

SENATE BILL No. 79

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-1-16; IC 3-11-2; IC 3-13-6-1; IC 33-23-11-2; IC 33-33-49.

Synopsis: Marion County courts. Provides for the selection of Marion superior court (court) judges. Establishes the 14 member Marion County judicial selection committee (committee). Provides that, when the committee learns of a vacancy on the court, the committee follows certain procedures that conclude in the committee sending the names of three nominees to the governor. Requires the governor to appoint one of the nominees as judge to fill the vacancy. Provides that, at the end of a judge's term on the court, the judge may have the question of the judge's retention on the court placed on the general election ballot. Provides that, before a judge may stand for retention, the judge must appear before the committee to allow the committee to issue a recommendation to voters concerning the judge's qualifications and suitability to continue to hold judicial office. Requires that the judge's retention on the court must be approved or rejected by the electorate of Marion County. Makes a technical correction.

Effective: Upon passage.

Merritt

January 3, 2017, read first time and referred to Committee on Judiciary.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 79

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 3-10-1-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. At a primary
3 election a voter may vote for as many candidates for each office as
4 there are persons to be elected to that office at the general election.
5 ~~except as provided in IC 33-33-49-13 for candidates for judge of the~~
6 ~~Marion superior court.~~

7 SECTION 2. IC 3-11-2-10, AS AMENDED BY P.L.219-2013,
8 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 10. (a) Public questions shall be placed on the
10 general election ballot in the following order after the statement
11 described in section 7 of this chapter, and the instructions described in
12 subsections (d) and (e) and section 8 of this chapter:

- 13 (1) Ratification of a state constitutional amendment.
 - 14 (2) Local public questions.
- 15 **Subject to section 10.1 of this chapter**, each public question shall be
16 placed in a separate column on the ballot.
- 17 (b) The name or title of the political party or independent ticket



1 described in section 6 of this chapter shall be placed on the general
 2 election ballot after the public questions described in subsection (a).
 3 The device of the political party or independent ticket shall be placed
 4 immediately under the name of the political party or independent ticket.
 5 The instructions for voting a straight party ticket shall be placed to the
 6 right of the device.

7 (c) The instructions for voting a straight party ticket must conform
 8 as nearly as possible to the following: "To vote a straight (insert
 9 political party name) ticket for all (insert political party name)
 10 candidates on this ballot, make a voting mark on or in this circle and do
 11 not make any other marks on this ballot. If you wish to vote for a
 12 candidate seeking a nonpartisan office or on a public question, you
 13 must make another voting mark on the appropriate place on this
 14 ballot."

15 (d) If the ballot contains an independent ticket described in section
 16 6 of this chapter and at least one (1) other independent candidate, the
 17 ballot must also contain a statement that reads substantially as follows:
 18 "A vote cast for an independent ticket will only be counted for the
 19 candidates for President and Vice President or governor and lieutenant
 20 governor comprising that independent ticket. This vote will NOT be
 21 counted for any OTHER independent candidate appearing on the
 22 ballot."

23 (e) The ballot must also contain a statement that reads substantially
 24 as follows: "A write-in vote will NOT be counted unless the vote is for
 25 a DECLARED write-in candidate. To vote for a write-in candidate, you
 26 must make a voting mark on or in the square to the left of the name you
 27 have written in or your vote will not be counted."

28 (f) **Subject to section 10.1 of this chapter**, the list of candidates of
 29 the political party shall be placed immediately under the instructions
 30 for voting a straight party ticket. The names of the candidates shall be
 31 placed three-fourths (3/4) of an inch apart from center to center of the
 32 name. The name of each candidate must have, immediately on its left,
 33 a square three-eighths (3/8) of an inch on each side.

34 (g) The circuit court clerk may authorize the printing of ballots
 35 containing a ballot variation code to ensure that the proper version of
 36 a ballot is used within a precinct.

37 SECTION 3. IC 3-11-2-10.1 IS ADDED TO THE INDIANA CODE
 38 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE
 39 UPON PASSAGE]: **Sec. 10.1. (a) This section applies only to a**
 40 **public question concerning the retention in office of a judge of the**
 41 **Marion superior court under IC 33-33-49.**

42 (b) **The question of the retention of the judge at the general**



1 election shall be placed on the ballot at the same row or column
 2 level of the ballot at which the question of the retention of other
 3 judges is placed on the ballot but in a column or row in which
 4 independent candidates are placed on the ballot.

