



January 14, 2022

SENATE BILL No. 149

DIGEST OF SB 149 (Updated January 13, 2022 9:21 am - DI 140)

Citations Affected: IC 33-33; IC 33-37.

Synopsis: Various courts matters. Makes clarifying changes to the powers and duties of the Marion superior court executive committee. Provides that an appointed judicial officer shall be vested by the judges of the family division of the Marion superior court with suitable powers for the handling of all probate matters of the court. Removes and reallocates the powers and duties of a probate hearing judge, probate commissioner, juvenile referee, bail commissioner, and master commissioner from the Marion superior court. Provides that the Marion County judicial selection committee nomination procedure shall be followed when filling a vacancy that occurs in a court. Provides that the: (1) clerk of a circuit court; (2) clerk of a city or town court; or (3) judge of a city or town court that does not have a clerk; may retain as an administrative fee an amount of up to \$3 from the excess amount collected by the clerk for general court costs.

Effective: July 1, 2022.

Koch

January 4, 2022, read first time and referred to Committee on Judiciary.
January 13, 2022, reported favorably — Do Pass.

SB 149—LS 6355/DI 131



January 14, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 149

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 33-33-49-15, AS AMENDED BY P.L.201-2011,
2 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 15. (a) The executive committee, with the
4 approval of two-thirds (2/3) of the judges, shall determine the number
5 of ~~hearing judges, commissioners, referees, bail commissioners, court~~
6 ~~reporters, probation officers, and other personnel~~ **judicial officers and**
7 **personnel** required to efficiently serve the court. The salaries of the
8 personnel shall be fixed and paid as provided by law.
9 (b) The administrative officers shall perform the duties prescribed
10 by the executive committee and shall operate under the jurisdiction of
11 the executive committee and serve at the pleasure of the executive
12 committee.
13 (c) The executive committee shall see that the court at all times is
14 amply provided with ~~supplies and sufficient clerical and other help,~~
15 ~~including extra reporters or bailiffs, when needed.~~ **adequate resources**
16 **necessary to effectively run court operations.** Each judge shall
17 appoint ~~the judge's court reporters, bailiffs, secretary, commissioners,~~

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1 ~~and clerks: a judicial assistant who will also serve as the judge's~~
 2 ~~official court reporter. All other staff assignments will be~~
 3 ~~determined by the executive committee in conjunction with the~~
 4 ~~general term. The staffing requirements set forth in IC 33-29-1-5~~
 5 ~~do not apply to the Marion superior court.~~ In addition to the
 6 specified duties of this subsection, the executive committee shall
 7 exercise any other powers and duties that may be assigned to the
 8 executive committee. ~~by an order book entry signed by a two-thirds~~
 9 ~~(2/3) majority of the judges.~~ At least once each month, a general term
 10 conference of all superior division judges ~~must should~~ be held, at
 11 which the presiding judge shall preside. ~~A special order book must be~~
 12 ~~kept for the court in which shall be entered all special rules;~~
 13 ~~proceedings; and similar matters.~~ During an absence or a vacation of
 14 a judge who is a member of the executive committee, the senior
 15 superior court judge shall act for the absent member, if necessary.

16 (d) Notwithstanding any other law, a commissioner appointed under
 17 this chapter has all of the powers and duties prescribed for a magistrate
 18 under IC 33-23-5. However, the provisions of IC 33-23-5-11 requiring
 19 the state to pay the salary of a magistrate do not require the state to pay
 20 the salary of a commissioner appointed under this chapter.

21 (e) If a commissioner appointed under this chapter is appointed as
 22 a magistrate in Marion County, the salary of that magistrate shall be
 23 paid by the state under IC 33-23-5-11 in the same amount as other
 24 magistrates are paid.

25 (f) The allocation of appointments of commissioners under this
 26 chapter shall be determined by agreement between the judges of the
 27 superior court and the judge of the circuit court with consideration
 28 given to the case load of each court. However, notwithstanding any
 29 other law, at least two (2) of the commissioners appointed under this
 30 chapter shall be appointed by the judge of the circuit court.

31 (g) The:

- 32 (1) judge of the circuit court has exclusive authority to appoint
- 33 commissioners allocated to the circuit court; and
- 34 (2) judges of the superior court have exclusive authority to
- 35 appoint commissioners allocated to the superior court by a vote of
- 36 the majority of the judges of the superior court.

37 (h) Not more than a simple majority of the commissioners appointed
 38 under this chapter may be from the same political party.

39 (i) A commissioner appointed by the:

- 40 (1) judge of the circuit court serves at the pleasure of the judge of
- 41 the circuit court; and
- 42 (2) judges of the superior court continues in office until removed



1 pursuant to local rule.
 2 SECTION 2. IC 33-33-49-16, AS AMENDED BY P.L.162-2020,
 3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2022]: Sec. 16. (a) An appointed **probate hearing judge or**
 5 **probate commissioner judicial officer** shall be vested by the **judge**
 6 **judges** of the **probate family** division with suitable powers for the
 7 handling of all probate matters of the court, including the following:

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

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

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

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

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

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

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

42 All matters handled by a bail commissioner under this subsection are



1 under the final jurisdiction and decision of the judge or judges of the
2 criminal division as designated by rules of the court.

