

# SENATE BILL No. 137

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-23-5.

**Synopsis:** Magistrates and criminal trials. Provides that a magistrate may not preside over a criminal trial or sentencing hearing if the defendant timely requests that the elected circuit court or superior court judge preside.

**Effective:** July 1, 2015.

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January 6, 2015, read first time and referred to Committee on Judiciary.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 137

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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, AS AMENDED BY P.L.127-2008,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 5. **(a)** A magistrate may do any of the following:  
4 (1) Administer an oath or affirmation required by law.  
5 (2) Solemnize a marriage.  
6 (3) Take and certify an affidavit or deposition.  
7 (4) Order that a subpoena be issued in a matter pending before the  
8 court.  
9 (5) Compel the attendance of a witness.  
10 (6) Punish contempt.  
11 (7) Issue a warrant.  
12 (8) Set bail.  
13 (9) Enforce court rules.  
14 (10) Conduct a preliminary, an initial, an omnibus, or other  
15 pretrial hearing.  
16 (11) Conduct an evidentiary hearing or, **except as provided in**



- 1           **subsection (b), conduct a trial or sentencing hearing.**  
 2           (12) Receive a jury's verdict.  
 3           (13) Verify a certificate for the authentication of records of a  
 4           proceeding conducted by the magistrate.  
 5           (14) Enter a final order ~~conduct a sentencing hearing~~, and impose  
 6           a sentence on a person convicted of a criminal offense as  
 7           described in section 9 of this chapter.  
 8           (15) Enter a final order or judgment in any proceeding involving  
 9           matters specified in IC 33-29-2-4 (jurisdiction of small claims  
 10          docket) or IC 34-26-5 (protective orders to prevent domestic or  
 11          family violence).
- 12          **(b) This subsection does not apply to a consolidated city. A**  
 13          **magistrate may not conduct a criminal trial or sentencing hearing**  
 14          **if the defendant requests in writing, not later than ten (10) days**  
 15          **after the omnibus date, that the elected circuit court or superior**  
 16          **court judge conduct the criminal trial or sentencing hearing.**
- 17          SECTION 2. IC 33-23-5-9 IS AMENDED TO READ AS  
 18          FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) Except as  
 19          provided under subsection (b), a magistrate shall report findings in an  
 20          evidentiary hearing, a trial, or a jury's verdict to the court. The court  
 21          shall enter the final order.
- 22          (b) If a magistrate presides at a criminal trial, the magistrate may do  
 23          the following:  
 24                (1) Enter a final order.  
 25                (2) Conduct a sentencing hearing.  
 26                (3) Impose a sentence on a person convicted of a criminal offense.
- 27          **(c) A magistrate may not preside at a criminal trial or**  
 28          **sentencing hearing if a defendant has made a timely request under**  
 29          **section 5 of this chapter that the elected circuit court or superior**  
 30          **court judge preside.**