5 (c) If the question of the retention of more than one (1) judge is
 6 placed on a ballot, the judges shall be placed on the ballot in
 7 alphabetical order according to surname.

8 SECTION 4. IC 3-13-6-1, AS AMENDED BY P.L.194-2013,
 9 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 1. (a) As used in this section, "judge" refers
 11 to a judge of a circuit, superior, or probate court.

12 (b) If a judge wants to resign from office, the judge must resign as
 13 provided in IC 5-8-3.5.

14 (c) A vacancy that occurs because of the death of a judge may be
 15 certified to the governor under IC 5-8-6.

16 (d) A vacancy that occurs, other than by resignation or death of a
 17 judge, shall be certified to the governor by the circuit court clerk of the
 18 county in which the judge resided.

19 (e) A vacancy in the office of judge of a circuit court shall be filled
 20 by the governor as provided by Article 5, Section 18 of the Constitution
 21 of the State of Indiana. However, the governor may not fill a vacancy
 22 that occurs because of the death of a judge until the governor receives
 23 notice of the death under IC 5-8-6.

24 (f) The person who is appointed holds the office until:

25 (1) the end of the unexpired term; or

26 (2) a successor is elected at the next general election for the
 27 office, and qualified;

28 whichever occurs first.

29 (g) Except as provided in this subsection, the office of judge of the
 30 circuit court shall be elected at the next general election following the
 31 date any vacancy occurred. If a vacancy occurs in the office of judge of
 32 the circuit court after noon seventy-four (74) days before a general
 33 election, the office shall be elected at the second general election
 34 following the date any vacancy occurred.

35 (h) The person elected at the general election following an
 36 appointment to fill the vacancy, upon being qualified, holds office for
 37 the six (6) year term prescribed by Article 7, Section 7 of the
 38 Constitution of the State of Indiana and until a successor is elected and
 39 qualified.

40 (i) A vacancy in the office of judge of a superior or probate court
 41 shall be filled by the governor subject to the following:

42 (1) IC 33-33-2-39.



- 1 (2) IC 33-33-2-43.
 2 (3) IC 33-33-45-38.
 3 (4) IC 33-33-71-40.
 4 **(5) IC 33-33-49-13.4.**

5 However, the governor may not fill a vacancy that occurs because of
 6 the death of a judge until the governor receives notice of the death
 7 under IC 5-8-6. The person who is appointed holds office for the
 8 remainder of the unexpired term.

9 SECTION 5. IC 33-23-11-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this
 11 chapter, "close relative" means a person related to:

- 12 (1) another person filing a statement of economic interest; or
 13 (2) the other person's spouse;

14 as a son, a daughter, a grandson, a granddaughter, a great-grandson, a
 15 great-granddaughter, a father, a mother, a grandfather, a grandmother,
 16 a great-grandfather, a great-grandmother, a brother, a sister, a nephew,
 17 a niece, an uncle, or an aunt. For purposes of this section, relatives by
 18 adoption, half-blood, marriage, or remarriage are treated as relatives of
 19 whole kinship.

20 SECTION 6. IC 33-33-49-6, AS AMENDED BY P.L.80-2006,
 21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 6. (a) There is established a superior court in
 23 Marion County. The court consists of:

- 24 (1) thirty-five (35) judges beginning January 1, 2007, and ending
 25 December 31, 2008; and
 26 (2) thirty-six (36) judges beginning January 1, 2009.

27 (b) To be qualified to serve as a judge of the court, a person must
 28 be, at the time a ~~declaration of candidacy or a petition of nomination~~
 29 ~~under IC 3-8-6 is filed the person applies to fill a vacancy or files for~~
 30 **retention:**

- 31 (1) a resident of Marion County; and
 32 (2) an attorney who has been admitted to the bar of Indiana for at
 33 least five (5) years.

34 (c) During the term of office, a judge of the court must remain a
 35 resident of Marion County.

36 SECTION 7. IC 33-33-49-13 IS REPEALED [EFFECTIVE UPON
 37 PASSAGE]. ~~Sec. 13: (a) Each judge of the court shall be elected for a~~
 38 ~~term of six (6) years that begins January 1 after the year of the judge's~~
 39 ~~election and continues through December 31 in the sixth year. The~~
 40 ~~judge shall hold office for the six (6) year term or until the judge's~~
 41 ~~successor is elected and qualified. A candidate for judge shall run at~~
 42 ~~large for the office of judge of the court and not as a candidate for~~



1 judge of a particular room or division of the court.

