this chapter and upon the order of a judge trying a criminal case, the county auditor shall pay to a prosecuting attorney, from funds in the county treasury not otherwise appropriated and as a part of the costs of the trial, an amount equal to the expenses necessarily incurred by a prosecuting attorney in traveling to attend the taking of any deposition in connection with the criminal action.

As added by P.L.98-2004, SEC.18.

IC 33-39-3-2

Depositions; change of venue

Sec. 2. If a prosecuting attorney incurred expenses described in section 1 of this chapter for a criminal case from another county being heard on a change of venue, the expenses shall be collected from the other county as other costs are collected in the case.

As added by P.L.98-2004, SEC.18.

IC 33-39-3-3

Filing of statement

Sec. 3. The court shall provide a prosecuting attorney an allowance for reasonable expenses after the prosecuting attorney files with the clerk of the court an itemized and verified statement of expenses.

As added by P.L.98-2004, SEC.18.

IC 33-39-4

Chapter 4. Appointment of Investigators and Jurisdiction to Investigate

IC 33-39-4-1

Duties; bond; salary

Sec. 1. (a) The prosecuting attorney of any judicial circuit of Indiana may appoint one (1) or more investigators with the approval of the county council or councils. An investigator appointed under this section:

(1) works under the direction of the prosecuting attorney; and

(2) may conduct investigations and assist in collecting and assembling evidence that, in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any of the criminal offenders of the judicial circuit.

(b) An investigator appointed under this section shall give bond in the sum of five thousand dollars ($5,000) and has the same police powers within the county authorized by law to all police officers.

(c) In each judicial circuit the salary or other compensation to be paid an investigator appointed under this section shall be set by the county council or councils. A county council or councils may not reduce the number of investigators or compensation of any investigator without approval of the prosecuting attorney.

As added by P.L.98-2004, SEC.18.

IC 33-39-4-2

Jurisdiction to investigate; county where offense discovered; modified by agreement

Sec. 2. (a) If the place of trial for commission of an offense, as determined under IC 35-32-2-1, would potentially require a choice between or among counties, the coroner and law enforcement officers of the county where the offense is discovered have jurisdiction to investigate the offense.

(b) This section may be modified by agreement between or among the prosecuting attorneys of the counties involved.

As added by P.L.98-2004, SEC.18.

IC 33-39-5

Chapter 5. Assistance Procuring a Liquor License Prohibited

IC 33-39-5-1

Violations

Sec. 1. A:

(1) prosecuting attorney;

(2) deputy prosecuting attorney; or

(3) judge of a city court;

who recklessly acts as attorney, agent, or counsel for an applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1, or aids or assists in any manner in the procuring of a license commits a Class B misdemeanor.

As added by P.L.98-2004, SEC.18.

IC 33-39-6

Chapter 6. Compensation of Prosecuting Attorneys, Deputies, and Investigators

IC 33-39-6-1

Payment of compensation; conferences for coordinated law enforcement plans

Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who knowingly accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

As added by P.L.98-2004, SEC.18. Amended by P.L.65-2004, SEC.19.

IC 33-39-6-2

Chief deputy and additional deputy; appointment; salaries

Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the

state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The prosecuting attorney of Cass County may appoint one (1) additional deputy prosecuting attorney.

(f) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (e) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(g) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in

this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(h) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

As added by P.L.98-2004, SEC.18. Amended by P.L.127-2008, SEC.20; P.L.112-2009, SEC.1; P.L.78-2011, SEC.1.

IC 33-39-6-3

Grading judicial circuits for compensation purposes

Sec. 3. For purposes of fixing the salaries of the various prosecuting attorneys under this chapter, each judicial circuit of the state is:

(1) graded on the basis of population and gross assessed valuation; and

(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

As added by P.L.98-2004, SEC.18.

IC 33-39-6-4

Classes of judicial circuits; classification factors

Sec. 4. (a) The nine (9) classes of the several judicial circuits of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relations of the judicial circuit to the state as established and certified to each county auditor by the state board of accounts not later than June 20 of any calendar year. They are as follows:

(1) Population.

(2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each judicial circuit shall be divided by the population of the entire state.

(2) The gross assessed valuation of each judicial circuit shall be divided by the gross assessed valuation of the entire state.

(3) The two (2) results thus obtained shall be added together and the sum thus obtained for each judicial circuit shall be divided by two (2).

(4) The final result so obtained, multiplied by one hundred (100), shall determine the classification of each judicial circuit according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
NO LIMIT		8.00	1
ALL UNDER	8.00	2.25	2
ALL UNDER	2.25	1.25	3
ALL UNDER	1.25	.85	4
ALL UNDER	.85	.70	5
ALL UNDER	.70	.60	6
ALL UNDER	.60	.50	7
ALL UNDER	.50	.35	8
ALL UNDER	.35	No limit	9

As added by P.L.98-2004, SEC.18.

IC 33-39-6-5

Minimum annual salary; full-time or part-time prosecutors

Sec. 5. (a) The annual minimum salary paid by the state to a full-time prosecuting attorney described in section 6 of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney.

(b) A prosecuting attorney of a judicial circuit, other than a full-time prosecuting attorney described in section 6 of this chapter is entitled to a minimum annual salary in an amount equal to sixty percent (60%) of the salary provided in subsection (a), except as provided by subsection (c).

(c) A prosecuting attorney, other than a full-time prosecuting attorney described in section 6 of this chapter, of a judicial circuit:

(1) that has a population of less than eighty-five thousand (85,000) and that adjoins any county having a population of more than one hundred sixty thousand (160,000); or

(2) in which is located:

(A) the Indiana state prison, the Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility; or

(B) a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients;

is entitled to a minimum annual salary in an amount equal to sixty-six percent (66%) of the salary provided in subsection (a).

(d) The state shall pay, from the state general fund, the minimum annual salary of a prosecuting attorney. The state shall pay the minimum annual salary in equal installments with payments being made once every two (2) weeks.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-6

Election to devote full time to duties of office of prosecuting attorney

Sec. 6. (a) Except as provided in section 7 of this chapter, a prosecuting attorney may elect to devote the prosecuting attorney's full professional time to the duties of the office of prosecuting

attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30 of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

(b) A prosecuting attorney who elects to be a full-time prosecuting attorney:

(1) shall devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and

(2) may not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's judicial circuit and with the auditor of state.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-7

Full-time offices in certain second class judicial circuits; salary

Sec. 7. The prosecuting attorney of each judicial circuit of the second class within a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) shall devote the prosecuting attorney's full professional time to the duties of the prosecuting attorney's office. The prosecuting attorney may not engage in the private practice of law for the term for which the prosecuting attorney was elected or appointed, and the prosecuting attorney is entitled to a minimum annual salary that is not less than the salary of the judge of the circuit court of the same judicial circuit.

As added by P.L.98-2004, SEC.18. Amended by P.L.119-2012, SEC.164.

IC 33-39-6-8

Compensation; appearance; travel expenses

Sec. 8. (a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

(b) Prosecuting attorneys, deputy prosecuting attorneys, and investigators are entitled to a sum for mileage for the miles necessarily traveled in the discharge of their duties. The sum for mileage provided by this subsection must:

(1) equal the sum per mile paid to state officers and employees,

with the rate changing each time the state government changes its rate per mile;

(2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; and

(3) be paid by the county in which the duty arose that necessitated the travel.

(c) This chapter does not prohibit the payment of other expenses as may be allowed by law.

(d) If a board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-9

Lowering of classification; limitation

Sec. 9. The classification of salary schedules for prosecuting attorneys may not be lowered below the classification first fixed by the state board of accounts under IC 33-14-7 (before its repeal).

As added by P.L.98-2004, SEC.18.

IC 33-39-7

Chapter 7. Retirement Fund

IC 33-39-7-0.1

Applicability of P.L.33-2006 amendments

Sec. 0.1. The amendments made to sections 15, 16, and 19 of this chapter by P.L.33-2006 apply to a participant in the fund who:

(1) is serving on July 1, 2006; or

(2) serves after July 1, 2006;

in a position described in section 8 of this chapter.

As added by P.L.13-2011, SEC.11; P.L.220-2011, SEC.543. Amended by P.L.160-2013, SEC.1.

IC 33-39-7-1

Application of chapter

Sec. 1. This chapter applies only to:

(1) an individual who serves as a prosecuting attorney or chief deputy prosecuting attorney on or after January 1, 1990; and

(2) a participant employed in a position described in section 8(a)(2) or 8(a)(3) of this chapter who serves in the position after June 30, 1995.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-2

Americans with Disabilities Act

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-3

"Board"

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.98-2004, SEC.18. Amended by P.L.23-2011, SEC.26.

IC 33-39-7-4

"Fiscal year"

Sec. 4. As used in this chapter, "fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the following year.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-5

Fund

Sec. 5. As used in this chapter, "fund" refers to the prosecuting attorneys retirement fund established by this chapter.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-6
"Participant"

Sec. 6. As used in this chapter, "participant" means a person serving in a position described in section 8 of this chapter who is participating in the fund.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-7
"Salary"

Sec. 7. As used in this chapter, "salary" means the salary paid to a participant by the state, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code. The term does not include an amount paid to a participant by a county or counties.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-8
"Services"

Sec. 8. (a) As used in this chapter, "services" means the sum of all periods in which a person is employed as:

(1) a prosecuting attorney or chief deputy prosecuting attorney;
(2) any other deputy prosecuting attorney who is:
  (A) appointed under IC 33-39-6-2; and
  (B) paid by the state from the state general fund; or
(3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana.

If an individual is elected or appointed to a position described in subdivisions (1) through (3) and serves one (1) or more terms or part of a term, then retires from office or otherwise separates from service, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney.

As added by P.L.98-2004, SEC.18. Amended by P.L.160-2013, SEC.2.

IC 33-39-7-9
Establishment of fund; contents

Sec. 9. The prosecuting attorneys retirement fund is established. The fund consists of the following:

(1) Each participant's contributions to the fund.
(2) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.
(3) All interest on investments or on deposits of the funds.
(4) A contribution or payment to the fund made in a manner provided by the general assembly.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-10
Fund construed as trust; purpose

Sec. 10. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to:

(1) secure payment of benefits to the participants and their beneficiaries; and

(2) pay the costs of administering this chapter.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-11
Administration; commingling; duties of board; appeals; confidentiality of fund records

Sec. 11. (a) The board shall administer the fund, which may be commingled with any public pension and retirement fund administered by the Indiana public retirement system for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7.1, IC 5-10.3-5-3 through IC 5-10.3-5-6, IC 5-10.5-4, and IC 5-10.5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(4) Authorize deposits.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board; and

(2) the attorney general;

with respect to the fund are those specified in IC 5-10.3-3, IC 5-10.3-4, IC 5-10.5-4, and IC 5-10.5-6.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

As added by P.L.98-2004, SEC.18. Amended by P.L.94-2004, SEC.7; P.L.99-2010, SEC.10; P.L.13-2011, SEC.12; P.L.35-2012, SEC.105.

IC 33-39-7-12
Contributions

Sec. 12. (a) Except as otherwise provided in this section, each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each

payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant. The state may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(c) After a participant has contributed to the fund as provided in subsection (a) for twenty-two (22) years, the participant is not required to make additional contributions to the fund.

(d) After December 31, 2011, the auditor of state shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 12.5 of this chapter.

As added by P.L.98-2004, SEC.18. Amended by P.L.13-2011, SEC.13; P.L.160-2013, SEC.3.

IC 33-39-7-12.5

Submission of contributions, reports, and records electronically

Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2011, under this chapter.

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) The state shall submit through the use of electronic funds transfer contributions paid by or on behalf of a participant under section 12 of this chapter.

(d) The state shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter.

(e) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter.

As added by P.L.13-2011, SEC.14.

IC 33-39-7-13

Withdrawals; rejoining fund if participant returns to service

Sec. 13. (a) A participant who:

(1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at a rate specified by rule by the board, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for

years of service before the withdrawal, unless the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund, plus interest at a rate specified by rule by the board. The board shall grant a participant service credit for years of service by the participant before the participant's withdrawal from the fund if the participant makes the repayment required by this subsection in a lump sum or a series of payments determined by the board, not exceeding five (5) annual installments.
As added by P.L.98-2004, SEC.18. Amended by P.L.16-2011, SEC.9; P.L.54-2013, SEC.3.