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

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

8 (2) Administer oaths and take acknowledgments in connection
9 with duties.

10 (3) Administer oaths and take acknowledgments generally.

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

18 SECTION 3. IC 33-33-49-30, AS AMENDED BY P.L.201-2011,
19 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2022]: Sec. 30. (a) A judge remains qualified to hold office as
21 long as the judge:

22 (1) remains fair and impartial in judicial functions;

23 (2) maintains a high standard of morality in dealings, public and
24 private;

25 (3) remains physically and mentally capable of performing all the
26 functions and duties of the office of judge; and

27 (4) continues to reside in Marion County.

28 (b) Complaints against a judge must be forwarded to the
29 commission on judicial qualifications as provided in IC 33-38-13 by
30 any judge of the superior court.

31 (c) If the judge wishes to retire before the judge's term has ended,
32 the judge shall provide written notice to the presiding judge of the
33 court. ~~The judge shall continue to hold office until a successor has been~~
34 ~~appointed and qualified.~~

35 (d) When a vacancy occurs in the court by death, removal,
36 retirement, or for any other reason, ~~the governor shall appoint a~~
37 ~~successor judge who serves the balance of the term of the vacating~~
38 ~~judge. a successor judge shall be appointed as described in section~~
39 **13.4 of this chapter.** The successor judge must be a member of the
40 same political party as the judge who is to be succeeded.

41 SECTION 4. IC 33-37-1-2, AS AMENDED BY P.L.78-2014,
42 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2022]: Sec. 2. **As used in this article, "clerk" refers to any of**
 2 the following:

3 ~~(1) For purposes of IC 33-37-1 through IC 33-37-11, a person~~
 4 ~~who is any of the following:~~

5 ~~(A) A clerk of a circuit court under IC 33-32-2-1.~~

6 ~~(B) The clerk of a city or town court under IC 33-35.~~

7 ~~(C) The judge of a city or town court that does not have a~~
 8 ~~clerk.~~

9 ~~(2) For purposes of IC 33-37-12, a person who is a clerk of a~~
 10 ~~circuit court under IC 33-32-2-1.~~

11 **(1) A clerk of a circuit court under IC 33-32-2-1.**

12 **(2) The clerk of a city or town court under IC 33-35.**

13 **(3) The judge of a city or town court that does not have a**
 14 **clerk.**

15 SECTION 5. IC 33-37-5-2, AS AMENDED BY P.L.38-2021,
 16 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2022]: Sec. 2. (a) Each clerk shall establish a clerk's record
 18 perpetuation fund. The clerk shall deposit all the following in the fund:

19 (1) Revenue received by the clerk for transmitting documents by
 20 facsimile machine to a person under IC 5-14-3.

21 (2) Document storage fees required under section 20 of this
 22 chapter.

23 (3) The late payment fees imposed under section 22 of this
 24 chapter that are authorized for deposit in the clerk's record
 25 perpetuation fund under IC 33-37-7-2.

26 (4) The fees required under IC 29-1-7-3.1 for deposit of a will.

27 (5) Fees for preparing a transcript or copy of any record under
 28 section 1 of this chapter.

29 (6) Two dollars (\$2) for each marriage certificate issued by the
 30 clerk under IC 33-32-5-1.

31 **(7) The amount retained as an administrative fee under**
 32 **IC 33-37-12-3.**

33 (b) The clerk may use any money in the fund for the following
 34 purposes:

35 (1) The preservation of records.

36 (2) The improvement of record keeping systems and equipment.

37 (3) The operation of a case management system.

38 SECTION 6. IC 33-37-12-1, AS ADDED BY P.L.78-2014,
 39 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2022]: Sec. 1. (a) This chapter applies to any amount that the
 41 clerk of a circuit court is required to collect from a person, including:

42 (1) bail;



- 1 (2) a fine;
2 (3) a civil penalty;
3 (4) a court fee, court cost, or user fee imposed by the court; or
4 (5) a fee for the preparation, duplication, or transmission of a
5 document.
- 6 (b) This chapter does not apply to child support funds received by
7 the clerk of a circuit court under IC 33-32-4.
- 8 SECTION 7. IC 33-37-12-2, AS ADDED BY P.L.78-2014,
9 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2022]: Sec. 2. If the amount collected by the clerk of the
11 circuit court is more than the amount required, the clerk shall:
- 12 (1) retain the administrative fee described in section 3 of this
13 chapter; and
14 (2) refund the excess amount.
- 15 SECTION 8. IC 33-37-12-3, AS ADDED BY P.L.78-2014,
16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2022]: Sec. 3. (a) The clerk of a circuit court may retain as an
18 administrative fee an amount of up to three dollars (\$3) from the excess
19 amount collected by the clerk under section 2 of this chapter.
- 20 (b) The clerk shall deposit the amount retained as an administrative
21 fee under subsection (a) in the clerk's record perpetuation fund
22 established under IC 33-37-5-2.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 149, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 149 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 10, Nays 1