2 (b) At the primary election held in 2008 and every six (6) years
3 thereafter, a political party may nominate not more than eight (8)
4 candidates for judge of the court. At the primary election held in 2006
5 and every six (6) years thereafter, a political party may nominate not
6 more than ten (10) candidates for judge of the court. The candidates
7 shall be voted on at the general election. Other candidates may qualify
8 under IC 3-8-6 to be voted on at the general election.

9 (c) The names of the party candidates nominated and properly
10 certified to the Marion County election board, along with the names of
11 other candidates who have qualified, shall be placed on the ballot at the
12 general election in the form prescribed by IC 3-11. At the 2008 general
13 election and every six (6) years thereafter, persons eligible to vote at
14 the general election may vote for sixteen (16) candidates for judge of
15 the court. Beginning with the 2006 general election and every six (6)
16 years thereafter, persons eligible to vote at the general election may
17 vote for twenty (20) candidates for judge of the court.

18 (d) The candidates for judge of the court receiving the highest
19 number of votes shall be elected to the vacancies. The names of the
20 candidates elected as judges of the court shall be certified to the county
21 election board as provided by law.

22 SECTION 8. IC 33-33-49-13.1 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE UPON PASSAGE]: **Sec. 13.1. (a) As used in this**
25 **chapter:**

26 (1) "close relative" has the meaning set forth in
27 IC 33-23-11-2; and

28 (2) "committee" refers to the Marion County judicial
29 selection committee established by subsection (b).

30 (b) The Marion County judicial selection committee is
31 established to:

32 (1) select nominees for the court; and

33 (2) make recommendations to the voters concerning the
34 retention of a judge on the court.

35 (c) The committee consists of the following fourteen (14)
36 members:

37 (1) Four (4) members who reside in Marion County,
38 appointed as follows:

39 (A) One (1) member appointed by the speaker of the house
40 of representatives.

41 (B) One (1) member appointed by the minority leader of
42 the house of representatives.



- 1 **(C) One (1) member appointed by the president pro**
 2 **tempore of the senate.**
- 3 **(D) One (1) member appointed by the minority leader of**
 4 **the senate.**
- 5 **A person appointed under this subdivision may not be a**
 6 **member of the general assembly.**
- 7 **(2) An attorney who resides in Marion County and practices**
 8 **primarily in the area of criminal law, appointed by the**
 9 **president of the Indianapolis bar association.**
- 10 **(3) An attorney who resides in Marion County and practices**
 11 **primarily in the area of criminal law, appointed by the**
 12 **president of the Marion County bar association.**
- 13 **(4) An attorney who resides in Marion County, appointed by**
 14 **the president of the Indiana Trial Lawyers Association.**
- 15 **(5) An attorney who resides in Marion County, appointed by**
 16 **the president of the Defense Trial Counsel of Indiana.**
- 17 **(6) Two (2) members appointed by the chairperson of each**
 18 **major political party (as defined by IC 3-5-2-30(2)) in Marion**
 19 **County. Each of the four (4) members appointed under this**
 20 **subdivision must reside in Marion County, and at least one (1)**
 21 **member appointed by each major political party should be a**
 22 **woman or a minority (as defined in IC 16-46-6-2), or both.**
- 23 **(7) The chief judge of the Indiana Court of Appeals or a**
 24 **designee of the chief judge who is a judge of the Indiana Court**
 25 **of Appeals. The chief judge or chief judge's designee serves as**
 26 **the vice chairperson of the committee.**
- 27 **(8) The chief justice of Indiana or a designee of the chief**
 28 **justice who is a justice of the Indiana Supreme Court. The**
 29 **chief justice or chief justice's designee serves as the**
 30 **chairperson of the committee.**
- 31 **(d) If a member of the committee is employed by a law firm, no**
 32 **other person employed by the same law firm may be appointed to**
 33 **the committee.**
- 34 **(e) A member of the committee may not be:**
- 35 **(1) a current or former judge of the Marion superior or**
 36 **circuit court;**
- 37 **(2) a current or former judicial officer appointed by the**
 38 **Marion superior or circuit court;**
- 39 **(3) a current or former employee of the Marion superior or**
 40 **circuit court; or**
- 41 **(4) a close relative of anyone described in subdivision (1), (2),**
 42 **or (3).**



1 This subsection does not apply to a member appointed under
2 subsection (c)(7) or (c)(8).

3 (f) All attorney members of the committee must be in active and
4 good standing with the Indiana Supreme Court.