IC 33-39-7-14
Interest credits

Sec. 14. (a) Interest shall be credited annually on June 30 at a rate specified by rule by the board on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.
As added by P.L.98-2004, SEC.18. Amended by P.L.16-2011, SEC.10.

IC 33-39-7-15
Eligibility for retirement benefits

Sec. 15. A participant whose employment in a position described in section 8 of this chapter is terminated is entitled to a retirement benefit computed under section 16 or 18 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board, and the retirement date is:

(A) after the cessation of the participant's service;

(B) on the first day of a month; and

(C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving and is not entitled to receive

any salary for services currently performed, except for services rendered as a senior prosecuting attorney under IC 33-39-1.

As added by P.L.98-2004, SEC.18. Amended by P.L.33-2006, SEC.1; P.L.160-2013, SEC.4.

IC 33-39-7-16

Computation of retirement benefits

Sec. 16. (a) This section does not apply to a participant who becomes permanently disabled, as described in section 17 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85);

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) Except as provided in subsections (d), (e), and (f), the amount of the annual retirement benefit to which a participant described in subsection (b) is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in subsections (e) and (f), and section 19(c)(2)(B) of this chapter, a participant who:

(1) applies for a retirement benefit; and

(2) is not described in subsection (b);

is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(e) Except as provided in subsection (f), benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(f) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant from the public employees' retirement fund if the participant:

(1) had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan; and

(2) had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund.

(g) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at a rate specified by rule by the board.

As added by P.L.98-2004, SEC.18. Amended by P.L.33-2006, SEC.2; P.L.16-2011, SEC.11; P.L.54-2013, SEC.4; P.L.160-2013, SEC.5.

IC 33-39-7-17

Eligibility for disability benefits; certification by physician; segregation of records

Sec. 17. (a) A participant is considered to have a permanent disability if the board has received written certifications by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) A participant found to have a permanent disability under subsection (a) must be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's

disability, benefits cease to be payable as of the date of the examination, unless on that date the participant is:

(1) at least sixty-five (65) years of age; or

(2) at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85).

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section must be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by P.L.98-2004, SEC.18. Amended by P.L.160-2013, SEC.6.

IC 33-39-7-18

Computation of disability benefits

Sec. 18. (a) Except as provided in subsections (b) and (c), a participant who becomes permanently disabled, as described in section 17 of this chapter, is entitled to an annual benefit equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least ten (10) years of service, an additional percentage is calculated under this subsection by prorating between the applicable percentages, based on the number of months in the partial year of service.

(b) Except as provided in subsection (c), benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

(c) This subsection applies to a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the participant

from the public employees' retirement fund if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

As added by P.L.98-2004, SEC.18. Amended by P.L.54-2013, SEC.5; P.L.160-2013, SEC.7.

IC 33-39-7-19

Benefits payable to surviving spouse; eligibility; computation

Sec. 19. (a) A participant may designate the participant's surviving spouse or one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section upon the death of the participant. A participant may designate a trust or a custodian account under IC 30-2-8.5 that is established for one (1) or more of the participant's surviving dependent children to receive the benefit provided by this section instead of designating one (1) or more of the participant's surviving dependent children to receive the benefit directly.

(b) If a participant:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) was in service in a position described in section 8 of this chapter and had completed at least eight (8) years of service in a position described in section 8 of this chapter;

(C) had a permanent disability as described in section 17 of this chapter; or

(D) was not in service in a position described in section 8 of this chapter, had completed at least eight (8) years of service in a position described in section 8 of this chapter, and was entitled to a future benefit;

the participant's beneficiary designated under subsection (a) is entitled, regardless of the participant's age, to the benefit prescribed by subsection (c), (e), or (f).

(c) The amount of the annual benefit payable to a beneficiary to whom subsection (b) applies is equal to the greater of:

(1) twelve thousand dollars ($12,000); or

(2) fifty percent (50%) of the amount of retirement benefit:

(A) the participant was drawing at the time of death; or

(B) to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death. However, the reduction described in section 16(d) of this chapter does not apply to the calculation of a survivor benefit under this clause.

(d) A benefit payable under this section is subject to the following:

(1) A surviving spouse designated as the beneficiary under subsection (a) is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have

been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share the benefit equally. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit is payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by the participant survives or survive the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(e) Except as provided in subsection (f), benefits payable to a designated beneficiary under this section are reduced by the amount, if any, that is payable to the surviving spouse or the surviving dependent children from the public employees' retirement fund as a result of the participant's death after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

(f) This subsection applies to a surviving spouse of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a surviving spouse of a participant under this section are reduced by the pension portion of the retirement benefit, if any, that would be payable to the spouse from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

As added by P.L.98-2004, SEC.18. Amended by P.L.33-2006, SEC.3; P.L.54-2013, SEC.6; P.L.160-2013, SEC.8.

IC 33-39-7-20

Benefits payable to dependent children; eligibility; computation; distribution

Sec. 20. (a) If:

(1) a participant's spouse does not survive the participant; and

(2) the participant did not designate one (1) or more of the

participant's surviving dependent children to receive the benefit provided by section 19 of this chapter;

the participant's surviving dependent children are, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Except as provided in subsection (f), benefits payable to a dependent child are reduced by the amount, if any, that is payable to the dependent child from the public employees' retirement fund after subtracting the participant's contributions and earnings attributable to the participant's contributions in the participant's annuity savings account.

(f) This subsection applies to a dependent child of a participant who is a member of the public employees' defined contribution (annuity savings account only) plan established by IC 5-10.3-12-18. Benefits payable to a dependent child of a participant under this section are reduced by the actuarial equivalent of the pension portion of the retirement benefit, if any, that would be payable to the spouse (assuming the spouse would have had the same birth date as the participant) from the public employees' retirement fund under the joint and survivor option under IC 5-10.2-4-7, computed at fifty percent (50%) of the participant's decreased retirement benefit, if the participant had not made an election under IC 5-10.3-12-20 to become a member of the public employees' defined contribution (annuity savings account only) plan.

As added by P.L.98-2004, SEC.18. Amended by P.L.54-2013, SEC.7; P.L.160-2013, SEC.9.

IC 33-39-7-21

Withdrawal of funds after participant dies; surviving spouse; children; estate

Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions, plus interest at a rate specified by rule by the board and minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant or the children of the participant, as designated by the participant;

(2) any dependents of the participant, if a spouse or designated child does not survive; or

(3) the participant's estate, if a spouse, designated child, or other dependent does not survive.

(b) The amount owed a spouse, designated children, other dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application, or in monthly installments, as the recipient elects.

As added by P.L.98-2004, SEC.18. Amended by P.L.16-2011, SEC.12; P.L.160-2013, SEC.10.

IC 33-39-7-22

Satisfaction of Section 401 of the Internal Revenue Code requirements

Sec. 22. The fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter.

(2) A part of the corpus or income of the fund may not be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment or death, or for any other reason, may not be applied to increase the benefits a participant would otherwise receive under the retirement fund law.

(4) If the fund is terminated, or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining any benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter would exceed that maximum benefit, the benefit payable under this chapter shall be reduced as necessary.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-23
Appropriations

Sec. 23. (a) For purposes of this chapter, the following amounts are appropriated for each biennium:

(1) From the state general fund, the amount required to actuarially fund participants' retirement benefits, as determined by the board on recommendation of an actuary.

(2) From the fund, the amount required for administration purposes.

(b) The biennial appropriations provided in this section shall be credited to the board annually in equal installments in the month of July of each year of the biennium.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-24
Rollover to eligible retirement plan

Sec. 24. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

As added by P.L.98-2004, SEC.18.

IC 33-39-7-25
Administration; service credit

Sec. 25. (a) Notwithstanding any other provision of this chapter, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent

required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes.

(b) Notwithstanding any other provision of this chapter, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

As added by P.L.98-2004, SEC.18.

IC 33-39-8

Chapter 8. Prosecuting Attorneys Council

IC 33-39-8-1

Council defined

Sec. 1. As used in this chapter, "council" refers to the prosecuting attorneys council of Indiana established by section 2 of this chapter.

As added by P.L.98-2004, SEC.18.

IC 33-39-8-2

Creation; membership

Sec. 2. (a) The prosecuting attorneys council of Indiana is established.

(b) The membership of the council consists of all the prosecuting attorneys and their chief deputies acting in Indiana.

As added by P.L.98-2004, SEC.18.

IC 33-39-8-3

Board of directors

Sec. 3. The activities of the council shall be directed by a ten (10) member board of directors elected by the entire membership of the council.

As added by P.L.98-2004, SEC.18.

IC 33-39-8-4

Executive director; staff and clerical assistants

Sec. 4. The council may employ an executive director, staff, and clerical assistants necessary to fulfill the purposes of the council.

As added by P.L.98-2004, SEC.18.

IC 33-39-8-5

Duties of council

Sec. 5. The council shall do the following:

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

As added by P.L.98-2004, SEC.18. Amended by P.L.176-2005, SEC.22.

IC 33-39-8-6

Drug prosecution fund

Sec. 6. (a) The drug prosecution fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The council may use money from the fund to provide assistance to prosecuting attorneys to:

(1) investigate and prosecute violations of IC 35-48;

(2) bring actions for forfeiture, law enforcement costs, and correction costs under IC 34-24-1;

(3) bring actions for civil and criminal remedies for a violation of IC 35-45-6; and

(4) obtain training, equipment, and technical assistance that would enhance the ability of prosecuting attorneys to reduce illegal drug activity.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.98-2004, SEC.18.

IC 33-39-9

Chapter 9. Defense and Indemnification of Prosecuting Attorneys

IC 33-39-9-1

Application of chapter

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or a proceeding that:

(1) results in the criminal conviction of; or

(2) is a disciplinary action or proceeding against;

a prosecuting attorney.

As added by P.L.98-2004, SEC.18.

IC 33-39-9-2

Expenses defined

Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the prosecuting attorney to hire private counsel to provide the defense.

(2) A judgment.

(3) A settlement.

(4) Court costs.

(5) Discovery costs.

(6) Expert witness fees.

(7) Any other expense incurred as a result of an action or a proceeding.

As added by P.L.98-2004, SEC.18.

IC 33-39-9-3

Prosecuting attorney defined

Sec. 3. As used in the chapter, "prosecuting attorney" means a prosecuting attorney, a deputy prosecuting attorney, or a senior prosecuting attorney appointed under IC 33-39-1.

As added by P.L.98-2004, SEC.18.

IC 33-39-9-4

Payment of expenses

Sec. 4. The state shall pay the expenses incurred by a prosecuting attorney from a threatened, pending, or completed action or proceeding that arises from:

(1) making;

(2) performing; or

(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the prosecuting attorney's office.

As added by P.L.98-2004, SEC.18.

IC 33-40

ARTICLE 40. PUBLIC DEFENDERS

IC 33-40-1

Chapter 1. State Public Defender

IC 33-40-1-1

Appointment; qualifications

Sec. 1. (a) The office of state public defender is established.

(b) The state public defender shall be appointed by the supreme court, to serve at the pleasure of the court, for a term of four (4) years.

(c) The state public defender must be:

(1) a resident of Indiana; and

(2) a practicing attorney in Indiana for at least three (3) years.

(d) The supreme court may give any tests it considers proper to determine the fitness of an applicant for appointment.

As added by P.L.98-2004, SEC.19.

IC 33-40-1-2

Representing penal institution inmates

Sec. 2. (a) The state public defender shall represent a person who is:

(1) confined in a penal facility in Indiana or committed to the department of correction due to a criminal conviction or delinquency adjudication; and

(2) financially unable to employ counsel;

in a postconviction proceeding testing the legality of the person's conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent a person who is committed to the department of correction due to a criminal conviction or delinquency adjudication, and who is financially unable to employ counsel, in proceedings before the department of correction or parole board, if the right to legal representation is established by law.

(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, a modification, or a reversal of law, or that for any other reason is without merit.

(d) This section does not prohibit an offender from proceeding on the offender's own behalf or otherwise refusing the services of the state public defender.

As added by P.L.98-2004, SEC.19.

