

# HOUSE BILL No. 1313

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-23; IC 33-24-6-3; IC 33-28-3-4; IC 33-29-2-4; IC 33-31-2-3; IC 33-33-49-16.

**Synopsis:** Court matters. Provides that a magistrate has the same powers as a judge, except the power of judicial mandate. Repeals certain sections that enumerate the powers for magistrates. Repeals the judicial technology oversight committee. Increases the filing limit for the small claims docket to not more than \$8,000 (rather than \$6,000, under current law). Makes conforming amendments.

**Effective:** July 1, 2020.

---

---

## Young J, Steuerwald

---

---

January 14, 2020, read first time and referred to Committee on Courts and Criminal Code.

---

---



Second Regular Session of the 121st General Assembly (2020)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# HOUSE BILL No. 1313



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 IC 33-23-5-5 IS REPEALED [EFFECTIVE JULY 1,
- 2 2020]. Sec. 5: A magistrate may do any of the following:
- 3 (1) Administer an oath or affirmation required by law.
- 4 (2) Solemnize a marriage.
- 5 (3) Take and certify an affidavit or deposition.
- 6 (4) Order that a subpoena be issued in a matter pending before the
- 7 court.
- 8 (5) Compel the attendance of a witness.
- 9 (6) Punish contempt.
- 10 (7) Issue a warrant.
- 11 (8) Set bail.
- 12 (9) Enforce court rules.
- 13 (10) Conduct a preliminary, an initial, an omnibus, or other
- 14 pretrial hearing.
- 15 (11) Conduct an evidentiary hearing or trial.
- 16 (12) Receive a jury's verdict.
- 17 (13) Verify a certificate for the authentication of records of a



1 proceeding conducted by the magistrate:

2 (14) Enter a final order; conduct a sentencing hearing; and impose  
3 a sentence on a person convicted of a criminal offense as  
4 described in section 9 of this chapter:

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

9 (16) Approve and accept criminal plea agreements:

10 (17) Approve agreed settlements concerning civil matters:

11 (18) Approve:

12 (A) decrees of dissolution;

13 (B) settlement agreements; and

14 (C) any other agreements;

15 of the parties in domestic relations actions or paternity actions:

16 SECTION 2. IC 33-23-5-8.5 IS ADDED TO THE INDIANA CODE  
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2020]: **Sec. 8.5. Except as provided in section 8 of this chapter, a  
19 magistrate has the same powers as a judge.**

20 SECTION 3. IC 33-23-5-9 IS REPEALED [EFFECTIVE JULY 1,  
21 2020]. **Sec. 9: (a) If a magistrate presides at a criminal trial or a guilty  
22 plea hearing, the magistrate may do the following:**

23 (1) Enter a final order:

24 (2) Conduct a sentencing hearing:

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

26 (b) This subsection does not apply to a consolidated city. Unless the  
27 defendant consents, a magistrate who did not preside at the criminal  
28 trial may not preside at the sentencing hearing. However, this  
29 subsection does not prohibit a magistrate from presiding at a  
30 sentencing hearing if there was no trial:

31 SECTION 4. IC 33-23-17 IS REPEALED [EFFECTIVE JULY 1,  
32 2020]. (Judicial Technology Oversight Committee).

33 SECTION 5. IC 33-24-6-3, AS AMENDED BY P.L.207-2019,  
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2020]: **Sec. 3. (a) The office of judicial administration shall  
36 do the following:**

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

41 (2) Collect and compile statistical data and other information on  
42 the judicial work of the courts in Indiana. All justices of the



1 supreme court, judges of the court of appeals, judges of all trial  
 2 courts, and any city or town courts, whether having general or  
 3 special jurisdiction, court clerks, court reporters, and other  
 4 officers and employees of the courts shall, upon notice by the  
 5 chief administrative officer and in compliance with procedures  
 6 prescribed by the chief administrative officer, furnish the chief  
 7 administrative officer the information as is requested concerning  
 8 the nature and volume of judicial business. The information must  
 9 include the following:

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

12 (B) The methods of procedure in the courts.

13 (C) The work accomplished by the courts.

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

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

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

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

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

25 (6) Administer the court technology fund established by section  
 26 12 of this chapter.

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

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

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

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

33 (ii) a county court case management system; and

34 (iii) a county court case management system developed and  
 35 operated by the office of judicial administration;

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

38 (C) between county court case management systems and the  
 39 case management system developed and operated by the office  
 40 of judicial administration.

