



March 12, 2021

ENGROSSED HOUSE BILL No. 1064

DIGEST OF HB 1064 (Updated March 10, 2021 4:29 pm - DI 136)

Citations Affected: IC 33-33.

Synopsis: Courts and magistrates. Adds a superior court in Hamilton County. Provides that the first judge of Hamilton superior court No. 7 shall: (1) be elected at the November 2022 general election; (2) take office January 1, 2023; and (3) serve a term of six years. Allows the judges of the Decatur circuit and superior courts to jointly appoint a magistrate to serve the Decatur County courts. Allows the judges of the Huntington circuit and superior courts to jointly appoint a magistrate to serve the Huntington County courts. Allows the judge of the Lake superior court division No. 4 to appoint a magistrate to serve the Lake superior court division No. 4. Allows the Marion County superior courts to appoint 27 full-time magistrates after December 31, 2021, not more than 14 of whom may be from the same political party. Removes the sixth circuit court in Delaware County. Provides a full-time magistrate for Hancock County.

Effective: July 1, 2021.

Cherry, Eberhart, Jeter, Porter

(SENATE SPONSORS — CRIDER, ZAY, WALKER K)

January 4, 2021, read first time and referred to Committee on Courts and Criminal Code.
January 14, 2021, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

February 4, 2021, amended, reported — Do Pass.

February 8, 2021, read second time, ordered engrossed. Engrossed.

February 9, 2021, read third time, passed. Yeas 68, nays 24.

SENATE ACTION

February 23, 2021, read first time and referred to Committee on Judiciary.

March 11, 2021, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

EH 1064—LS 6392/DI 143



March 12, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1064

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-33-16-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. **(a)** Decatur County
3 constitutes the sixty-ninth judicial circuit.

4 **(b) The judge of the Decatur circuit court and the judge of the**
5 **Decatur superior court may jointly appoint one (1) full-time**
6 **magistrate under IC 33-23-5 to serve the circuit and superior**
7 **courts.**

8 **(c) The magistrate continues in office until removed by the**
9 **judge of the Decatur circuit court and the judge of the Decatur**
10 **superior court.**

11 SECTION 2. IC 33-33-18-2, AS AMENDED BY P.L.138-2020,
12 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2021]: Sec. 2. (a) The Delaware circuit court is a court of
14 general jurisdiction with ~~six (6)~~ **five (5)** judges. The divisions of the
15 court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No.
16 4, **and** No. 5. ~~and No. 6:~~ The county of Delaware constitutes the
17 judicial district of the court and each of the court's divisions. The court

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- 1 shall maintain the following dockets:
- 2 (1) Small claims.
- 3 (2) Minor offenses and violations.
- 4 (3) Criminal.
- 5 (4) Juvenile.
- 6 (5) Civil.
- 7 (6) Probate.
- 8 (b) The assignment of judges of the court to the dockets specified in
- 9 subsection (a) shall be by rule of the court.
- 10 SECTION 3. IC 33-33-18-2.1 IS REPEALED [EFFECTIVE JULY
- 11 1, 2021]. ~~Sec. 2.1. (a) Notwithstanding section 2 of this chapter,~~
- 12 ~~Delaware circuit court No. 6 is established January 1, 2023.~~
- 13 ~~(b) The first judge of Delaware circuit court No. 6 shall:~~
- 14 ~~(1) be elected at the November 2022 general election;~~
- 15 ~~(2) take office January 1, 2023; and~~
- 16 ~~(3) serve a term of six (6) years.~~
- 17 ~~(c) This section expires January 1, 2029.~~
- 18 SECTION 4. IC 33-33-29-2, AS AMENDED BY P.L.237-2005,
- 19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2021]: Sec. 2. (a) There are established ~~six (6)~~ **seven (7)**
- 21 superior courts of record to be known as the:
- 22 (1) Hamilton superior court No. 1;
- 23 (2) Hamilton superior court No. 2;
- 24 (3) Hamilton superior court No. 3;
- 25 (4) Hamilton superior court No. 4;
- 26 (5) Hamilton superior court No. 5; **and**
- 27 (6) Hamilton superior court No. 6; **and**
- 28 (7) **Hamilton superior court No. 7.**
- 29 (b) Except as otherwise provided in this chapter, each Hamilton
- 30 superior court is a standard superior court as described in IC 33-29-1.
- 31 (c) Hamilton County constitutes the judicial district of each court.
- 32 SECTION 5. IC 33-33-29-2.2 IS ADDED TO THE INDIANA
- 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2021]: **Sec. 2.2. (a) Notwithstanding section**
- 35 **2 of this chapter, Hamilton superior court No. 7 is established**
- 36 **January 1, 2023.**
- 37 **(b) The first judge of Hamilton superior court No. 7 shall:**
- 38 **(1) be elected at the November 2022 general election;**
- 39 **(2) take office January 1, 2023; and**
- 40 **(3) serve a term of six (6) years.**
- 41 **(c) This section expires January 1, 2029.**
- 42 SECTION 6. IC 33-33-30-11 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2021]: **Sec. 11. (a) The judges of the Hancock**
 3 **circuit court and Hancock superior courts may jointly appoint one**
 4 **(1) full-time magistrate under IC 33-23-5 to serve the circuit and**
 5 **superior courts.**