IC 33-40-1-3

Seal of office; powers of public defender

Sec. 3. (a) The state public defender shall be provided with a seal of office on which appear the words "Public Defender, State of

Indiana".

(b) The state public defender may:

(1) take acknowledgments;

(2) administer oaths; and

(3) do all other acts authorized by law for a notary public.

An act performed under this section must be attested by the public defender's official seal.

As added by P.L.98-2004, SEC.19.

IC 33-40-1-4

Salary; employees; office and supplies

Sec. 4. (a) The state public defender shall be paid an annual salary to be fixed by the supreme court.

(b) The state public defender may, with the consent of the supreme court, appoint or employ, at compensation to be fixed by the supreme court, the deputies, stenographers, or other clerical help that may be required to discharge the public defender's duties.

(c) The state public defender shall be provided with an office at a place to be located and designated by the supreme court.

(d) The state public defender shall be paid the state public defender's actual necessary and reasonable traveling expenses, including cost of food and lodging when away from the municipality in which the public defender's office is located and while on business of the office of the public defender.

(e) The state public defender shall be provided with:

(1) office furniture, fixtures, and equipment; and

(2) books, stationery, printing services, postage, and supplies.

As added by P.L.98-2004, SEC.19.

IC 33-40-1-5

Transcript of court proceedings

Sec. 5. The state public defender may order on behalf of a prisoner the public defender represents a transcript of any court proceeding, including evidence presented, had against the prisoner, and depositions, if necessary, at the expense of the state. However, the public defender may stipulate as to the facts contained in the record of any court, or as to the substance of testimony presented or evidence heard involving any issue to be presented on behalf of the prisoner, without the testimony or evidence being fully transcribed.

As added by P.L.98-2004, SEC.19.

IC 33-40-1-6

Claims for salary or expenses; appropriation

Sec. 6. All claims for salary or other expenses authorized by this chapter shall be allowed and approved by the supreme court. There is appropriated annually out of funds of the state not otherwise appropriated a sufficient amount to pay salaries and expenses authorized by this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-2
Chapter 2. Public Defenders

IC 33-40-2-1
Request to state public defender

Sec. 1. (a) Upon a determination by the judge of any court having criminal jurisdiction that:

(1) the court is unable within a reasonable time to appoint an available attorney, public defender or otherwise, who is competent in the practice of law in criminal cases as legal counsel for any person charged in the court with a criminal offense and who does not have sufficient means to employ an attorney; or

(2) in the interest of justice an attorney from another judicial circuit, not regularly practicing in the court, should be appointed to defend the indigent defendant or appeal the defendant's case, but the judge is unable within a reasonable time to provide for the direct appointment of an attorney;

the judge may make written request to the state public defender to provide a qualified attorney for the defense of the indigent person.

(b) The judge shall attach to the written request a copy of the affidavit or indictment, and state in the request the amount of the applicable minimum fee to be paid for the legal services of defense counsel in the case, subject to:

(1) any additional amount reasonable under all the circumstances of the case, to be determined and approved by the judge upon the final determination of the case; and

(2) reasonable partial allowances as may be approved and ordered by the judge pending final determination.

As added by P.L.98-2004, SEC.19.

IC 33-40-2-2
Appointment

Sec. 2. Upon receiving a written request under section 1 of this chapter, the state public defender shall:

(1) accept appointment himself or herself;

(2) appoint any of the state public defender's deputies; or

(3) appoint any practicing attorney:

(A) admitted to the practice of law in Indiana; and

(B) who is competent to practice law in criminal cases;

subject to the concurring appointment, of record, by the requesting judge.

As added by P.L.98-2004, SEC.19.

IC 33-40-2-3
Schedule of fees

Sec. 3. (a) The state public defender shall prepare and maintain a schedule of minimum attorney's fees for all general classifications of criminal trials, and proceedings on plea of guilty, subject to the approval of the supreme court. The schedule shall be furnished upon

request to all criminal courts. A fee approved by any court for the services of:

(1) the state public defender;

(2) the state public defender's deputy; or

(3) any attorney appointed by the state public defender and the judge under a request made to the state public defender;

may not be less than the approved minimum fee provided in the schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the state public defender that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-2-4

Fees; payment

Sec. 4. All fees for services rendered by the state public defender or any of the state public defender's deputies under this chapter shall be paid directly to the state treasurer, to be expended for any necessary expenses of the office of the state public defender, including salaries of the necessary deputies, in addition to the state general funds otherwise appropriated by the general assembly for the payment of the expenses.

As added by P.L.98-2004, SEC.19.

IC 33-40-2-5

Order for payment

Sec. 5. The judge of a court having criminal jurisdiction shall make all orders necessary to mandate payment of fees approved by the presiding judge for payment for legal services rendered for indigent defendants in any cause in:

(1) the court; or

(2) another court following change of venue from the court;

whether or not the legal services are arranged under this chapter or by direct appointment of counsel in the first instance by the judge.

As added by P.L.98-2004, SEC.19.

IC 33-40-2-6

Public defender investigators

Sec. 6. (a) A public defender may use a public defender investigator who is qualified under subsection (b) to assist the public defender in preparing for the criminal defense of indigent persons.

(b) To practice as a public defender investigator, an individual must:

(1) be at least twenty-one (21) years of age; and

(2) not have a conviction for a crime that has a direct bearing on the individual's ability to competently perform the duties of a public defender investigator.

(c) A public defender investigator may not perform any duties for

the public defender that constitute the unauthorized practice of law.
As added by P.L.98-2004, SEC.19.

IC 33-40-3

Chapter 3. Supplemental Funding for Public Defender Services

IC 33-40-3-1

Supplemental public defender services fund; establishment

Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under:

(1) section 9 of this chapter; and

(2) IC 35-33-8-3.3.

As added by P.L.98-2004, SEC.19. Amended by P.L.173-2006, SEC.41.

IC 33-40-3-2

Appropriation

Sec. 2. The fiscal body of the county shall appropriate money from the fund to supplement and provide court appointed legal services to qualified defendants.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-3

Use of fund

Sec. 3. The supplemental public defender services fund may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-4

Reversion of money in fund

Sec. 4. Any money remaining in the fund at the end of the calendar year does not revert to any other fund but continues in the supplemental public defender services fund.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-5

Multiple court appointed legal service programs

Sec. 5. A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the county agrees to allow additional court appointed legal services programs in the county.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-6

Payment of costs by person or parent of delinquent child; maximum costs

Sec. 6. (a) If at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation under section 7 of this chapter, the court shall require

payment by the person or the person's parent, if the person is a child alleged to be a delinquent child, of the following costs in addition to other costs assessed against the person:

(1) Reasonable attorney's fees if an attorney has been appointed for the person by the court.

(2) Costs incurred by the county as a result of court appointed legal services rendered to the person.

(b) The clerk of the court shall deposit costs collected under this section into the supplemental public defender services fund established under section 1 of this chapter.

(c) A person ordered to pay any part of the costs of representation under subsection (a) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and under Indiana law.

(d) The sum of:

(1) the fee collected under IC 35-33-7-6;

(2) any amount assessed by the court under this section; and

(3) any amount ordered to be paid under IC 33-37-2-3;

may not exceed the cost of defense services rendered to the person.
As added by P.L.98-2004, SEC.19.

IC 33-40-3-7
Determination of ordering payment of costs

Sec. 7. (a) If a defendant or a child alleged to be a delinquent child is receiving publicly paid representation, the court shall consider:

(1) the person's independently held assets and assets available to the spouse of the person or the person's parent if the person is unemancipated;

(2) the person's income;

(3) the person's liabilities; and

(4) the extent of the burden that payment of costs assessed under section 6 of this chapter would impose on the person and the dependents of the person.

(b) If, after considering the factors described in subsection (a), the court determines that the person is able to pay the costs of representation, the court shall enter a finding that the person is able to pay those additional costs.
As added by P.L.98-2004, SEC.19.

IC 33-40-3-8
Order for costs as a civil judgment; relief from payment

Sec. 8. An order for costs assessed under section 6 of this chapter is a civil judgment subject to the exemptions allowed debtors under IC 34-55-10-2. At any time after entry of the order, the defendant may petition the court that has entered the order for relief from payment. The court may release the defendant from payment of all or a part of the payment required by the order if the court finds that payment would impose a hardship upon the defendant or dependents of the defendant.

As added by P.L.98-2004, SEC.19.

IC 33-40-3-9
Collection and deposit of fees

Sec. 9. Fees assessed under section 6 of this chapter shall be collected by the program providing court appointed legal services in the county. These fees shall be deposited in the supplemental public defender services fund established under section 1 of this chapter.
As added by P.L.98-2004, SEC.19.

IC 33-40-3-10
Establishment of fund in counties where public defender services not provided

Sec. 10. (a) In a county with a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000) in which a county public defender service is not provided, a supplemental public defender services fund must be established in each city for providing funding for a public defender to represent indigent defendants in a city court.

(b) Sections 2 through 9 of this chapter apply to the locally established supplemental public defender services fund established under subsection (a). However, funds otherwise required to be delivered to the county fiscal officer for maintaining a supplemental public defender services fund under this chapter shall be deposited with the local fiscal officer.
As added by P.L.98-2004, SEC.19.

IC 33-40-4

Chapter 4. Public Defender Council

IC 33-40-4-1

"Council" defined

Sec. 1. As used in this chapter, "council" refers to the public defender council of Indiana established by section 2 of this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-4-2

Establishment

Sec. 2. (a) There is established a public defender council of Indiana.

(b) The council's membership consists of all:

(1) public defenders;

(2) contractual pauper counsel; and

(3) other court appointed attorneys regularly appointed to represent indigent defendants.

As added by P.L.98-2004, SEC.19.

IC 33-40-4-3

Board of directors; members

Sec. 3. The activities of the council shall be directed by an eleven (11) member board of directors, ten (10) of whom shall be elected by the entire membership of the council, and the state public defender.

As added by P.L.98-2004, SEC.19.

IC 33-40-4-4

Executive director; staff

Sec. 4. The council may employ an executive director, staff, and clerical personnel as necessary to carry out the council's purposes.

As added by P.L.98-2004, SEC.19.

IC 33-40-4-5

Duties

Sec. 5. The council shall:

(1) assist in the coordination of the duties of the attorneys engaged in the defense of indigents at public expense;

(2) prepare manuals of procedure;

(3) assist in the preparation of trial briefs, forms, and instructions;

(4) conduct research and studies of interest or value to all such attorneys; and

(5) maintain liaison contact with study commissions, organizations, and agencies of all branches of local, state, and federal government that will benefit criminal defense as part of the fair administration of justice in Indiana.

As added by P.L.98-2004, SEC.19.

IC 33-40-5

Chapter 5. Public Defender Commission

IC 33-40-5-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Indiana public defender commission established by section 2 of this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-5-2

Establishment; composition

Sec. 2. (a) The Indiana public defender commission is established.

(b) The commission is composed of the following eleven (11) members, none of whom may be a law enforcement officer or a court employee:

(1) Three (3) members appointed by the governor, with not more than two (2) of these individuals belonging to the same political party.

(2) Three (3) members appointed by the chief justice of the supreme court, with not more than two (2) of these individuals belonging to the same political party.

(3) One (1) member appointed by the board of trustees of the Indiana criminal justice institute, who is an attorney admitted to practice law in Indiana.

(4) Two (2) members of the house of representatives to be appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be from the same political party.

(5) Two (2) members of the senate, to be appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be from the same political party.

As added by P.L.98-2004, SEC.19.

IC 33-40-5-3

Chairperson; term of office; vacancies; reimbursement of expenses; salary; meetings

Sec. 3. (a) The members of the commission shall designate one (1) member of the commission as chairperson.

(b) The term of office of each member of the commission is four (4) years. A vacancy occurring among the members of the commission before the expiration of a term shall be filled in the same manner as the original appointment. An appointment to fill a vacancy occurring before the expiration of a term is for the remainder of the unexpired term.

(c) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) A member of the commission who is not a state employee is

entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The commission shall meet at least quarterly and at times called by the chairperson or at the request of three (3) commission members.

As added by P.L.98-2004, SEC.19.