41 The standard protocol developed and implemented under this  
 42 subdivision shall permit private sector vendors, including vendors



1 providing service to a local system and vendors accessing the  
 2 system for information, to send and receive court information on  
 3 an equitable basis and at an equitable cost.

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

9 (9) Establish and administer an electronic system for receiving  
 10 drug related felony conviction information from courts. The office  
 11 of judicial administration shall notify NPLeX of each drug related  
 12 felony entered after June 30, 2012, and do the following:

13 (A) Provide NPLeX with the following information:

14 (i) The convicted individual's full name.

15 (ii) The convicted individual's date of birth.

16 (iii) The convicted individual's driver's license number, state  
 17 personal identification number, or other unique number, if  
 18 available.

19 (iv) The date the individual was convicted of the felony.

20 Upon receipt of the information from the office of judicial  
 21 administration, a stop sale alert must be generated through  
 22 NPLeX for each individual reported under this clause.

23 (B) Notify NPLeX if the felony of an individual reported under  
 24 clause (A) has been:

25 (i) set aside;

26 (ii) reversed;

27 (iii) expunged; or

28 (iv) vacated.

29 Upon receipt of information under this clause, NPLeX shall  
 30 remove the stop sale alert issued under clause (A) for the  
 31 individual.

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

34 ~~(H)~~ **(10)** After July 1, 2018, establish and administer an  
 35 electronic system for receiving from courts felony conviction  
 36 information for each felony described in IC 20-28-5-8(c). The  
 37 office of judicial administration shall notify the department of  
 38 education at least one (1) time each week of each felony described  
 39 in IC 20-28-5-8(c) entered after July 1, 2018, and do the  
 40 following:

41 (A) Provide the department of education with the following  
 42 information:



- 1 (i) The convicted individual's full name.  
 2 (ii) The convicted individual's date of birth.  
 3 (iii) The convicted individual's driver's license number, state  
 4 personal identification number, or other unique number, if  
 5 available.  
 6 (iv) The date the individual was convicted of the felony.  
 7 (B) Notify the department of education if the felony of an  
 8 individual reported under clause (A) has been:  
 9 (i) set aside;  
 10 (ii) reversed; or  
 11 (iii) vacated.  
 12 ~~(12)~~ **(11)** Perform legal and administrative duties for the justices  
 13 as determined by the justices.  
 14 ~~(13)~~ **(12)** Provide staff support for the judicial conference of  
 15 Indiana established in IC 33-38-9.  
 16 ~~(14)~~ **(13)** Work with the United States Department of Veterans  
 17 Affairs to identify and address the needs of veterans in the court  
 18 system.  
 19 (b) All forms to be used in gathering data must be approved by the  
 20 supreme court and shall be distributed to all judges and clerks before  
 21 the start of each period for which reports are required.  
 22 (c) The office of judicial administration may adopt rules to  
 23 implement this section.  
 24 SECTION 6. IC 33-28-3-4 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) This section  
 26 applies after June 30, 2005.  
 27 (b) The small claims docket has jurisdiction over the following:  
 28 (1) Civil actions in which the amount sought or value of the  
 29 property sought to be recovered is not more than ~~six~~ **eight**  
 30 thousand dollars ~~(\$6,000)~~: **(\$8,000)**. The plaintiff in a statement  
 31 of claim or the defendant in a counterclaim may waive the excess  
 32 of any claim that exceeds ~~six~~ **eight** thousand dollars ~~(\$6,000)~~  
 33 **(\$8,000)** in order to bring it within the jurisdiction of the small  
 34 claims docket.  
 35 (2) Possessory actions between landlord and tenant in which the  
 36 rent due at the time the action is filed does not exceed ~~six~~ **eight**  
 37 thousand dollars ~~(\$6,000)~~: **(\$8,000)**.  
 38 (3) Emergency possessory actions between a landlord and tenant  
 39 under IC 32-31-6.  
 40 SECTION 7. IC 33-29-2-4 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) This section  
 42 applies after June 30, 2005.



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

2 (1) Civil actions in which the amount sought or value of the  
3 property sought to be recovered is not more than ~~six~~ **eight**  
4 thousand dollars (~~\$6,000~~): **(\$8,000)**. The plaintiff in a statement  
5 of claim or the defendant in a counterclaim may waive the excess  
6 of any claim that exceeds ~~six~~ **eight** thousand dollars (~~\$6,000~~)  
7 **(\$8,000)** in order to bring it within the jurisdiction of the small  
8 claims docket.