5 (g) Each initial member of the committee who is not an ex officio
6 member serves a four (4) year term, beginning on July 1, 2017, and
7 ending on June 30, 2020. A member of the committee may be
8 reappointed for one (1) or more additional four (4) year terms. If
9 a member is appointed to fill a vacancy, the member serves during
10 the unexpired term of his or her predecessor and may be
11 reappointed for one (1) or more additional four (4) year terms.

12 (h) If a vacancy exists on the committee, the appointing
13 authority who appointed the former member whose position has
14 become vacant shall appoint an individual to fill the vacancy.

15 (i) An ex officio member of the committee ceases to be a member
16 of the committee at the time the individual no longer holds the
17 office that entitles the individual to be a member of the committee.

18 (j) A member of the committee described in subsection (c)(1)
19 through (c)(6) who no longer resides in Marion County is
20 considered to have resigned from the committee. A member of the
21 committee who no longer resides in Marion County shall notify the
22 chairperson in writing of the member's change in residence.

23 (k) Each member of the committee is entitled to receive the
24 same per diem, mileage, and travel allowances paid to individuals
25 who serve as legislative members of interim study committees
26 established by the legislative council.

27 (l) A quorum consists of nine (9) members of the committee.

28 (m) The affirmative votes of nine (9) members of the committee
29 are required for the committee to take official action with respect
30 to any candidate for judicial office.

31 (n) The committee shall:

32 (1) nominate judicial candidates for the court in accordance
33 with section 13.4 of this chapter; and

34 (2) make recommendations concerning retention in
35 accordance with section 13.7 of this chapter.

36 (o) The committee meets upon the call of the chairperson.

37 (p) The committee shall meet in the Indiana statehouse, or in
38 any other appropriate location in Marion County, as determined
39 by the chairperson.

40 (q) Except as otherwise provided in subsection (r) or as
41 otherwise provided in this chapter, the committee may adopt its
42 own policies and operating procedures. The policies and



1 procedures must comply with IC 5-14-1.5 (the open door law) and
2 this chapter, and must include procedures by which eligible
3 candidates for a vacancy on the court may submit their names to
4 the committee. The policies and procedures are public records, and
5 the meetings of the committee at which the policies and procedures
6 are considered for initial adoption or amendment must be publicly
7 announced and open to the public.

8 (r) Notwithstanding IC 5-14-1.5-2, the committee is a public
9 agency for the purposes of IC 5-14-1.5. The committee may meet
10 in executive session under IC 5-14-1.5-6.1 for the consideration of
11 a candidate for appointment to or retention on the court if:

12 (1) notice of the executive session is given in the manner
13 prescribed by IC 5-14-1.5-5; and

14 (2) all interviews of candidates are conducted at meetings
15 open to the public.

16 (s) Notwithstanding IC 5-14-3-4, all public records (as defined
17 in IC 5-14-3-2) of the committee are subject to IC 5-14-3-3,
18 including records described in IC 5-14-3-4(b)(12). However, the
19 following records are excepted from public inspection and copying
20 at the discretion of the committee:

21 (1) Personnel files of committee employees and members and
22 files of applicants for employment with the committee to the
23 extent permitted under IC 5-14-3-4(b)(8).

24 (2) Records specifically prepared for discussion or developed
25 during discussion in an executive session under
26 IC 5-14-1.5-6.1, unless the records are prepared for use in the
27 consideration of a candidate for retention or judicial
28 appointment.

29 (3) Investigatory records prepared for the committee until:

30 (A) the records are filed or introduced into evidence in
31 connection with the consideration of a candidate;

32 (B) the records are publicly discussed by the committee in
33 connection with the consideration of a candidate;

34 (C) a candidate elects to have the records released by the
35 committee; or

36 (D) the committee elects to release the records that the
37 committee considers appropriate in response to publicly
38 disseminated statements relating to the activities or actions
39 of the committee;

40 whichever occurs first.