IC 33-40-5-4

Duties

Sec. 4. The commission shall do the following:

(1) Make recommendations to the supreme court concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-40-6, including the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-40-3.

(C) The use and expenditure of funds in the county supplemental public defender services fund established under IC 33-40-3-1.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

The report to the general assembly under subdivision (4) must be in

an electronic format under IC 5-14-6.
As added by P.L.98-2004, SEC.19.

IC 33-40-5-5
Staff support

Sec. 5. The division of state court administration of the supreme court shall provide general staff support to the commission. The division of state court administration may enter into contracts for any additional staff support that the division determines is necessary to implement this section.
As added by P.L.98-2004, SEC.19.

IC 33-40-6
Chapter 6. Public Defense Fund

IC 33-40-6-1
Purpose; administration

Sec. 1. The public defense fund is established to receive court costs or other revenues for county reimbursement and administrative expenses. The fund shall be administered by the division of state court administration of the supreme court.
As added by P.L.98-2004, SEC.19.

IC 33-40-6-2
Investment of funds

Sec. 2. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.
As added by P.L.98-2004, SEC.19.

IC 33-40-6-3
Reversion of money to state general fund

Sec. 3. Money in the fund at the end of a fiscal year does not revert to the state general fund.
As added by P.L.98-2004, SEC.19.

IC 33-40-6-4
Certified request for reimbursement for indigent defense services

Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors.

(c) A request under this section from a county described in IC 33-40-7-1(3) may be limited to expenditures for indigent defense services provided by a particular division of a court.
As added by P.L.98-2004, SEC.19.

IC 33-40-6-5
Amount of reimbursement for indigent defense services; disbursement

Sec. 5. (a) Except as provided under section 6 of this chapter, upon certification by a county auditor and a determination by the public defender commission that the request is in compliance with the guidelines and standards set by the commission, the commission shall quarterly authorize an amount of reimbursement due the

county:

(1) that is equal to fifty percent (50%) of the county's certified expenditures for indigent defense services provided for a defendant against whom the death sentence is sought under IC 35-50-2-9; and

(2) that is equal to forty percent (40%) of the county's certified expenditures for defense services provided in noncapital cases except misdemeanors.

The division of state court administration shall then certify to the auditor of state the amount of reimbursement owed to a county under this chapter.

(b) Upon receiving certification from the division of state court administration, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of the amount certified.

As added by P.L.98-2004, SEC.19.

IC 33-40-6-6

Certified claims in capital cases given priority

Sec. 6. The commission shall give priority to certified claims for reimbursement in capital cases. If the balance in the public defense fund is not adequate to fully reimburse all certified claims in noncapital cases, the commission shall prorate reimbursement of certified claims in noncapital cases.

As added by P.L.98-2004, SEC.19. Amended by P.L.85-2004, SEC.29.

IC 33-40-7

Chapter 7. County Public Defender Boards

IC 33-40-7-1

Applicability of chapter

Sec. 1. This chapter does not apply to a county that:

(1) contains a consolidated city;

(2) has a population of:

(A) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

(B) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or

(C) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000); or

(3) has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), except as provided in sections 5 and 11 of this chapter.

As added by P.L.98-2004, SEC.19. Amended by P.L.13-2013, SEC.82.

IC 33-40-7-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to a board established in an ordinance under section 3 of this chapter.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-3

Establishment of board; members; terms; chairperson; meetings; termination

Sec. 3. (a) A county executive may adopt an ordinance establishing a county public defender board consisting of three (3) members. The county executive shall appoint one (1) member. The judges who exercise felony or juvenile jurisdiction in the county shall appoint by majority vote the other two (2) members.

(b) The members appointed by the judges may not be from the same political party. The members must be persons who have demonstrated an interest in high quality legal representation for indigent persons. However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(c) Each member of the board serves a three (3) year term beginning with the date of the member's appointment. A member appointed to fill a vacancy holds office for the remainder of the previous member's term. If a successor has not been appointed by the end of a member's three (3) year term, the member continues in office until the member's successor takes office.

(d) The members shall, by a majority vote, elect one (1) member to serve as chairperson.

(e) Meetings shall be held at least quarterly and may be held at other times during the year at the call of the:

(1) chairperson; or
(2) other two (2) members.

(f) A county executive may terminate the board by giving at least ninety (90) days written notice to the judges described in subsection (a).

As added by P.L.98-2004, SEC.19.

IC 33-40-7-4
Reimbursement for expenses

Sec. 4. A member is entitled to reimbursement from the county for traveling expenses and other expenses actually incurred in connection with the member's duties to the same extent as is provided to a state employee for traveling expenses and other expenses under the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-5
Comprehensive plan

Sec. 5. (a) The board shall prepare a comprehensive plan that must include at least one (1) of the following methods of providing legal defense services to indigent persons:

(1) Establishing a county public defender's office.
(2) Contracting with an attorney, a group of attorneys, or a private organization.
(3) Using an assigned counsel system of panel attorneys for case by case appointments under section 9 of this chapter.
(4) In a county described in section 1(3) of this chapter, establishing a public defender's office for the criminal division of the superior court.

(b) The plan prepared under subsection (a) shall be submitted to the Indiana public defender commission.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-6
Duties of board; term, removal, and qualifications of county public defender

Sec. 6. (a) If a county public defender's office is established under this chapter, the board shall do the following:

(1) Recommend to the county fiscal body an annual operating budget for the county public defender's office.
(2) Appoint a county public defender.
(3) Submit an annual report to the county executive, the county fiscal body, and the judges described in section 3 of this chapter regarding the operation of the county public defender's office, including information relating to caseloads and expenditures.

(b) A county public defender shall be appointed for a term not to exceed four (4) years and may be reappointed. The county public defender may be removed from office only upon a showing of good

cause. An attorney must be admitted to the practice of law in Indiana for at least two (2) years before the attorney is eligible for appointment as a county public defender.
As added by P.L.98-2004, SEC.19.

IC 33-40-7-7
Duties of county public defender

Sec. 7. A county public defender shall do the following:

(1) Maintain an office as approved by the board.

(2) Hire and supervise staff necessary to perform the services of the office after the staff positions are recommended by the board and approved by the county executive and the fiscal body.

(3) Keep and maintain records of all cases handled by the office and report at least annually to the board and the Indiana public defender commission concerning the operation of the office, costs, and projected needs.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-8
Contracts to provide legal representation

Sec. 8. (a) A county public defender may contract with an attorney, a group of attorneys, or a private organization to provide legal representation under this chapter.

(b) The board shall establish the provisions of the contract under this section.

(c) The county fiscal body shall appropriate an amount sufficient to meet the obligations of the contract.
As added by P.L.98-2004, SEC.19.

IC 33-40-7-9
Assigned counsel system

Sec. 9. The board may establish an assigned counsel system of panel attorneys to provide legal representation under this chapter that shall operate as follows:

(1) The board shall gather and maintain a list of attorneys qualified to represent indigent defendants.

(2) Upon the determination by a court that a person is indigent and entitled to legal representation at public expense, the court shall appoint an attorney to provide the representation from the list maintained by the board.

(3) An attorney appointed to provide representation under this section may request authorization from the judge hearing the case for expenditures for investigative services, expert witnesses, or other services necessary to provide adequate legal representation.

(4) An attorney appointed to provide representation under this section is entitled to receive compensation and reimbursement for budgeted expenses by submitting a voucher to the court. Upon approval of the voucher by the appropriate judge, the voucher shall be presented to the county auditor who shall

process the claim as other claims against county funds are processed.

(5) An attorney appointed to provide representation under this section shall, upon completion of representation, report to the board information regarding the case disposition.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-10

Court appointment of counsel or co-counsel

Sec. 10. (a) This chapter does not prevent a court from appointing counsel other than counsel provided for under the board's plan for providing defense services to an indigent person when the interests of justice require. A court may also appoint counsel to assist counsel provided for under the board's plan as co-counsel when the interests of justice require. Expenditures by a county for defense services not provided under the county public defender board's plan are not subject to reimbursement from the public defense fund under IC 33-40-6.

(b) A judge of a court having criminal jurisdiction may make a written request to the state public defender to provide a qualified attorney for the defense of a person charged in the court with a criminal offense and eligible for representation at public expense if the judge determines:

(1) that an attorney provided under the county public defender board's plan is not qualified or available to represent the person; or

(2) that in the interests of justice an attorney other than the attorney provided for by the county defender board's plan should be appointed.

The judge shall attach to the request a copy of the information or indictment. Expenditures for representation under this subsection shall be paid by the county according to a fee schedule approved by the commission. These expenditures are eligible for reimbursement from the public defense fund.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-11

Expenditures; reimbursement

Sec. 11. (a) A county public defender board shall submit a written request for reimbursement to the county auditor. The request must set forth the total of the county's expenditures for indigent defense services to the county auditor and may be limited in a county described in section 1(3) of this chapter to expenditures for indigent defense services provided by a particular division of a court. The county auditor shall review the request and certify the total of the county's expenditures for indigent defense services to the Indiana public defender commission.

(b) Upon certification by the Indiana public defender commission that the county's indigent defense services meet the commission's standards, the auditor of state shall issue a warrant to the treasurer of

state for disbursement to the county of a sum equal to forty percent (40%) of the county's certified expenditures for indigent defense services provided in noncapital cases except misdemeanors.

(c) If a county's indigent defense services fail to meet the standards adopted by the Indiana public defender commission, the public defender commission shall notify the county public defender board and the county fiscal body of the failure to comply with the Indiana public defender commission's standards. Unless the county public defender board corrects the deficiencies to comply with the standards not more than ninety (90) days after the date of the notice, the county's eligibility for reimbursement from the public defense fund terminates at the close of that fiscal year.

As added by P.L.98-2004, SEC.19.

IC 33-40-7-12

Conflict of interest

Sec. 12. A county public defender, a contract attorney, or counsel appointed by the court to provide legal defense services to indigent persons may not be a partner or an employee at the same law firm that employs the county's prosecuting attorney or a deputy prosecuting attorney in a private capacity.

As added by P.L.98-2004, SEC.19.

IC 33-40-8

Chapter 8. Miscellaneous Legal Services for Indigents in Criminal Actions

IC 33-40-8-1

Contracts

Sec. 1. The judge of any court having criminal jurisdiction, except in those counties with a population of at least four hundred thousand (400,000), may contract with any attorney or group of attorneys admitted to practice law in Indiana to provide legal counsel for all or some of the poor persons coming before the court charged with the commission of a crime and not having sufficient means to employ an attorney to defend themselves.

As added by P.L.98-2004, SEC.19.

IC 33-40-8-2

Fees

Sec. 2. A judge shall establish the fee to be paid to an attorney or attorneys for providing service to poor people.

As added by P.L.98-2004, SEC.19.

IC 33-40-8-3

Contracts; duration

Sec. 3. A contract entered into under section 1 of this chapter may be from year to year or for any length of time determined by the judge.

As added by P.L.98-2004, SEC.19.

IC 33-40-8-4

Appropriations; fees

Sec. 4. The county council of every county where the judge of any court having criminal jurisdiction has contracted with an attorney for legal services to the poor shall appropriate an amount sufficient to meet the contract obligations of a court or courts for services to the poor.

As added by P.L.98-2004, SEC.19.

IC 33-40-8-5

Transcription of notes of evidence

Sec. 5. (a) Subject to subsection (b), if an indigent person:

(1) desires to appeal to the supreme court or the court of appeals the decision of a trial court in a criminal case; and

(2) does not have sufficient means to procure the typed or printed manuscript or transcript of the evidence taken by the court reporter;

the court shall direct the court reporter to transcribe the notes of evidence into a typed or printed manuscript or transcript as soon as practicable and deliver the manuscript or transcript to the indigent person.

(b) Notwithstanding subsection (a):

(1) the court must be satisfied that the indigent person lacks sufficient means to pay the court reporter for making the manuscript or transcript of evidence; and

(2) the court reporter may charge the compensation allowed by law in cases for making and furnishing a manuscript or transcript. The reporter shall be paid by the court from the proper county treasury.

As added by P.L.98-2004, SEC.19. Amended by P.L.65-2004, SEC.20.

