

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6355

BILL NUMBER: SB 149

NOTE PREPARED: Feb 17, 2022

BILL AMENDED: Feb 17, 2022

SUBJECT: Various Courts Matters.

FIRST AUTHOR: Sen. Koch

FIRST SPONSOR: Rep. Steuerwald

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) *Marion County*: The bill makes clarifying changes to the powers and duties of the Marion superior court executive committee. It provides that an appointed judicial officer shall be vested by the judges of the family division of the Marion superior court with suitable powers for the handling of all probate matters of the court. It removes and reallocates the powers and duties of a probate hearing judge, probate commissioner, juvenile referee, bail commissioner, and master commissioner from the Marion superior court. It provides that the Marion County judicial selection committee nomination procedure shall be followed when filling a vacancy that occurs in a court.

Sheriff's Service of Process Fee: It provides that a sheriff's service of process fee for each service performed outside Marion County applies to cases in the Marion County Small Claims Court.

Administrative Fee: It provides that the: (1) clerk of a circuit court; (2) clerk of a city or town court; or (3) judge of a city or town court that does not have a clerk; may retain as an administrative fee an amount of up to \$3 from the excess amount collected by the clerk for general court costs.

Sheriff's Spouse: It provides that unless provided otherwise, a sheriff's spouse may be employed as a legal deputy for the county and the spouse may be in the sheriff's direct line of supervision.

Effective Date: July 1, 2022.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Marion County:* The bill removes or reallocates certain vacant judicial positions such as commissioners, bail commissioners, master commissioners, probate commissioners, probate hearing judges, and juvenile referees. It also codifies the merging of the probate court into the Family Division of the Marion County superior court. Currently, all probate matters are handled by the Family Division. Because these provisions codify current practice, these provisions will have no fiscal impact.

Court Personnel: The bill provides that certain staffing requirements do not apply to Marion County superior court. It also provides that each judge shall appoint a judicial assistant who will also serve as the judge's official court reporter. This provision could potentially increase local expenditures if more judicial assistants are appointed. The actual impact will depend on local action.

Under IC 33-29-1-5, the superior court judge shall appoint a bailiff and an official court reporter for the court. The salaries for the bailiff and official court reporter are fixed in the same manner as the salaries of the circuit court.

Judicial Appointments: When a vacancy occurs as a result of death, removal, retirement, or for any other reason, a successor judge shall be appointed through the Marion County Judicial Nominating Committee procedures. This provision will have no fiscal impact.

Explanation of Local Revenues: (Revised) *Sheriff's Service of Process Fee:* If the request for service of process in Marion County Small Claims Township court increases, the bill could potentially increase township revenue. The impact will depend on local action and the frequency of these services outside of Marion County.

Administrative Fee: This bill allows a clerk of a city or town court to retain a court clerk administrative fee. At this time, LSA cannot determine the added revenue from permitting clerks of city and town courts to collect a \$3 fee. Currently, the clerk of a circuit court retains the fee. The clerk deposits the administrative fee into the county's Clerk Record Perpetuation Fund.

The clerk also deposits the following fees into the fund:

- adult probation administrative fee
- juvenile probation administrative fee
- late payment fees
- document storage fee
- copy document fee
- service of process fees.

Clerk of the Court: The bill provides that the clerk shall receive the fees allowed by law for taking depositions and for furnishing certificates. This provision could increase revenue collected by the clerks of the court.

(Revised) *Additional Information* - The service of process fee is charged to small claims litigants in the Marion County Small Claims Township Courts. The service of process fee is \$28. The bill provides that each clerk of a township small claims court shall establish a township clerk's record perpetuation fund. The clerk of the township court collects the fee, and \$1 is deposited into the Township Clerk's Record Perpetuation Fund and the remaining \$27 in the County Pension Trust or County General Fund.

In CY 2020, Marion County generated \$580,578 for service or certified mail service. In CY 2018, Marion

County generated \$4.41 M in revenue and \$1.5 M for personal service or certified mail.

Money in the fund may be used for the preservation of records, improvement of record keeping systems and equipment, and the operation of a case management system.

State Agencies Affected:

Local Agencies Affected: Marion County; Clerks of the circuit court; Clerks of city and town courts; Trial courts, city and town courts, Marion County Small Claims Township Courts; Marion County Sheriffs.

Information Sources: IC 33-29-1-5; Indiana Supreme Court, Indiana Trial Court Fee Manual, <https://www.in.gov/courts/iocs/files/courtmgmt-pubs-trial-court-fee-manual.pdf>; 2020 Judicial Service Report, <https://www.in.gov/courts/iocs/statistics/trial-probation/>.

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