41 (4) Applications of candidates for judicial appointment who
42 are not among the applicants eligible for further



1 consideration following action by the committee.

2 (5) The work product of an attorney (as defined in
3 IC 5-14-3-2) representing the committee.

4 (t) When an event described by subsection (s)(3) occurs, the
5 investigatory record becomes available for public inspection and
6 copying under IC 5-14-3-3.

7 (u) A former member of the committee may not be nominated
8 as a judge of the court if the person has served as a member of the
9 committee within the previous five (5) years.

10 SECTION 9. IC 33-33-49-13.2 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE UPON PASSAGE]: Sec. 13.2. (a) Except for the
13 transitional period described in subsection (h), each judge of the
14 court shall serve a term of six (6) years. The judge shall hold office
15 for the six (6) year term or until the judge's successor is appointed
16 and qualified. A judge shall be appointed at large for the office of
17 judge of the court and not as the judge of a particular room or
18 division of the court.

19 (b) The thirty-six (36) judges of the court shall be divided into
20 three (3) retention classes. Each retention class consists of twelve
21 (12) judges.

22 (c) Retention class A consists of twelve (12) of the twenty (20)
23 judges:

24 (1) whose terms expire on December 31, 2018 (not including
25 the transitional period described in subsection (h)); and

26 (2) who have the most seniority as judges.

27 If two (2) or more judges have equal seniority such that the
28 assignment of only twelve (12) judges to retention class A cannot
29 be made, those judges having the lowest bar number (not including
30 the county identifier) have the highest seniority.

31 (d) Retention class B consists of:

32 (1) four (4) of the sixteen (16) judges who have the most
33 seniority as judges and whose terms expire on December 31,
34 2020 (not including the transitional period described in
35 subsection (h)); and

36 (2) the eight (8) judges not assigned to retention class A whose
37 terms would have expired on December 31, 2018 (not
38 including the transitional period described in subsection (h)).

39 If two (2) or more judges have equal seniority such that the
40 assignment of only four (4) judges described in subdivision (1) to
41 retention class B cannot be made, those judges having the lowest
42 bar number (not including the county identifier) have the highest



- 1 seniority.
- 2 (e) Retention class C consists of the twelve (12) judges:
- 3 (1) whose terms would have otherwise expired on December
- 4 31, 2020 (not including the transitional period described in
- 5 subsection (h)); and
- 6 (2) who are not assigned to retention class B.
- 7 (f) The term of a judge assigned to:
- 8 (1) retention class A begins on January 1, 2021, and every six
- 9 (6) years thereafter, and continues through December 31,
- 10 2027, and every six (6) years thereafter;
- 11 (2) retention class B begins on January 1, 2023, and every six
- 12 (6) years thereafter, and continues through December 31,
- 13 2029, and every six (6) years thereafter; and
- 14 (3) retention class C begins on January 1, 2025, and every six
- 15 (6) years thereafter, and continues through December 31,
- 16 2031, and every six (6) years thereafter.
- 17 (g) A newly appointed judge is assigned the retention class of the
- 18 judge's predecessor.
- 19 (h) Notwithstanding any other law, the term of a judge
- 20 described in:
- 21 (1) subsection (c) expires December 31, 2020;
- 22 (2) subsection (d)(2) expires December 31, 2022; and
- 23 (3) subsection (e) expires December 31, 2024.
- 24 **This subsection expires January 1, 2025.**
- 25 SECTION 10. IC 33-33-49-13.3 IS ADDED TO THE INDIANA
- 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 27 [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) The retention in
- 28 office of a sitting judge of the court shall be approved or rejected
- 29 by the electorate of Marion County in accordance with this section.
- 30 (b) A judge who wishes to be retained in office shall file a
- 31 statement with the clerk during the period described in IC 3-8-2-4
- 32 during which a declaration of candidacy must be filed in the year
- 33 in which the judge's term expires. The judge's statement must
- 34 include the following information:
- 35 (1) A statement indicating that the judge wishes to have the
- 36 question of the judge's retention placed on the ballot.
- 37 (2) A statement of the judge's name as:
- 38 (A) the judge wants the judge's name to appear on the
- 39 ballot; and
- 40 (B) a candidate's name is permitted to appear on the ballot
- 41 under IC 3-5-7.
- 42 (3) If the judge is affiliated with a political party, the name of



1 that political party. The judge may indicate in the statement
 2 that the judge is not affiliated with a political party. For
 3 purposes of this subdivision, a judge's affiliation with a
 4 political party is determined as provided in IC 3-8-2-7(a)(4).
 5 (4) A statement that the judge requests that the name on the
 6 judge's voter registration record be the same as the name the
 7 judge uses on the statement. If there is a difference between
 8 the name on the judge's statement and the name on the
 9 judge's voter registration record, the clerk shall change the
 10 name on the judge's voter registration record to be the same
 11 as the name on the judge's statement.