IC 33-41

ARTICLE 41. COURT REPORTERS

IC 33-41-1

Chapter 1. Powers and Duties

IC 33-41-1-1

Appointment and duties of official reporters

Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

(1) Be promptly present in the appointing judge's court.

(2) Record the oral evidence given in all causes by any approved method, including both questions and answers.

(3) Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.

(4) Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and

(2) except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars ($125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than six hundred thousand (600,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars ($300) per month.

As added by P.L.98-2004, SEC.20. Amended by P.L.65-2004, SEC.21; P.L.119-2012, SEC.165.

IC 33-41-1-2
Gender of appointee; child of judge

Sec. 2. (a) A person may not be considered ineligible to serve as official reporter because of the person's gender.

(b) A judge may not appoint the judge's son or daughter as an official reporter.

As added by P.L.98-2004, SEC.20.

IC 33-41-1-3
Oath of office

Sec. 3. At the time of appointment, an official reporter shall take an oath before an officer empowered to administer oaths to faithfully perform his or her duties as an official reporter.

As added by P.L.98-2004, SEC.20.

IC 33-41-1-4
Removal from office; filling vacancy of office

Sec. 4. An official reporter may, at any time, be removed by the judge of the court for which the reporter was appointed. In case of a vacancy in the office of official reporter, the judge of the court in which the vacancy occurs shall fill the vacancy as soon after its occurrence as practicable.

As added by P.L.98-2004, SEC.20.

IC 33-41-1-5
Transcript of proceedings

Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish a typewritten or printed transcript described in subsection (a) as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.

As added by P.L.98-2004, SEC.20. Amended by P.L.65-2004, SEC.22.

IC 33-41-1-6
Powers of court reporter; taking examinations and depositions; bond; seal

Sec. 6. (a) Every official circuit, superior, criminal, probate, and juvenile court reporter appointed under section 1 of this chapter may do the following:

(1) Take and certify all acknowledgments of deeds, mortgages, or other instruments of writing required or authorized by law to be acknowledged.

(2) Administer oaths generally.

(3) Take and certify affidavits, examinations, and depositions.

(4) Perform any duty conferred upon a notary public by Indiana statutes.

(b) Any official reporter taking examinations and depositions may:

(1) take them in shorthand;

(2) transcribe them into typewriting or longhand; and

(3) have them signed by the deposing witness.

(c) Before performing any official duty as authorized, an official reporter must:

(1) provide a bond as is required for notaries public; and

(2) procure a seal that will stamp a distinct impression indicating the reporter's official character, to which may be added any other device as the reporter chooses.

As added by P.L.98-2004, SEC.20. Amended by P.L.201-2011, SEC.106.

IC 33-41-1-7

Small claims courts; transcript fee

Sec. 7. (a) This section applies to the small claims court established under IC 33-34.

(b) The person who is designated by a judge of the court to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

As added by P.L.98-2004, SEC.20.

IC 33-41-2
Chapter 2. Salaries

IC 33-41-2-1
Census defined
Sec. 1. As used in this chapter, "census" means the last preceding United States federal decennial census.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-2
County salary defined
Sec. 2. As used in this chapter, "county salary" means that part of a court reporter's salary that is paid by the county.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-3
Judicial circuit defined
Sec. 3. As used in this chapter, "judicial circuit" means any county comprising a single judicial circuit or any combination of one (1) or more counties comprising a single judicial circuit.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-4
Official court reporter defined
Sec. 4. As used in this chapter, "official court reporter" means any court reporter who is appointed as the official court reporter by the judge of any circuit, superior, or probate court in Indiana.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-5
Salary defined
Sec. 5. As used in this chapter, "salary" means the amount of the state salary and the amount of the county salary added together.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-6
State salary defined
Sec. 6. As used in this chapter, "state salary" means that part of a court reporter's salary that is paid by the state.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-7
Appropriation for county salaries
Sec. 7. County councils shall appropriate annually a sufficient amount to pay the county salaries authorized by this chapter.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-8
Multiple county judicial circuit
Sec. 8. If a judicial circuit is composed of more than one (1)

county, all the counties comprising the circuit, for purposes of this chapter, are considered as one (1) county. Each county in a circuit shall pay part of the county salary in the same proportion as its individual classification factor bears to the classification factor of the judicial circuit.
As added by P.L.98-2004, SEC.20.

IC 33-41-2-9
Counties graded on basis of population and gross assessed valuation; percentage ratio

Sec. 9. For the purpose of this chapter:

(1) counties are graded on the basis of population and gross assessed valuation; and

(2) each county is set up on the percentage ratio it bears to the state with the whole state being considered as one hundred percent (100%).

As added by P.L.98-2004, SEC.20.

IC 33-41-2-10
Classes of counties based on unit factor system; factors

Sec. 10. (a) The nine (9) classes of counties as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. The factors are as follows:

(1) Population.

(2) Gross assessed valuation, as shown by the last preceding gross assessed valuation, as certified by the various counties to the auditor of state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The results obtained in subdivisions (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).

(4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
No Limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6

All under	.60	.50	7
All under	.50	.35	8
All under	.35	No limit	9

As added by P.L.98-2004, SEC.20.

IC 33-41-2-11
Court reporter annual salary; additional increments to minimum salary

Sec. 11. The annual salary of each court reporter shall be fixed as provided in this chapter according to the county or counties in which the court reporter holds office. A county or counties may add additional increments to the minimum annual salary according to the usual budget procedures. The salaries shall be paid in equal monthly installments.

As added by P.L.98-2004, SEC.20.

IC 33-41-2-12
Classes of salary for court reporters

Sec. 12. The annual salary of each court reporter shall be:

Class 1	$7,000
Class 2	$6,800
Class 3	$6,500
Class 4	$6,000
Class 5	$5,500
Class 6	$5,200
Class 7	$5,000
Class 8	$4,800
Class 9	$4,500

As added by P.L.98-2004, SEC.20.

IC 33-41-2-13
Population change affecting classification of judicial circuit

Sec. 13. If the classification of any judicial circuit is changed by reason of change in population as determined by the census, the salaries of the court reporters of the judicial circuit is governed as provided by this chapter for judicial circuits of the population class into which it is placed. However, a judicial circuit may not be reduced in classification for determining the salary of any court reporter unless the minimum population of any class on July 1, 1965, was reduced more than five percent (5%) by the last preceding United States federal decennial census.

As added by P.L.98-2004, SEC.20.

IC 33-41-2-14
Construction of chapter

Sec. 14. This chapter may not be considered to repeal or amend IC 33-41-1-1.

As added by P.L.98-2004, SEC.20.

IC 33-41-3
Chapter 3. Depositions

IC 33-41-3-0.2
Application of prior law
Sec. 0.2. The addition of IC 33-15-27 (before its repeal, now codified in this chapter) by P.L.104-1999 applies only to a deposition taken after December 31, 1999.
As added by P.L.220-2011, SEC.544.

IC 33-41-3-1
Applicability of chapter
Sec. 1. This chapter does not apply to contracts for court reporting services for any of the following:
(1) A court.
(2) An agency or instrumentality of a state or political subdivision.
(3) An agency or instrumentality of the government of the United States.
As added by P.L.98-2004, SEC.20.

IC 33-41-3-2
Employee defined
Sec. 2. As used in this chapter, "employee" includes the following:
(1) A person who provides reporting or other court services under a contractual relationship with a person interested in the outcome of litigation, including anyone that may be ultimately responsible for payment.
(2) A person who is employed to provide reporting or other court services part time or full time under a contract or otherwise by a person that has a contractual relationship with a party.
As added by P.L.98-2004, SEC.20.

IC 33-41-3-3
Depositions for use in court proceedings
Sec. 3. A deposition to be used in a proceeding in a circuit, superior, probate, county, city, or town court, the court of appeals, or the supreme court must be taken before an individual who:
(1) is described in section 4 of this chapter; and
(2) does not have a prohibited interest or relationship described in section 5 of this chapter.
As added by P.L.98-2004, SEC.20.

IC 33-41-3-4
Before whom depositions must be taken
Sec. 4. A deposition must be taken before:
(1) a hearing officer;
(2) a judge, a clerk, a commissioner, or an official reporter of a

court;

(3) a notary public; or

(4) another individual authorized by law to take a deposition.

As added by P.L.98-2004, SEC.20.

IC 33-41-3-5

Persons who may not take depositions

Sec. 5. (a) Subsection (b)(4) does not apply to a relative or employee of the attorney of one (1) of the parties to a proceeding.

(b) A deposition may not be taken by a person who is:

(1) a party to the proceeding;

(2) a relative, an employee, or an attorney of one (1) of the parties to the proceeding;

(3) someone with a financial interest in the proceeding or its outcome; or

(4) a relative, an employee, or an attorney of a person with a financial interest in the proceeding or its outcome.

As added by P.L.98-2004, SEC.20.

IC 33-41-3-6

Void depositions

Sec. 6. A deposition that is not taken in conformity with section 3 of this chapter is void.

As added by P.L.98-2004, SEC.20.

IC 33-41-3-7

Transcription of depositions

Sec. 7. A person, when reducing a deposition to writing, shall transcribe a page unit of the deposition in the same form as the form required for a record of proceedings under Indiana Rule of Appellate Procedure 7.2.

As added by P.L.98-2004, SEC.20.

IC 33-42

ARTICLE 42. NOTARIES PUBLIC

IC 33-42-1

Chapter 1. Jurisdiction

IC 33-42-1-1

Limits of state

Sec. 1. The jurisdiction of a notary public qualified in Indiana is co-extensive with the limits of the state. However, a notary may not be compelled to act out of the limits of the county in which the notary public resides.

As added by P.L.98-2004, SEC.21.

IC 33-42-2

Chapter 2. Qualifications, Powers, and Duties

IC 33-42-2-0.1

Repealed

(Repealed by P.L.63-2012, SEC.39.)

IC 33-42-2-1

Qualifications; appointment; application; bond; fees

Sec. 1. (a) An applicant for a commission as a notary public must be:

(1) at least eighteen (18) years of age; and

(2) a legal resident of Indiana.

(b) A notary public shall be appointed and commissioned by the governor. A notary public holds office for eight (8) years. A notary public, when so qualified, may act throughout Indiana.

(c) A person may request an application to become a notary public from the secretary of state. The secretary of state shall prescribe a written application form on which a person may apply for a commission as a notary public. The secretary of state may provide an applicant with enhanced access (as defined in IC 5-14-3-2) to an application form that may be completed and submitted to the secretary of state by means of an electronic device. IC 4-5-10 applies to an application form provided by enhanced access under this section. The application form must include the applicant's county of residence, oath of office, and official bond. The application must also contain any additional information necessary for the efficient administration of this chapter.

(d) The applicant must:

(1) personally appear with an application form before an officer, authorized by law to administer oaths, who shall administer an oath of office to the applicant; or

(2) certify on an application form under penalty of perjury that the applicant will abide by the terms of the oath.

The secretary of state shall prescribe the manner in which an applicant may complete a certification authorized under subdivision (2).

(e) The applicant must secure an official bond, with freehold or corporate security, to be approved by the secretary of state in the sum of five thousand dollars ($5,000). The official bond must be conditioned upon the faithful performance and discharge of the duties of the office of notary public, in all things according to law, for the use of any person injured by a breach of the condition. The completed application must be forwarded to the secretary of state. The secretary of state shall forward each commission issued by the governor to the applicant or the applicant's surety company.

(f) The secretary of state shall charge and collect the following fees:

(1) For each commission to notaries public, five dollars ($5).

(2) For each duplicate commission to notaries public, five

dollars ($5).

As added by P.L.98-2004, SEC.21.

IC 33-42-2-2

Prohibited acts; violation; revocation; investigation

Sec. 2. (a) A notary public may not do any of the following:

(1) Use any other name or initial in signing acknowledgments, other than that by which the notary has been commissioned.

(2) Acknowledge any instrument in which the notary's name appears as a party to the transaction.

(3) Take the acknowledgment of or administer an oath to any person whom the notary actually knows:

(A) has been adjudged mentally incompetent by a court; and

(B) to be under a guardianship under IC 29-3 at the time the notary takes the acknowledgment or administers the oath.

(4) Take the acknowledgment of any person who is blind, without first reading the instrument to the blind person.

(5) Take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does speak or understand.