9 (2) Possessory actions between landlord and tenant in which the  
10 rent due at the time the action is filed does not exceed ~~six~~ **eight**  
11 thousand dollars (~~\$6,000~~): **(\$8,000)**.

12 (3) Emergency possessory actions between a landlord and tenant  
13 under IC 32-31-6.

14 SECTION 8. IC 33-31-2-3, AS ADDED BY P.L.201-2011,  
15 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2020]: Sec. 3. The small claims docket has jurisdiction over  
17 the following:

18 (1) Civil actions in which the amount sought or value of the  
19 property sought to be recovered is not more than ~~six~~ **eight**  
20 thousand dollars (~~\$6,000~~): **(\$8,000)**. The plaintiff in a statement  
21 of claim or the defendant in a counterclaim may waive the excess  
22 of any claim that exceeds ~~six~~ **eight** thousand dollars (~~\$6,000~~)  
23 **(\$8,000)** in order to bring it within the jurisdiction of the small  
24 claims docket.

25 (2) Possessory actions between landlord and tenant in which the  
26 rent due at the time the action is filed does not exceed ~~six~~ **eight**  
27 thousand dollars (~~\$6,000~~): **(\$8,000)**.

28 (3) Emergency possessory actions between a landlord and tenant  
29 under IC 32-31-6.

30 SECTION 9. IC 33-33-49-16 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) An appointed  
32 probate hearing judge or probate commissioner shall be vested by the  
33 judge of the probate division with suitable powers for the handling of  
34 all probate matters of the court, including the following:

35 (1) Fixing of all bonds.

36 (2) Auditing accounts of estates, guardianships, and trusts.

37 (3) Accepting reports, accounts, and settlements filed in the court.

38 (4) Appointing personal representatives, guardians, and trustees.

39 (5) Probating wills.

40 (6) Taking or hearing evidence on or concerning matters  
41 described in this subsection or any other probate, guardianship, or  
42 trust matters in litigation before the court.



1 (7) Enforcing court rules.

2 (8) Making reports to the court concerning the judge's or  
3 commissioner's doings in the proceedings described in this  
4 subsection, including reports concerning the commissioner's  
5 findings and conclusions regarding the proceedings.

6 However, all matters handled by a hearing judge or commissioner  
7 under this subsection are under the final jurisdiction and decision of the  
8 judge of the probate division.

9 (b) A juvenile referee appointed by the judge of the juvenile  
10 division shall have all suitable powers for the handling of the juvenile  
11 matters of the court, including the following:

12 (1) Fixing of bonds.

13 (2) Taking and hearing evidence on or concerning juvenile  
14 matters in litigation before the court.

15 (3) Enforcing court rules.

16 (4) Making reports to the court concerning the juvenile referee's  
17 handling of proceedings of the juvenile division of the court.

18 However, all matters handled by a juvenile referee under this  
19 subsection are under final jurisdiction and decision of the judge or  
20 judges of the juvenile division designated by rules of the court.

21 (c) A bail commissioner may fix bonds, including the following:

22 (1) Determining whether an individual is to be released on the  
23 individual's own recognizance in criminal cases and proceedings.

24 (2) Making reports to the court concerning the bail  
25 commissioner's activities.

26 All matters handled by a bail commissioner under this subsection are  
27 under the final jurisdiction and decision of the judge or judges of the  
28 criminal division as designated by rules of the court.

29 (d) For any of the purposes specified in this section, a probate  
30 hearing judge, probate commissioner, referee, or bail commissioner  
31 may do the following:

32 (1) Summon witnesses to testify before the probate hearing judge,  
33 probate commissioner, referee, or bail commissioner.

34 (2) Administer oaths and take acknowledgments in connection  
35 with duties.

36 (3) Administer oaths and take acknowledgments generally.

37 (e) A master commissioner appointed by the court under this section  
38 has the powers and duties prescribed for a magistrate under  
39 ~~IC 33-23-5-5~~ **IC 33-23-5-6** through ~~IC 33-23-5-9~~ **IC 33-23-5-8.5**. A  
40 master commissioner shall report the findings in each of the matters  
41 before the master commissioner in writing to the judge or judges of the  
42 division to which the master commissioner is assigned or as designated





1 by rules of the court.

