

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 ENROLLED ACT No. 1313

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 31-17-2.2-1, AS AMENDED BY P.L.186-2019, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), a relocating individual must file a notice of the intent to move with the clerk of the court that:

- (1) issued the custody order or parenting time order; or
- (2) if subdivision (1) does not apply, has jurisdiction over the legal proceedings concerning the custody of or parenting time with a child.

(b) A relocating individual is not required to file a notice of intent to move with the clerk of the court if:

- (1) the relocation has been addressed by a prior court order, including a court order relieving the relocating individual of the requirement to file a notice; **and**

or

(2) the relocation will:

- (A) result in a decrease in the distance between the relocating individual's residence and the nonrelocating individual's residence; or
- (B) result in an increase of not more than twenty (20) miles in the distance between the relocating individual's residence and

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the nonrelocating individual's residence;
and allow the child to remain enrolled in the child's current school.

(c) Upon motion of a party, the court shall set the matter for a hearing to allow or restrain the relocation of a child and to review and modify, if appropriate, a custody order, parenting time order, grandparent visitation order, or child support order. The court's authority to modify a custody order, parenting time order, grandparent visitation order, or child support order is not affected by the fact that a relocating individual is exempt from the requirement to file a notice of relocation by subsection (b). The court shall take into account the following in determining whether to modify a custody order, parenting time order, grandparent visitation order, or child support order:

- (1) The distance involved in the proposed change of residence.
- (2) The hardship and expense involved for the nonrelocating individual to exercise parenting time or grandparent visitation.
- (3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable parenting time and grandparent visitation arrangements, including consideration of the financial circumstances of the parties.
- (4) Whether there is an established pattern of conduct by the relocating individual, including actions by the relocating individual to either promote or thwart a nonrelocating individual's contact with the child.
- (5) The reasons provided by the:
 - (A) relocating individual for seeking relocation; and
 - (B) nonrelocating parent for opposing the relocation of the child.
- (6) Other factors affecting the best interest of the child.

(d) A court may order the relocating individual and the nonrelocating individual to participate in mediation or another alternative dispute resolution process before a hearing under this section:

- (1) on its own motion; or
- (2) upon the motion of any party.

(e) If a relocation occurs, all existing orders for custody, parenting time, grandparent visitation, and child support remain in effect until modified by the court.

(f) The court may award reasonable attorney's fees for a motion filed under this section in accordance with IC 31-15-10 and IC 34-52-1-1(b).

SECTION 2. IC 33-23-5-5 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 5: A magistrate may do any of the following:~~

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

SECTION 4. IC 33-23-5-9 IS REPEALED [EFFECTIVE JULY 1, 2020]. **Sec. 9: (a) 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.

(b) 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 5. IC 33-23-17 IS REPEALED [EFFECTIVE JULY 1, 2020]. (Judicial Technology Oversight Committee).

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

- (1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.
- (2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the chief administrative officer and in compliance with procedures prescribed by the chief administrative officer, furnish the chief administrative officer the information as is requested concerning the nature and volume of judicial business. The information must include the following:
 - (A) The volume, condition, and type of business conducted by the courts.
 - (B) The methods of procedure in the courts.
 - (C) The work accomplished by the courts.
 - (D) The receipt and expenditure of public money by and for the operation of the courts.
 - (E) The methods of disposition or termination of cases.
- (3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).
- (4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.
- (5) Administer the civil legal aid fund as required by IC 33-24-12.
- (6) Administer the court technology fund established by section 12 of this chapter.
- (7) By December 31, 2013, develop and implement a standard



protocol for sending and receiving court data:

- (A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;
- (B) at the option of the county prosecuting attorney, for:
 - (i) a prosecuting attorney's case management system;
 - (ii) a county court case management system; and
 - (iii) a county court case management system developed and operated by the office of judicial administration;
 to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and
- (C) between county court case management systems and the case management system developed and operated by the office of judicial administration.

The standard protocol developed and implemented under this subdivision shall permit private sector vendors, including vendors providing service to a local system and vendors accessing the system for information, to send and receive court information on an equitable basis and at an equitable cost.

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

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

- (A) Provide NPLeX with the following information:
 - (i) The convicted individual's full name.
 - (ii) The convicted individual's date of birth.
 - (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.
 - (iv) The date the individual was convicted of the felony.

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

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

- (i) set aside;
- (ii) reversed;
- (iii) expunged; or



(iv) vacated.

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

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

~~(11)~~ **(10)** After July 1, 2018, establish and administer an electronic system for receiving from courts felony conviction information for each felony described in IC 20-28-5-8(c). The office of judicial administration shall notify the department of education at least one (1) time each week of each felony described in IC 20-28-5-8(c) entered after July 1, 2018, and do the following:

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

- (i) The convicted individual's full name.
- (ii) The convicted individual's date of birth.
- (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.
- (iv) The date the individual was convicted of the felony.

(B) Notify the department of education if the felony of an individual reported under clause (A) has been:

- (i) set aside;
- (ii) reversed; or
- (iii) vacated.

~~(12)~~ **(11)** Perform legal and administrative duties for the justices as determined by the justices.

~~(13)~~ **(12)** Provide staff support for the judicial conference of Indiana established in IC 33-38-9.

~~(14)~~ **(13)** Work with the United States Department of Veterans Affairs to identify and address the needs of veterans in the court system.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The office of judicial administration may adopt rules to implement this section.

SECTION 7. IC 33-28-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) This section applies after June 30, 2005.

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

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

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

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

SECTION 8. IC 33-29-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) This section applies after June 30, 2005.

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

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

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

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

SECTION 9. IC 33-31-2-3, AS ADDED BY P.L.201-2011, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. The small claims docket has jurisdiction over the following:

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

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



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

SECTION 10. 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.

SECTION 11. IC 33-33-49-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) An appointed probate hearing judge or probate commissioner shall be vested by the judge of the probate division with suitable powers for the handling of all probate matters of the court, including the following:

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

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

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

- (1) Fixing of bonds.
- (2) Taking and hearing evidence on or concerning juvenile matters in litigation before the court.
- (3) Enforcing court rules.



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

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

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

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

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

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

- (1) Summon witnesses to testify before the probate hearing judge, probate commissioner, referee, or bail commissioner.
- (2) Administer oaths and take acknowledgments in connection with duties.
- (3) Administer oaths and take acknowledgments generally.

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

SECTION 12. 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.
SECTION 13. 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: _____

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