(6) Acknowledge the execution of:

(A) an affidavit, unless the affiant acknowledges the truth of the statements in the affidavit; or

(B) an instrument, unless the person who executed the instrument:

(i) signs the instrument before the notary; or

(ii) affirms to the notary that the signature on the instrument is the person's own.

(b) Except as provided in subsection (d), if a notary public violates this article, the notary's appointment may be revoked by the judge of a court with jurisdiction in the county in which the notary resides.

(c) The secretary of state may:

(1) investigate any possible violation of this section or of section 10 of this chapter (notario publico deception) by a notary public; and

(2) under IC 4-21.5, revoke the commission of a notary public who violates this section or section 10 of this chapter (notario publico deception).

If the secretary of state revokes the commission of a notary public, the notary public may not reapply for a new commission for five (5) years after the revocation. If a notary public has been convicted of notario publico deception (this chapter), the notary public may not reapply for a new commission.

(d) If a notary public is convicted of notario publico deception (this chapter), the judge of a court with jurisdiction in the county in which the notary resides shall permanently revoke the notary's appointment.

As added by P.L.98-2004, SEC.21. Amended by P.L.85-2007, SEC.1.

IC 33-42-2-3
Appointment in public interest

Sec. 3. The governor may appoint notaries public in the several counties if, in the governor's judgment, the public interest would be promoted by the appointment.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-4
Seal; acts void if not attested by seal

Sec. 4. (a) A notary may not act until the notary has procured a seal that will stamp upon paper a distinct impression, in words or letters, sufficiently indicating the notary's official character, to which may be added any other device as the notary public may choose.

(b) All notarial acts not attested by a seal as described in subsection (a) are void.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-5
Powers of notary

Sec. 5. A notary may:

(1) do all acts that by common law, and the custom of merchants, notaries are authorized to do;

(2) take and certify all acknowledgments of deeds or other instruments of writing required or authorized by law to be acknowledged; and

(3) administer oaths generally, and take and certify affidavits and depositions.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-6
Certificate with seal as presumptive evidence

Sec. 6. The official certificate of a notary public, attested by the notary's seal, is presumptive evidence of the facts stated in cases where, by law, the notary public is authorized to certify the facts.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-7
Notary public not a lucrative office

Sec. 7. (a) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, notary public is not a lucrative office.

(b) A person who is a public official, or a deputy or appointee acting for or serving under a public official, may not make any charge for services as a notary public in connection with any official business of that office, or of any other office in the governmental unit in which the person serves unless the charges are specifically authorized by a statute other than the statute that establishes generally the fees and charges of notaries public.

As added by P.L.98-2004, SEC.21. Amended by P.L.135-2012, SEC.5.

IC 33-42-2-8
List of commissioned notaries; notice of change in notary's name or county; revised commission

Sec. 8. (a) Upon the request of the clerk of the circuit court of a county, the secretary of state shall furnish to the clerk a list of all commissioned notaries public residing in that county.

(b) If a notary public changes the notary's:

(1) name; or

(2) county of residence;

during the term of the notary's commission, the notary public shall notify the secretary of state in writing of the change.

(c) The secretary of state shall process a revised commission to reflect any change of name or county. A revised commission under this subsection is valid for the unexpired term of the original commission.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-9
Affixing printed name of notary on documents

Sec. 9. (a) A notary, in addition to affixing the notary's name, expiration date, and seal, shall:

(1) print or type the notary's name immediately beneath the notary's signature on a certificate of acknowledgment, jurat, or other official document, unless the notary's name appears:

(A) in printed form on the document; or

(B) as part of the notary's stamp in a form that is legible when the document is photocopied; and

(2) indicate the notary's county of residence on the document.

(b) Failure to comply with subsection (a) does not affect the validity of any document notarized before July 1, 1982.

As added by P.L.98-2004, SEC.21.

IC 33-42-2-10
Fraudulent advertising or misrepresentation

Sec. 10. (a) This section applies only to a person who is not an attorney in good standing admitted to practice law in Indiana.

(b) As used in this section, "advertise" means to make a communication to the public offering the person's services. The term includes a communication made in any medium, including a written medium, a broadcast medium, by means of the Internet, on a web site, or using any other form of electronic communication.

(c) As used in this section, "notary designation" means a representation that a person is a notary public, including the use of the term:

(1) notary public;

(2) notario;

(3) notario publico;

or any other term indicating in English or a language other than English that a person is a notary public.

(d) As used in this section, "notary disclosure" means a statement

in English, and, if an advertisement requiring a notary disclosure is made in another language, the other language, stating:

"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN INDIANA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

If the notary disclosure is required to be made in a written advertisement, the notary disclosure must appear in a conspicuous size. If the notary disclosure is required to be made in an oral advertisement, the notary disclosure must be spoken at a normal speed and at a normal volume.

(e) A person who knowingly or intentionally:

(1) advertises using the notary designation without using the notary disclosure:

(A) in the advertisement;

(B) on the person's business card; and

(C) on the person's letterhead;

(2) advertises or claims to be an expert on immigration matters without being a designated entity as defined under 8 CFR 245a.1(l); or

(3) accepts payment in exchange for providing legal advice or any other assistance that requires legal analysis, legal judgment, or interpretation of the law;

commits notario publico deception, a Class A misdemeanor.

As added by P.L.98-2004, SEC.21. Amended by P.L.85-2007, SEC.2.

IC 33-42-3

Chapter 3. Requirement of Appending Date of Expiration of Commission

IC 33-42-3-1

Statement of date of expiration of notary commission

Sec. 1. A person commissioned as a notary public by the state shall append a true statement of the date of the expiration of the notary's commission as a notary public to any certificate of acknowledgment of a deed, mortgage, or other instrument or any jurat or other official document at the time the document is signed.
As added by P.L.98-2004, SEC.21.

IC 33-42-3-2

Omission of statement

Sec. 2. A notary public who omits to make the statement required by section 1 of this chapter commits a Class C infraction.
As added by P.L.98-2004, SEC.21.

IC 33-42-4

Chapter 4. Administering Oaths and Taking Acknowledgments

IC 33-42-4-1

Persons authorized to administer oaths and take acknowledgments

Sec. 1. The following may subscribe and administer oaths and take acknowledgments of all documents pertaining to all matters where an oath is required:

(1) Notaries public.

(2) Justices and judges of courts, in their respective jurisdictions.

(3) The secretary of state.

(4) The clerk of the supreme court.

(5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.

(6) Clerks of circuit courts and master commissioners, in their respective counties.

(7) Judges of United States district courts of Indiana, in their respective jurisdictions.

(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

As added by P.L.98-2004, SEC.21.

IC 33-42-4-2 Version a

Fraudulent acts

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 2. A person authorized to administer oaths or take acknowledgments who, with intent to defraud:

(1) affixes the person's signature to a blank form of affidavit or certificate of acknowledgment; and

(2) delivers that form to another person, with intent that it be used as an affidavit or acknowledgment;

commits a Class D felony.

As added by P.L.98-2004, SEC.21.

IC 33-42-4-2 Version b

Fraudulent acts

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 2. A person authorized to administer oaths or take acknowledgments who, with intent to defraud:

(1) affixes the person's signature to a blank form of affidavit or certificate of acknowledgment; and

(2) delivers that form to another person, with intent that it be used as an affidavit or acknowledgment;

commits a Level 6 felony.

As added by P.L.98-2004, SEC.21. Amended by P.L.158-2013, SEC.344.

IC 33-42-4-3 Version a
Fraudulent use of forms

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 3. A person who knowingly uses a form that was delivered to the person in violation of section 2 of this chapter commits a Class D felony.

As added by P.L.98-2004, SEC.21.

IC 33-42-4-3 Version b
Fraudulent use of forms

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 3. A person who knowingly uses a form that was delivered to the person in violation of section 2 of this chapter commits a Level 6 felony.

As added by P.L.98-2004, SEC.21. Amended by P.L.158-2013, SEC.345.

IC 33-42-5

Chapter 5. Authority of Township Trustee to Perform Notarial Acts

IC 33-42-5-1

Authorization; recording

Sec. 1. A township trustee may perform any act that a notary public may perform in Indiana. Acknowledgments to deeds or other instruments taken by a trustee shall be recorded as if the acknowledgments had been acknowledged before a notary public.

As added by P.L.98-2004, SEC.21.

IC 33-42-5-2

Seal; requirements

Sec. 2. Before a trustee may perform a notarial act, the trustee must obtain a seal that can stamp upon paper a distinct impression that indicates the trustee's official character, along with any other information that the trustee chooses. A notarial act of a trustee that is not attested by a seal is void.

As added by P.L.98-2004, SEC.21.

IC 33-42-5-3

Appendage of trustee's date of election

Sec. 3. When signing any certificate of acknowledgment, jurat, or other official document, the trustee must append to it the trustee's date of election as a trustee.

As added by P.L.98-2004, SEC.21.

IC 33-42-5-4

Prohibition on collecting fee

Sec. 4. A trustee may not receive a fee for performing a notarial act.

As added by P.L.98-2004, SEC.21.

IC 33-42-5-5

Prohibited acts

Sec. 5. A trustee may not perform an act that is prohibited to a notary public.

As added by P.L.98-2004, SEC.21.

IC 33-42-6

Chapter 6. Federal Land Bank Employees Acting as Notaries in Certain Transactions

IC 33-42-6-1

Federal land bank association managers, officers, and employees as notary public

Sec. 1. The manager, officers, and employees of a federal land bank association located in Indiana may become and act as a notary public in the business of the association to take acknowledgments of deeds and real estate mortgages and to take and certify affidavits.

As added by P.L.98-2004, SEC.21. Amended by P.L.2-2005, SEC.112.

IC 33-42-7

Chapter 7. Acknowledgment of Lot Sales by a Notary Who Is a Member of Cemetery Association

IC 33-42-7-1

Stockholder or officer of a cemetery association as notary

Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.
As added by P.L.98-2004, SEC.21.

IC 33-42-8

Chapter 8. Maximum Fees

IC 33-42-8-1

Maximum fee of a notary public

Sec. 1. The maximum fee of a notary public is two dollars ($2) for each notarial act.

As added by P.L.98-2004, SEC.21.

IC 33-43

ARTICLE 43. PRACTICE OF LAW

IC 33-43-1

Chapter 1. Practice of Law by Attorneys

IC 33-43-1-1 Version a

Oath

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 1. (a) A person, before proceeding to discharge the duties of an attorney, shall take an oath to:

(1) support the Constitution of the United States and the Constitution of the State of Indiana; and

(2) faithfully and honestly discharge the duties of an attorney at law.

(b) The oath taken under subsection (a) must be entered in the order book of the court.

As added by P.L.98-2004, SEC.22.

IC 33-43-1-1 Version b

Practice of law by attorneys; officer of the court

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 1. (a) A person, before proceeding to discharge the duties of an attorney, shall take an oath to:

(1) support the Constitution of the United States and the Constitution of the State of Indiana; and

(2) faithfully and honestly discharge the duties of an attorney at law.

(b) The oath taken under subsection (a) must be entered in the order book of the court.

(c) A duly sworn attorney who is not otherwise disqualified to practice law is an officer of the court.

As added by P.L.98-2004, SEC.22. Amended by P.L.158-2013, SEC.346.

IC 33-43-1-2

Court list of attorneys

Sec. 2. At each term of the court, the clerk shall furnish the court with a list of the names of all attorneys having business in that court.

As added by P.L.98-2004, SEC.22.

IC 33-43-1-3

Duties

Sec. 3. An attorney shall do the following:

(1) Support the Constitution and laws of the United States and of Indiana.

(2) Maintain the respect that is due to the courts of justice and judicial officers.

(3) Only counsel or maintain actions, proceedings, or defenses that appear to the attorney to be legal and just. However, this subdivision may not be construed to prevent the defense of a person charged with a crime.

(4) Employ, for the purpose of maintaining the causes confided to the attorney, only those means that are consistent with truth and never seek to mislead the court or jury by any artifice or false statement of fact or law.

(5) Maintain inviolate the confidence and, at every peril to the attorney, to preserve the secrets of the attorney's client.

(6) Abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged.

(7) Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest.

(8) Never to reject, from any consideration personal to the attorney, the cause of the defenseless or oppressed.