12 If a judge does not file a statement under this subsection, the clerk
 13 shall, not later than March 1, notify the Marion County judicial
 14 selection committee in writing that the judge does not wish to
 15 continue in office after the end of the judge's term of office.

16 (c) The term of a judge:

- 17 (1) who does not file a statement under subsection (b); and
 18 (2) whose term expires during the year in which the question
 19 of the retention of the judge would have been placed on the
 20 general election ballot;

21 expires December 31 of the year in which the question of the
 22 judge's retention would have been placed on the ballot.

23 (d) If the question of a judge's retention is required to be on the
 24 ballot at a general election, the question of approval or rejection of
 25 the judge's retention shall be placed on the general election ballot
 26 in the form prescribed by IC 3-11-2 and must state:

27 "Shall Judge (insert here the name of the judge as stated
 28 under subsection (b)(2)) be retained in office?"

29 If a majority of the ballots cast by the electors voting on the
 30 question is "Yes", the judge whose name appears on the question
 31 shall be approved for a six (6) year term beginning January 1
 32 following the general election as provided in section 13.2 of this
 33 chapter. If a majority of the ballots cast by the electors voting on
 34 the question is not "Yes", the following apply:

- 35 (1) Retention of the judge whose name appears on the
 36 question is rejected.
 37 (2) The office of the judge becomes vacant on January 1
 38 following the rejection.
 39 (3) The vacancy shall be filled in accordance with this chapter.

40 SECTION 11. IC 33-33-49-13.4 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE UPON PASSAGE]: **Sec. 13.4. (a) When the committee**



1 learns that a vacancy exists or will exist on the court, the
2 committee shall nominate three (3) candidates to the governor to
3 fill the vacancy in accordance with this section.

4 (b) In making a nomination under this section or a
5 recommendation concerning retention under section 13.7 of this
6 chapter, the committee shall consider the following factors with
7 respect to a candidate:

8 (1) Law school record, including any academic honors and
9 achievements.

10 (2) Contribution to scholarly journals and publications,
11 legislative drafting, and legal briefs.

12 (3) Activities in public service, including:

13 (A) writings and speeches concerning public or civic affairs
14 that are on public record, including but not limited to
15 campaign speeches or writing, letters to newspapers, and
16 testimony before public agencies;

17 (B) efforts and achievements in improving the
18 administration of justice; and

19 (C) other conduct relating to the individual's profession.

20 (4) Whether the candidate reflects the diversity and makeup
21 of Marion County.

22 (5) Legal experience, including the number of years of
23 practicing law, the kind of practice involved, and reputation
24 as a trial lawyer or judge.

25 (6) Probable judicial temperament.

26 (7) Personality traits, including the exercise of sound
27 judgment, ability to compromise and conciliate, patience,
28 decisiveness, and dedication.

29 (8) Membership on boards of directors, financial interest, and
30 any other consideration that might create conflict of interest
31 with a judicial office.

32 (9) Any other pertinent information that the committee feels
33 is important in selecting the best qualified individuals for
34 judicial office.

35 (c) As soon as practicable after the committee learns of a
36 vacancy, the committee shall publicly announce that it is accepting
37 applications from individuals wishing to fill the vacancy. The
38 committee shall determine the form and content of the application,
39 establish a timetable for nominations, and schedule one (1) or more
40 hearings to interview qualified applicants and select nominees to
41 fill the vacancy. To the extent practicable, the committee shall
42 endeavor to interview as many qualified applicants as possible.



1 However, if a large number of applicants have applied to fill a
 2 vacancy, the committee may limit itself to interviewing only the
 3 most qualified applicants. The committee may conduct multiple
 4 interviews. At the conclusion of the interview process, the
 5 committee shall nominate the three (3) most qualified candidates
 6 and forward their names to the governor, who shall appoint one (1)
 7 of the nominees as judge.