6 (b) The magistrate continues in office until removed by the
 7 judges of the Hancock circuit and superior courts.

8 SECTION 7. IC 33-33-35-7 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2021]: **Sec. 7. (a) The judges of the Huntington circuit court and**
 11 **Huntington superior court may jointly appoint one (1) full-time**
 12 **magistrate under IC 33-23-5 to serve the circuit and superior**
 13 **courts.**

14 (b) The magistrate continues in office until removed by the
 15 judges of the Huntington circuit and superior courts.

16 SECTION 8. IC 33-33-45-11 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 11. (a) The judge of**
 18 **division No. 1, division No. 2, and division No. 3, and division No. 4**
 19 **of the court may each appoint one (1) full-time magistrate under**
 20 **IC 33-23-5 to serve as the court requires. A magistrate appointed under**
 21 **this section:**

22 (1) must be a resident of the county; and

23 (2) continues in office until removed by the judge that the
 24 magistrate serves.

25 (b) The appointment of a magistrate under this section must be in
 26 writing.

27 (c) The judge may specifically determine the duties of the
 28 magistrate within the limits established under IC 33-23-5.

29 (d) The county executive shall provide and maintain suitable
 30 facilities for the use of the magistrate, including necessary furniture
 31 and equipment.

32 (e) The court shall employ administrative staff necessary to support
 33 the functions of the magistrates.

34 (f) The county fiscal body shall appropriate sufficient funds for the
 35 provision of staff and facilities required under this section.

36 (g) A magistrate is entitled to annual compensation as established
 37 under IC 33-23-5-10. The state shall pay the salary set under
 38 IC 33-23-5-10.

39 SECTION 9. IC 33-33-49-32, AS AMENDED BY P.L.53-2019,
 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2021]: **Sec. 32. (a) In addition to the magistrate appointed**
 42 **under section 31 of this chapter, the judges of the superior court may,**



- 1 by a vote of a majority of the judges, appoint:
- 2 (1) twelve (12) full-time magistrates under IC 33-23-5 after
- 3 December 31, 2013, and until January 1, 2016, not more than six
- 4 (6) of whom may be from the same political party;
- 5 (2) sixteen (16) full-time magistrates under IC 33-23-5 after
- 6 December 31, 2015, and until January 1, 2018, not more than
- 7 eight (8) of whom may be from the same political party;
- 8 (3) twenty (20) full-time magistrates under IC 33-23-5 after
- 9 December 31, 2017, and until January 1, 2020, not more than ten
- 10 (10) of whom may be from the same political party; ~~and~~
- 11 (4) twenty-four (24) full-time magistrates under IC 33-23-5 after
- 12 December 31, 2019, **and until January 1, 2022**, not more than
- 13 twelve (12) of whom may be from the same political party; **and**
- 14 **(5) twenty-seven (27) full-time magistrates under IC 33-23-5**
- 15 **after December 31, 2021, not more than fourteen (14) of**
- 16 **whom may be from the same political party.**
- 17 (b) The magistrates continue in office until removed in accordance
- 18 with local rule.
- 19 (c) A party to a superior court proceeding that has been assigned to
- 20 a magistrate appointed under this section may request that an elected
- 21 judge of the superior court preside over the proceeding instead of the
- 22 magistrate to whom the proceeding has been assigned. A request under
- 23 this subsection must be in writing and must be filed with the court:
- 24 (1) in a civil case, not later than:
- 25 (A) ten (10) days after the pleadings are closed; or
- 26 (B) thirty (30) days after the case is entered on the
- 27 chronological case summary, in a case in which the defendant
- 28 is not required to answer; or
- 29 (2) in a criminal case, not later than ten (10) days after the
- 30 omnibus date.
- 31 Upon a timely request made under this subsection by either party, the
- 32 magistrate to whom the proceeding has been assigned shall transfer the
- 33 proceeding back to the superior court judge.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1064, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1064 as introduced.)