(9) To promptly account to and pay over to a client any money coming into the hands of the attorney to which the client is lawfully entitled.

(10) To abstain from direct or indirect solicitation of employment to institute, prosecute, or defend against any claim, action, or cause of action.

As added by P.L.98-2004, SEC.22.

IC 33-43-1-4

Authority

Sec. 4. Until superseded by another attorney or discharged, an attorney may do the following:

(1) Bind the attorney's client in an action or a special proceeding, by the attorney's agreement that is either filed with the clerk or entered upon the minutes of the court.

(2) Receive money claimed by the attorney's client during the pendency of an action or a special proceeding.

(3) Discharge a claim or acknowledge satisfaction of a judgment after the money claimed has been received under subdivision (2).

As added by P.L.98-2004, SEC.22.

IC 33-43-1-5

Written authority of party prerequisite to certain judgments

Sec. 5. Unless the written authority of a party is first produced and its execution is satisfactorily proved to the court, a judgment may not be rendered against any party:

(1) upon the agreement of an attorney; or

(2) by default;

when the party has not been notified or personally entered an appearance.

As added by P.L.98-2004, SEC.22.

IC 33-43-1-6
Requiring attorney to prove authority

Sec. 6. The court or judge may:

(1) on motion of either party that shows reasonable grounds; or

(2) without a motion;

require an attorney to produce and prove the authority under which the attorney appears. The court may stay all proceedings by the attorney on behalf of the party for whom the attorney assumes to appear until the attorney produces and proves authority to appear.
As added by P.L.98-2004, SEC.22.

IC 33-43-1-7
Appearance of attorney without authority; relief of party

Sec. 7. If a party alleges that an attorney appears on behalf of the party without the party's authority the court may, at any stage of the proceedings, relieve the party from the consequences of the attorney's act. The court may also, summarily or upon motion, compel the attorney to repair the injury consequent upon the attorney's assumption of authority.
As added by P.L.98-2004, SEC.22.

IC 33-43-1-8
Deceit or collusion of attorney; penalty

Sec. 8. (a) An attorney who is guilty of deceit or collusion, or consents to deceit or collusion, with intent to deceive a court, judge, or party to an action or judicial proceeding commits a Class B misdemeanor.

(b) A person who is injured by a violation of subsection (a) may bring a civil action for treble damages.
As added by P.L.98-2004, SEC.22.

IC 33-43-1-9
Refusal to deliver over money or papers; contempt

Sec. 9. If, on request, an attorney refuses to deliver over money or papers to a person from whom or for whom the attorney has received them, in the course of the attorney's professional employment, the attorney may be required, after reasonable notice, on motion of any party aggrieved, by an order of the court in which an action, if any, was prosecuted or if an action was not prosecuted, by the order of any court of record, to deliver the money or papers within a specified time, or show cause why the attorney should not be punished for contempt.
As added by P.L.98-2004, SEC.22.

IC 33-43-1-10
Suspension of attorney from practice for refusal to deliver money or papers; additional remedies

Sec. 10. If an attorney has been ordered to deliver money or

papers under section 9 of this chapter, on a motion or in an action brought by the aggrieved party, the court may take any of the following actions:

(1) Suspend the attorney from practice in any of the courts of Indiana, for any length of time, in the court's discretion.

(2) Enter judgment for the amount of money withheld, deducting fees, if any are due, and costs paid by the attorney, with ten percent (10%) damages, that may be enforced by execution, without the benefit of stay or appraisement laws, and returnable within thirty (30) days.

(3) Render any judgment and make any order with respect to the papers or property withheld, that may be necessary to enforce the right of the party aggrieved. The judgement or order is subject to any liens the attorney has for fees.

As added by P.L.98-2004, SEC.22.

IC 33-43-2

Chapter 2. Prohibition on Practicing Law by Nonattorneys

IC 33-43-2-1

Engaging in practice by person not admitted

Sec. 1. A person who:

(1) professes to be a practicing attorney;

(2) conducts the trial of a case in a court in Indiana; or

(3) engages in the business of a practicing lawyer;

without first having been admitted as an attorney by the supreme court commits a Class B misdemeanor.

As added by P.L.98-2004, SEC.22.

IC 33-43-2-2

Burden of proof

Sec. 2. In a prosecution under this chapter, the state is not required to prove that the defendant has not been admitted as an attorney. The burden of proving admission is on the defendant.

As added by P.L.98-2004, SEC.22.

IC 33-43-3

Chapter 3. Prohibition on Solicitation by Nonattorneys

IC 33-43-3-1

Solicitation by nonattorneys prohibited

Sec. 1. Soliciting another person to bring an action for damages by a person who is not an attorney is prohibited under IC 35-45-14.

As added by P.L.98-2004, SEC.22.

IC 33-43-4

Chapter 4. Attorney Entitled to Hold Lien on Judgment

IC 33-43-4-1

Authority

Sec. 1. An attorney practicing law in a court of record in Indiana may hold a lien for the attorney's fees on a judgment rendered in favor of a person employing the attorney to obtain the judgment.

As added by P.L.98-2004, SEC.22.

IC 33-43-4-2

Entry of intention to hold lien

Sec. 2. (a) An attorney, not later than sixty (60) days after the date the judgment is rendered, must enter in writing upon the docket or record in which the judgment is recorded, the attorney's intention to hold a lien on the judgment, along with the amount of the attorney's claim.

(b) If an appeal is taken on a judgment, the lien may be entered not later than sixty (60) days after the date the opinion of the higher court is recorded in the office of the clerk of the trial court or after the date of final judgment where the cause is reversed and retried.

As added by P.L.98-2004, SEC.22.

IC 33-44

ARTICLE 44. INTEREST BEARING ATTORNEY TRUST ACCOUNTS

IC 33-44-1

Chapter 1. Legislative Findings

IC 33-44-1-1

Legislative findings

Sec. 1. The general assembly finds that:

(1) due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons do not adequately meet the needs of indigent persons;

(2) the use of funds collected under this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government; and

(3) the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

As added by P.L.98-2004, SEC.23.

IC 33-44-1-2

Purpose

Sec. 2. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons and to initiate new programs that will provide services to them.

As added by P.L.98-2004, SEC.23.

IC 33-44-2

Chapter 2. Application of Article

IC 33-44-2-1

Application of article; activities

Sec. 1. This article does not apply to an activity that is:

(1) the practice of law; and

(2) regulated by the judicial department of state government.

As added by P.L.98-2004, SEC.23.

IC 33-44-2-2

Investment of nonqualified funds; application of article

Sec. 2. This article does not apply to the investment of nonqualified funds by an attorney:

(1) in any other investment specified by a client or beneficial owner; or

(2) as agreed to by the client, beneficial owner, or attorney.

As added by P.L.98-2004, SEC.23.

IC 33-44-2-3

Disciplinary action

Sec. 3. An attorney is not subject to disciplinary action as a result of any action taken in accordance with this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-3
Chapter 3. Definitions

IC 33-44-3-1
Definitions; application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.98-2004, SEC.23.

IC 33-44-3-2
"Attorney"
Sec. 2. "Attorney" means an individual in good standing admitted to the practice of law in Indiana. The term includes a professional corporation (as defined in IC 23-1.5-1-10) formed by one (1) or more attorneys.
As added by P.L.98-2004, SEC.23.

IC 33-44-3-3
"Board"
Sec. 3. "Board" refers to the Indiana attorney trust account board established by IC 33-44-4-1.
As added by P.L.98-2004, SEC.23.

IC 33-44-3-4
"Depository financial institution"
Sec. 4. "Depository financial institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:
(1) does business in Indiana; and
(2) is insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or an alternate share insurer.
As added by P.L.98-2004, SEC.23. Amended by P.L.89-2011, SEC.77.

IC 33-44-3-5
"Eligible client"
Sec. 5. "Eligible client" means a person:
(1) who resides in Indiana; and
(2) whose income:
(A) satisfies the eligibility standards established by a legal aid program or legal services program existing in Indiana on January 1, 1990, if the program's client eligibility standards provide that the client's income may not exceed one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget;
(B) is not more than one hundred fifty percent (150%) of the

current poverty threshold established by the United States Office of Management and Budget; or

(C) satisfies the eligibility standard for Supplemental Security Income or free services under the Older Americans Act of 1965, as amended (42 U.S.C. 3001-3057) or Developmentally Disabled Assistance and Bill of Rights Act (42 U.S.C. 6000-6083).

As added by P.L.98-2004, SEC.23.

IC 33-44-3-6
"Fee generating case"

Sec. 6. "Fee generating case" means a case or matter that, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client from public funds or from the opposing party. A case is not considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(1) The qualified legal services provider that represents the indigent in the case has determined in good faith that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the lawyer referral service serving the county of the eligible client's residence, or if there is no such service, by two (2) attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the lawyer referral service described in clause (A), if one exists, nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of a type that attorneys in private practice ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the eligible client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a qualified legal services provider or its employee to represent the indigent in the case under a statute, a court rule, or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement is based on need.

As added by P.L.98-2004, SEC.23.

IC 33-44-3-7
"Fund"

Sec. 7. "Fund" refers to the Indiana attorney trust account fund established by IC 33-44-7-1.

As added by P.L.98-2004, SEC.23.

IC 33-44-3-8
"Interest bearing attorney trust account"

Sec. 8. "Interest bearing attorney trust account" means an account with a depository financial institution that is:

(1) unsegregated;
(2) interest bearing;
(3) for the deposit of qualified funds by an attorney; and
(4) capable of being drawn upon by the depositor in the same manner as a checking account that is not interest bearing.

As added by P.L.98-2004, SEC.23.

IC 33-44-3-9
"Legal assistance"

Sec. 9. (a) "Legal assistance" means direct representation by an attorney of an eligible client in a civil matter pending in Indiana, including counsel, litigation, research, coordination with pro bono programs, support services, substantive and procedural training for attorneys and paralegals in poverty law subjects, and any other activity necessary to ensure the effective delivery of quality legal services in a civil matter.

(b) The term does not include representation of an eligible client in:

(1) criminal matters; or
(2) a fee generating case.

As added by P.L.98-2004, SEC.23.

IC 33-44-3-10
"Qualified funds"

Sec. 10. "Qualified funds" means money received by an attorney from a client or beneficial owner in a fiduciary capacity that, in the good faith judgment of the attorney, is:

(1) of such an amount; or
(2) reasonably expected to be held for such a short term;

that sufficient interest income will not be generated to justify the expense of administering a segregated account.

As added by P.L.98-2004, SEC.23.

IC 33-44-3-11
"Qualified legal services provider"

Sec. 11. "Qualified legal services provider" means a nonprofit organization organized in Indiana and operating exclusively in Indiana that, as its primary purpose and function, provides legal assistance without charge to eligible clients in civil matters only.

As added by P.L.98-2004, SEC.23.

IC 33-44-4

Chapter 4. Indiana Attorney Trust Account Board

IC 33-44-4-1

Attorney trust account board established

Sec. 1. The Indiana attorney trust account board is established.

As added by P.L.98-2004, SEC.23.

IC 33-44-4-2

Members

Sec. 2. The board consists of eleven (11) members.

As added by P.L.98-2004, SEC.23.

IC 33-44-4-3

Appointment of members; chief justice

Sec. 3. The chief justice of the supreme court shall appoint six (6) members to the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-4-4

Appointment of members; government officials

Sec. 4. The following officials shall each appoint one (1) member to the board:

(1) The governor.

(2) The speaker of the house of representatives.

(3) The minority leader of the house of representatives.

(4) The president pro tempore of the senate.

(5) The minority floor leader of the senate.

As added by P.L.98-2004, SEC.23.

IC 33-44-4-5

Considerations by chief justice in appointing members

Sec. 5. The chief justice shall consider the following factors as favorable in appointing a member under section 3 of this chapter:

(1) Whether the individual is a dean of an Indiana law school.

(2) Whether the individual is a director or board member of an Indiana legal services or legal aid program.

(3) Whether the individual is a member of the Indiana State Bar Association.

(4) Whether the appointment of the individual would result in representation on the board from the first district, second district, and third district of the court of appeals.

(5) Whether the individual is a representative of a depository financial institution.

(6) Whether the individual is an eligible client.