8 (d) In no event may more than fifty-two percent (52%) of the
 9 judges serving on the Marion superior court be members of the
 10 same political party.

11 SECTION 12. IC 33-33-49-13.7 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: Sec. 13.7. (a) This section applies
 14 to each sitting judge who will stand for retention under section 13.3
 15 of this chapter, including a person who served as a judge of the
 16 Marion superior court on December 31, 2016. However, an
 17 incumbent judge must appear only one (1) time before the
 18 committee for purposes of this section.

19 (b) The following definitions apply throughout this section:

20 (1) "News media" includes:

- 21 (A) a newspaper of general circulation in Marion County;
- 22 (B) one (1) or more broadcasters serving Marion County;
- 23 (C) any person who uses a blog or similar Internet web site
 24 to provide information or commentary concerning the
 25 judiciary or political matters of interest to residents of
 26 Marion County; and
- 27 (D) any other appropriate source of news or information
 28 for Marion County residents.

29 (2) "Voter outreach organization" includes any organization
 30 that has the goal of informing voters in Marion County about
 31 issues and candidates in upcoming elections.

32 (c) This subsection does not apply to an incumbent judge who
 33 has previously appeared before the committee for purposes of this
 34 section at least one (1) time. Before a judge may stand for retention
 35 under section 13.3 of this chapter, the judge must appear before
 36 the committee to permit the committee to issue a recommendation
 37 to the voters concerning the judge's qualifications and suitability
 38 to continue to hold judicial office.

39 (d) At the time a judge files a statement under section 13.3 of
 40 this chapter that the judge wishes to be retained in office, the judge
 41 shall:

42 (1) notify the committee that the judge wishes to be retained



1 in office; and

2 (2) provide the committee with a written statement describing
3 the judge's qualifications, with particular emphasis on the
4 matters described in section 13.4(b) of this chapter.

5 (e) After receiving the materials described in subsection (d), the
6 committee shall promptly schedule a hearing to consider the
7 materials submitted by the judge and interview the judge. Each
8 judge is entitled to a hearing before the committee. The hearings
9 shall be held in executive session.

10 (f) A judge is presumed qualified. The affirmative votes of at
11 least nine (9) committee members are required to find that a judge
12 is not qualified.

13 (g) If the committee finds that a judge is not qualified, the
14 committee shall do the following:

15 (1) Through the chairperson, place on the appropriate
16 Internet web site of the Indiana supreme court the following
17 statement: "After considering the qualifications of Judge
18 (insert name here) and Judge (insert name here)'s
19 performance in office, the Marion County Judicial Selection
20 Committee finds that Judge (insert name here) IS NOT
21 qualified and SHOULD NOT BE retained in office."

22 (2) Issue the following statement to news media and voter
23 outreach organizations: "After considering the qualifications
24 of Judge (insert name here) and Judge (insert name here)'s
25 performance in office, the Marion County Judicial Selection
26 Committee finds that Judge (insert name here) IS NOT
27 qualified and SHOULD NOT BE retained in office."

28 (3) Take any other steps reasonably calculated to inform the
29 general public in Marion County of the committee's
30 determination.

31 (h) If the committee does not find that a judge is unqualified, the
32 committee shall do the following:

33 (1) Through the chairperson, place on the appropriate
34 Internet web site of the Indiana supreme court the following
35 statement: "After considering the qualifications of Judge
36 (insert name here) and Judge (insert name here)'s
37 performance in office, the Marion County Judicial Selection
38 Committee finds that Judge (insert name here) IS qualified
39 and SHOULD BE retained in office."

40 (2) Issue the following statement to news media and voter
41 outreach organizations: "After considering the qualifications
42 of Judge (insert name here) and Judge (insert name here)'s



1 **performance in office, the Marion County Judicial Selection**
2 **Committee finds that Judge (insert name here) IS qualified**
3 **and SHOULD BE retained in office.".**
4 **(3) Take any other steps reasonably calculated to inform the**
5 **general public in Marion County of the committee's**
6 **determination.**
7 **(i) Subject to section 13.1 of this chapter, the committee may**
8 **adopt policies and operating procedures to implement this section.**
9 **SECTION 13. An emergency is declared for this act.**