MCNAMARA

Committee Vote: Yeas 11, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1064, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-33-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. **(a)** Decatur County constitutes the sixty-ninth judicial circuit.

(b) The judge of the Decatur circuit court and the judge of the Decatur 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 Decatur circuit court and the judge of the Decatur superior court.

SECTION 2. IC 33-33-18-2, AS AMENDED BY P.L.138-2020, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The Delaware circuit court is a court of general jurisdiction with ~~six (6)~~ **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. ~~and No. 6~~. 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.

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(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.

SECTION 3. IC 33-33-18-2.1 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 2.1. (a) Notwithstanding section 2 of this chapter, Delaware circuit court No. 6 is established January 1, 2023.~~

~~(b) The first judge of Delaware circuit court No. 6 shall:~~

~~(1) be elected at the November 2022 general election;~~

~~(2) take office January 1, 2023; and~~

~~(3) serve a term of six (6) years.~~

~~(c) This section expires January 1, 2029.~~

SECTION 4. IC 33-33-29-2, AS AMENDED BY P.L.237-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) There are established ~~six (6)~~ **seven (7)** 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; ~~and~~

(7) Hamilton superior court No. 7.

(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."

Page 1, after line 8, begin a new paragraph and insert:

"SECTION 6. IC 33-33-35-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 7. (a) The judges of the Huntington circuit court and Huntington superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Huntington circuit and superior courts.

SECTION 7. IC 33-33-45-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 11. (a) The judge of division No. 1, division No. 2, ~~and~~ division No. 3, ~~and~~ **division No. 4** 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.

SECTION 8. IC 33-33-49-32, AS AMENDED BY P.L.53-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: 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) twelve (12) full-time magistrates under IC 33-23-5 after December 31, 2013, and until January 1, 2016, not more than six

(6) of whom may be from the same political party;

(2) sixteen (16) full-time magistrates under IC 33-23-5 after December 31, 2015, and until January 1, 2018, not more than eight (8) of whom may be from the same political party;

(3) twenty (20) full-time magistrates under IC 33-23-5 after December 31, 2017, and until January 1, 2020, not more than ten (10) of whom may be from the same political party; ~~and~~

(4) twenty-four (24) full-time magistrates under IC 33-23-5 after December 31, 2019, **and until January 1, 2022**, not more than twelve (12) of whom may be from the same political party; **and**

(5) twenty-seven (27) full-time magistrates under IC 33-23-5 after December 31, 2021, not more than fourteen (14) of whom may be from the same political party.

(b) The magistrates continue in office until removed in accordance with local rule.

(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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1064 as printed January 14, 2021.)

BROWN T

Committee Vote: yeas 24, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1064, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 31 and 32, begin a new paragraph and insert:
 "SECTION 5. IC 33-33-29-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2.2. (a) Notwithstanding section 2 of this chapter, Hamilton superior court No. 7 is established January 1, 2023.**

(b) The first judge of Hamilton superior court No. 7 shall:

- (1) be elected at the November 2022 general election;**
- (2) take office January 1, 2023; and**
- (3) serve a term of six (6) years.**

(c) This section expires January 1, 2029."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

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(Reference is to HB 1064 as printed February 4, 2021.)

BROWN L, Chairperson

Committee Vote: Yeas 10, Nays 1.