As added by P.L.98-2004, SEC.23.

IC 33-44-4-6

Political affiliation of members

Sec. 6. Not more than four (4) of the members appointed by the

chief justice may be members of the same political party.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-7
Term of members
Sec. 7. A member of the board serves a term of four (4) years.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-8
Vacancies
Sec. 8. The appointing authority shall fill a vacancy on the board.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-9
Chairperson; appointment by chief justice
Sec. 9. The chief justice shall appoint a member of the board to serve as chairperson not later than December 1 of each year.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-10
Term of chairperson
Sec. 10. The term of a chairperson begins January 1 following the chairperson's appointment under section 9 of this chapter.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-11
Compensation of members who are not state employees; salary; reimbursement of expenses
Sec. 11. A member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-12
Compensation of members who are state employees; reimbursement of expenses
Sec. 12. A member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-13
Administration of fund
Sec. 13. The board shall administer the fund in accordance with

IC 33-44-7.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-14
Receipt and management of property

Sec. 14. The board may receive, hold, and manage property.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-15
Adoption of rules

Sec. 15. The board may adopt rules under IC 4-22-2 to implement this article.
As added by P.L.98-2004, SEC.23.

IC 33-44-4-16
Development of programs

Sec. 16. The board shall develop programs to:

(1) educate attorneys and depository financial institutions concerning this article; and

(2) encourage attorneys to create and maintain interest bearing attorney trust accounts.

As added by P.L.98-2004, SEC.23.

IC 33-44-5

Chapter 5. Participation by Attorneys

IC 33-44-5-1

Application of chapter

Sec. 1. Except as provided in section 2 of this chapter, each attorney is subject to this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-2

Attorneys not subject to article

Sec. 2. An attorney is not subject to this article if the attorney:

(1) does not place any qualified funds in an interest bearing attorney trust account; and

(2) submits a written statement to the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-3

Written statement of attorney; procedure

Sec. 3. The statement submitted under section 2 of this chapter must:

(1) be filed in accordance with rules adopted under IC 4-22-2 by the board; and

(2) state that the attorney is acting under section 2 of this chapter to exempt the attorney from the application of this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-4

Presumption if written statement not filed

Sec. 4. If an attorney does not act under section 2 of this chapter, the board shall presume that the attorney has elected to be subject to this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-5

Placement of funds; interest bearing attorney trust account

Sec. 5. An attorney subject to this article shall place all qualified funds in an interest bearing attorney trust account.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-6

Qualified funds; determination by attorney

Sec. 6. An attorney subject to this article shall determine if money received from a client or beneficial owner constitutes qualified funds.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-7

Determination of qualified funds; considerations

Sec. 7. In making the determination under section 6 of this chapter, the attorney shall consider the following:

(1) The amount of interest the money would earn during the period the money is expected to be deposited.

(2) The cost of establishing and administering the account.

(3) The capability of the depository financial institution to calculate and pay the interest earned by each client's funds, after deduction of any service charges, to the client.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-8

Good faith judgment concerning deposit of funds; attorney liability

Sec. 8. An attorney:

(1) does not breach a fiduciary duty;

(2) is not liable in damages; and

(3) is not subject to disciplinary action;

because of a deposit of money in an interest bearing attorney trust account if the attorney acted in accordance with a good faith judgment that the money constituted qualified funds.

As added by P.L.98-2004, SEC.23.

IC 33-44-6

Chapter 6. Interest Bearing Attorney Trust Accounts

IC 33-44-6-1

Trust accounts containing qualified funds; transition to interest bearing attorney trust account

Sec. 1. If the depositor and depository financial institution agree, a trust account that contains qualified funds held by an attorney subject to this article may be made an interest bearing attorney trust account.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-2

Terms and conditions

Sec. 2. The terms and conditions of an interest bearing attorney trust account, except as required under this chapter, shall be determined by the depositor and the depository financial institution. A depository financial institution is not required to offer an interest bearing attorney trust account.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-3

Interest accrued by account; board ownership of beneficial interest

Sec. 3. The board owns the beneficial interest in the interest accrued by an interest bearing attorney trust account of an attorney who is subject to this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-4

Remittance of interest earned on account

Sec. 4. Except for amounts deducted under terms or conditions agreed upon under section 2 of this chapter, a depository financial institution shall remit any interest earned on an interest bearing attorney trust account to the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-5

Remittance of interest; procedure

Sec. 5. A depository financial institution shall make the remittance required under section 4 of this chapter not less frequently than quarterly and not later than fifteen (15) days after the end of the remittance period.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-6

Statement of depository financial institution required upon remittance

Sec. 6. A depository financial institution shall transmit a statement to:

(1) the board; and

(2) the attorney who maintains the interest bearing attorney trust account;

when the depository financial institution remits interest under section 4 of this chapter.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-7

Contents of statement of depository financial institution

Sec. 7. The statement described in section 6 of this chapter must contain the following information:

(1) The name of the account.

(2) The amount of interest remitted from the account.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-8

Duty of institution to determine or inquire into type of funds deposited

Sec. 8. A depository financial institution is not required to determine or inquire whether a deposit includes qualified funds.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-9

Release and discharge of depository financial institution

Sec. 9. The remittance of interest by a depository financial institution to the board from an interest bearing attorney trust account is a valid and sufficient release and discharge of a claim by an entity against the depository financial institution for the remittance.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-10

Limitation on actions against depository financial institution

Sec. 10. An entity may not maintain an action against a depository financial institution solely for:

(1) offering, opening, or maintaining an interest bearing attorney trust account;

(2) accepting funds for deposit in an interest bearing attorney trust account; or

(3) remitting interest to the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-11

Confidentiality of information identifying beneficial owner of account

Sec. 11. A paper, a record, a document, or other information identifying an attorney, a client, or a beneficial owner of an interest bearing attorney trust account is confidential.

As added by P.L.98-2004, SEC.23.

IC 33-44-6-12

Disclosure of account information by board or institution

Sec. 12. The board or a depository financial institution may not disclose information described by section 11 of this chapter except:

(1) with the consent of the attorney maintaining the account; or

(2) as permitted by:

(A) law; or

(B) rule adopted by the judicial department of state government.

As added by P.L.98-2004, SEC.23.

IC 33-44-7

Chapter 7. Indiana Attorney Trust Account Fund

IC 33-44-7-1

Establishment

Sec. 1. The Indiana attorney trust account fund is established as a trust fund to be used solely as provided under this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-2

Administration

Sec. 2. The fund shall be administered by the board in accordance with rules adopted under IC 4-22-2 by the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-3

Deposit of interest remitted

Sec. 3. The board shall deposit the interest remitted under IC 33-44-6-4 into the fund.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-4

Public fund

Sec. 4. The money in the fund consists of public funds.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-5

Investment of funds

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-6

Nonreversion of money in fund

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-7

Income received by board from remittance of interest not taxable to attorney or client

Sec. 7. For purposes of Indiana law, income received by the board from the remittance of interest is not taxable to:

(1) the attorney maintaining the interest bearing attorney trust account; or

(2) the client whose funds are deposited in the interest bearing attorney trust account.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-8
Disbursements; limitations

Sec. 8. The board may not disburse money in the fund except for:

(1) the delivery of civil legal assistance to eligible clients;

(2) programs or projects in the public interest that assist in the improvement of the administration of justice; and

(3) administrative costs.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-9
Order and amount of disbursements

Sec. 9. During each year the board shall disburse money from the fund for the payment of administrative costs to the extent permitted under section 14 of this chapter. After the payment of administrative costs, any money disbursed by the board from the fund during that year shall be disbursed as follows:

(1) Ninety percent (90%) of the funds shall be disbursed to provide legal assistance to eligible clients by:

(A) qualified legal services providers; or

(B) law school clinics in Indiana that provide free civil legal assistance to eligible clients.

(2) Ten percent (10%) of the funds shall be disbursed for programs or projects in the public interest that assist in the improvement of the administration of justice, including the following:

(A) Guardian ad litem and court appointed special advocate programs that provide guardians ad litem or court appointed special advocates for appointment by the court:

(i) under IC 31-17-2-12 to conduct an investigation and prepare a report in a custody proceeding; or

(ii) under IC 31-33-15-1, IC 31-34-10, or IC 31-40.

(B) Lawyer referral services in Indiana that provide:

(i) a referral to an attorney in private practice without a charge for the referral; and

(ii) an initial consultation with an attorney in private practice without a charge for the consultation;

in a fee generating case.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-10
Receipt of disbursed funds for legal assistance to eligible clients; eligibility for other funds

Sec. 10. An entity that receives funds disbursed under section 9(1) of this chapter during a year is not eligible to receive funds disbursed under section 9(2) of this chapter during that year.

As added by P.L.98-2004, SEC.23.

IC 33-44-7-11
Receipt of disbursed funds for programs assisting in improvement of administration of justice; eligibility for other funds

Sec. 11. An entity that receives funds disbursed under section 9(2) of this chapter during a year is not eligible to receive funds disbursed under section 9(1) of this chapter during that year.
As added by P.L.98-2004, SEC.23.

IC 33-44-7-12
Contracts; award of grants

Sec. 12. The board shall periodically:
(1) enter into contracts with; and
(2) award grants to;
qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to carry out the purpose of the fund.
As added by P.L.98-2004, SEC.23.

IC 33-44-7-13
Considerations in making disbursements

Sec. 13. In making disbursements from the fund under section 9(1) of this chapter, the board shall primarily consider the geographic distribution by county of persons with incomes of not more than the current poverty threshold established by the United States Office of Management and Budget, as indicated in the most current report published by the Bureau of the Census. However, the board may use other considerations in making disbursements from the fund when demonstrable legal needs are documented by a qualified legal services provider.
As added by P.L.98-2004, SEC.23.

IC 33-44-7-14
Total administrative costs; maximum

Sec. 14. Total administrative costs, including payments to board members under IC 33-44-4-11 and IC 33-44-4-12, costs for employees under IC 33-44-8, and all other costs of managing and administering the fund and otherwise performing all responsibilities of the board, may not exceed fifteen percent (15%) of the amounts received into the fund from interest bearing attorney trust accounts.
As added by P.L.98-2004, SEC.23.

IC 33-44-7-15
Annual audit of fund; audits of providers receiving fund disbursements

Sec. 15. The state board of accounts shall conduct an audit of the fund at least one (1) time during each year to ensure that the fund is administered as required by this chapter. The state board of accounts may conduct audits of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice as the state board of accounts considers necessary to ensure that the money distributed to qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the

administration of justice is being used as required by this article.
As added by P.L.98-2004, SEC.23.

IC 33-44-8
Chapter 8. Board Employees

IC 33-44-8-1
Executive director; appointment
Sec. 1. The board may appoint an executive director to carry out this article.
As added by P.L.98-2004, SEC.23.

IC 33-44-8-2
Powers of executive director
Sec. 2. The executive director may:
(1) employ persons; or
(2) contract for services;
upon approval by the board.
As added by P.L.98-2004, SEC.23.

IC 33-44-8-3
Employees serve at pleasure of board
Sec. 3. An employee of the board serves at the pleasure of the board.
As added by P.L.98-2004, SEC.23.

IC 33-44-9

Chapter 9. Annual Report

IC 33-44-9-1

Annual report; format

Sec. 1. The board shall file a report with:

(1) the governor;

(2) the legislative council; and

(3) the chief justice of the supreme court;

before December 31 of each year. The report filed with the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.98-2004, SEC.23.

IC 33-44-9-2

Contents of annual report

Sec. 2. The report filed under section 1 of this chapter must include the following information for the annual period ending June 30:

(1) The number of eligible clients served.

(2) The amount of interest paid into the fund by the board during the year as remittances by depository financial institutions and the amount of interest deposited in the fund during the year from investments by the treasurer of state.

(3) The amount disbursed, by category, for direct legal services, to law school clinics, to programs or projects in the public interest that assist in the improvement of the administration of justice, administrative costs, and for educational purposes.

(4) The number of attorneys subject to this article.

(5) The number of attorneys submitting written statements under IC 33-44-5-2.

(6) The identity of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to whom grants have been made or with whom contracts have been executed and the amounts disbursed to each.

As added by P.L.98-2004, SEC.23.