

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1110

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

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

SECTION 1. IC 3-8-1-1.5, AS AMENDED BY P.L.119-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. (a) This section applies to a candidate for any of the following offices:

- (1) Judge of a city court in a city 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).
- (2) Judge of a town court.

(b) A person is not qualified to run for an office subject to this section unless not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination the person is registered to vote in a county in which the municipality is located.

(c) Except as provided in IC 33-35-5-7.5, before a candidate for the office of judge of a city court described in subsection (a)(1) or a town court may file a:

- (1) declaration of candidacy or petition of nomination;**
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or**
- (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;**

the candidate must be an attorney in good standing admitted to the

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practice of law in Indiana.

SECTION 2. IC 3-8-1-28.5, AS AMENDED BY P.L.119-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 28.5. (a) This section does not apply to a candidate for the office of judge of a city court in a city 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).

(b) A candidate for the office of judge of a city court must reside in the city upon filing any of the following:

- (1) A declaration of candidacy or declaration of intent to be a write-in candidate required under IC 3-8-2.
- (2) A petition of nomination under IC 3-8-6.
- (3) A certificate of nomination under IC 3-10-6-12.

(c) A candidate for the office of judge of a city court must reside in a county in which the city is located upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

(d) ~~This subsection applies to a candidate for the office of judge of a city court listed in IC 33-35-5-7(c).~~ Before a candidate for the office of judge of ~~the a~~ city court may file a:

- (1) declaration of candidacy or petition of nomination;
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or
- (3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 3. IC 3-8-1-29.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 29.5: (a) ~~This section applies to a candidate for the office of judge of a town court listed in IC 33-35-5-7(c).~~

(b) ~~Before a candidate for the office of judge of the court may file a:~~

- (1) ~~declaration of candidacy or petition of nomination;~~
- (2) ~~certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or~~
- (3) ~~declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;~~

~~the candidate must be an attorney in good standing admitted to the practice of law in Indiana.~~

SECTION 4. IC 33-23-5-5, AS AMENDED BY P.L.127-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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).
- (16) Approve and accept criminal plea agreements.**
- (17) Approve agreed settlements concerning civil matters.**
- (18) Approve:**
 - (A) decrees of dissolution;**
 - (B) settlement agreements; and**
 - (C) any other agreements;****of the parties in domestic relations actions or paternity actions.**

SECTION 5. IC 33-23-5-9, AS AMENDED BY SEA 137-2015, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:
 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 **or a guilty plea hearing**, 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.

(c) This subsection does not apply to a consolidated city. Unless the defendant consents, a magistrate who did not preside at the criminal



trial may not preside at the sentencing hearing. However, this subsection does not prohibit a magistrate from presiding at a sentencing hearing if there was no trial.

SECTION 6. IC 33-33-10-2, AS AMENDED BY P.L.201-2011, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Clark County constitutes the fourth judicial circuit.

(b) The judges of the Clark circuit court may jointly appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court.

(c) A magistrate continues in office until **jointly** removed by the judges of the Clark circuit court.

SECTION 7. IC 33-33-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Greene County constitutes the sixty-third judicial circuit.

(b) The judge of the Greene circuit court and the judge of the Greene 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 jointly removed by the judge of the Greene circuit court and the judge of the Greene superior court.

SECTION 8. IC 33-33-48-7.5, AS AMENDED BY P.L.201-2011, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.5. (a) The judges of the Madison circuit court may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5 to serve the circuit court.

(b) ~~The A~~ magistrate continues in office until **jointly** removed by the judges of the circuit court.

SECTION 9. IC 33-33-49-32, AS AMENDED BY P.L.100-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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) (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; and~~
- (2) sixteen (16) full-time magistrates under IC 33-23-5 after December 31, 2015, not more than eight (8) 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.

SECTION 10. IC 33-33-64-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. **(a) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge of the circuit court.**

(b) 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 **jointly** removed by the judges of the superior court.

SECTION 11. IC 33-33-71-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** The judge of the St. Joseph circuit court may appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court.

(b) A magistrate continues in office until removed by the judge.

SECTION 12. IC 33-33-71-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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:

(1) the St. Joseph County courthouse; or

(2) another building owned or operated by St. Joseph County; 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.

SECTION 13. IC 33-33-71-69, AS AMENDED BY P.L.127-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 69. (a) The **superior** court may **jointly** appoint ~~two (2)~~ **four (4)** 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).~~ **IC 36-1-8-10(b)(3)**. Not more than ~~one (1)~~ **two (2)** of the magistrates appointed under this section may be a ~~member~~ **members** of the same political party.

(b) A magistrate continues in office until **jointly** removed by the judges of the court.

SECTION 14. IC 33-33-77-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Sullivan County constitutes the fourteenth judicial circuit.

(b) **Until July 1, 2016**, 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~~ A magistrate **appointed under subsection (b)** continues in office until **the earlier of the following:**

(1) The date the magistrate is jointly removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court.



(2) July 1, 2016.

SECTION 15. IC 33-33-82-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. ~~The~~

(b) A magistrate continues in office until removed by the judge.

SECTION 16. IC 33-35-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) **Except as provided in section 7.5 of this chapter**, a person selected as judge of ~~the following courts~~ **a city court or town court** 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.

admitted to the practice of law in Indiana.

SECTION 17. IC 33-35-5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 29, 2015]: Sec. 7.5. (a) **This section applies to a person who is a judge of a city or town court:**

- (1) serving on June 30, 2015; and
- (2) who is not an attorney in good standing admitted to the practice of law in Indiana.

(b) **This section does not apply to a person described in subsection (a) after the person leaves office.**

(c) **A person described in subsection (a) may:**

- (1) complete the term to which the person was elected before July 1, 2015; and
- (2) after that, continue to serve consecutive elected terms.

SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **The general assembly urges the legislative council to assign to the interim study committee on courts and the judiciary or another appropriate interim study committee for study during the 2015 interim the**



topic of the appropriate number of courts in Pulaski County.

(b) This SECTION expires November 1, 2015.

SECTION 19. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

