



January 24, 2020

HOUSE BILL No. 1313

DIGEST OF HB 1313 (Updated January 22, 2020 4:07 pm - DI 131)

Citations Affected: IC 33-23; IC 33-24; IC 33-28; IC 33-29; IC 33-31; IC 33-33.

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). Provides that the Marion County court will divide the work of the court into various divisions, including but not limited to the following: (1) Civil. (2) Criminal. (3) Family. Provides that the Marion County court shall hold session in the: (1) community justice campus in Indianapolis; and (2) other places in Marion County as the court determines. 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.
January 23, 2020, amended, reported — Do Pass.

HB 1313—LS 6707/DI 131



January 24, 2020

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 a statute 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 IC 33-23-5-5 IS REPEALED [EFFECTIVE JULY 1,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

HB 1313—LS 6707/DI 131



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 33-33-49-14, AS AMENDED BY P.L.142-2007,
31 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2020]: Sec. 14. (a) Not more than thirty (30) days after taking
33 the oath of office, the judges shall meet and designate four (4) of the
34 judges as the executive committee for administrative purposes. The
35 executive committee shall be selected by a vote of two-thirds (2/3) of
36 the judges sitting at the time the vote is taken. If all vacancies cannot
37 be filled by a two-thirds (2/3) vote, vacancies may be filled by such
38 other method as provided by court rule. The executive committee is
39 responsible for the operation and conduct of the court. The executive
40 committee shall operate and maintain the juvenile detention facilities
41 in the county. A member of the executive committee shall serve in the
42 capacity provided by rules adopted by the court under section 11 of this



1 chapter. A member of the executive committee serves for a term of two
2 (2) years beginning on the date of the member's election. Except for the
3 rotation of the presiding judge as provided in subsection (b), any or all
4 of the members elected to the executive committee may be reelected.
5 Of the four (4) judges elected to the executive committee, not more
6 than two (2) may be members of the same political party.

7 (b) One (1) of the four (4) judges elected to the executive committee
8 shall be elected as presiding judge, and three (3) of the four (4) judges
9 elected to the executive committee shall be elected as associate
10 presiding judges. Beginning with the election of the executive
11 committee in 2007, a presiding judge may not be elected from the same
12 political party as the presiding judge who served the previous term.
13 Each judge who is a member of the executive committee has an equal
14 vote in all matters pertaining to the business of the court when an
15 action requires a majority vote. If a tie vote occurs, the presiding judge
16 shall cast the tiebreaking vote. Any action taken by the executive
17 committee may be overruled by a vote of two-thirds (2/3) of all the
18 judges sitting at the time the vote is taken. The physical reassignment
19 of a judge to a different courtroom requires a unanimous vote of the
20 executive committee. The executive committee shall assign cases,
21 offices, and courtrooms for trial judges or reassignment of newly filed
22 cases in the interests of the speedy, economical, and uniform
23 disposition of cases. All matters of trial dates, continuances, and
24 subpoenas used for trial shall be determined by the trial judge in
25 accordance with rules of the superior court. The executive committee
26 shall perform other duties as determined by rules of the court.

27 (c) The court shall, by rules of the court, divide the work of the court
28 into various divisions, including but not limited to the following:

- 29 (1) Civil.
30 (2) Criminal.
31 (3) **Probate: Family.**
32 ~~(4) Juvenile.~~

33 (d) The work of each division shall be allocated by the rules of the
34 court.

35 (e) The judges shall be assigned to various divisions or rooms as
36 provided by rules of the court. Whenever possible, an incumbent judge
37 shall be allowed the option of remaining in a particular room or
38 division. Whenever any action of the court is required, the judges of the
39 court shall act in concert, by a vote under section 11 of this chapter.
40 The court shall keep appropriate records of rules, orders, and
41 assignments of the court.

42 SECTION 10. IC 33-33-49-16 IS AMENDED TO READ AS

HB 1313—LS 6707/DI 131



1 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) An appointed
 2 probate hearing judge or probate commissioner shall be vested by the
 3 judge of the probate division with suitable powers for the handling of
 4 all probate matters of the court, including the following:

- 5 (1) Fixing of all bonds.
- 6 (2) Auditing accounts of estates, guardianships, and trusts.
- 7 (3) Accepting reports, accounts, and settlements filed in the court.
- 8 (4) Appointing personal representatives, guardians, and trustees.
- 9 (5) Probating wills.
- 10 (6) Taking or hearing evidence on or concerning matters
- 11 described in this subsection or any other probate, guardianship, or
- 12 trust matters in litigation before the court.
- 13 (7) Enforcing court rules.
- 14 (8) Making reports to the court concerning the judge's or
- 15 commissioner's doings in the proceedings described in this
- 16 subsection, including reports concerning the commissioner's
- 17 findings and conclusions regarding the proceedings.

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

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

- 24 (1) Fixing of bonds.
- 25 (2) Taking and hearing evidence on or concerning juvenile
- 26 matters in litigation before the court.
- 27 (3) Enforcing court rules.
- 28 (4) Making reports to the court concerning the juvenile referee's
- 29 handling of proceedings of the juvenile division of the court.

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

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

- 34 (1) Determining whether an individual is to be released on the
- 35 individual's own recognizance in criminal cases and proceedings.
- 36 (2) Making reports to the court concerning the bail
- 37 commissioner's activities.

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

41 (d) For any of the purposes specified in this section, a probate
 42 hearing judge, probate commissioner, referee, or bail commissioner



- 1 may do the following:
- 2 (1) Summon witnesses to testify before the probate hearing judge,
- 3 probate commissioner, referee, or bail commissioner.
- 4 (2) Administer oaths and take acknowledgments in connection
- 5 with duties.
- 6 (3) Administer oaths and take acknowledgments generally.
- 7 (e) A master commissioner appointed by the court under this section
- 8 has the powers and duties prescribed for a magistrate under
- 9 ~~IC 33-23-5-5~~ **IC 33-23-5-6** through ~~IC 33-23-5-9~~ **IC 33-23-5-8.5**. A
- 10 master commissioner shall report the findings in each of the matters
- 11 before the master commissioner in writing to the judge or judges of the
- 12 division to which the master commissioner is assigned or as designated
- 13 by rules of the court.
- 14 SECTION 11. IC 33-33-49-17 IS AMENDED TO READ AS
- 15 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) The court shall
- 16 hold sessions in:
- 17 (1) the ~~city-county building~~ **community justice campus** in
- 18 Indianapolis; and
- 19 (2) other places in Marion County as the court determines.
- 20 (b) The city-county council shall:
- 21 (1) provide and maintain in the ~~building~~ **community justice**
- 22 **campus** and at other places in Marion County as the court may
- 23 determine suitable and convenient courtrooms for the holding of
- 24 the court, suitable and convenient jury rooms, and offices for the
- 25 judges, other court officers and personnel, and other facilities as
- 26 are necessary; and
- 27 (2) provide all necessary furniture and equipment for rooms and
- 28 offices of the court.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1313, 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 6, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 9. IC 33-33-49-14, AS AMENDED BY P.L.142-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: 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: Family.**
- ~~(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."

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

"SECTION 11. IC 33-33-49-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) The court shall hold sessions in:

- (1) the ~~city-county building~~ **community justice campus** 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~~ **community justice campus** 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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1313 as introduced.)

MCNAMARA



Committee Vote: yeas 11, nays 0.

