

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.

## SENATE ENROLLED ACT No. 256

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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 2-5-1.3-13, AS AMENDED BY P.L.2-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. (a) A study committee shall study the issues assigned by the legislative council that are within the subject matter for the study committee, as described in section 4 of this chapter.

(b) In addition to the issues assigned under subsection (a), the interim study committee on roads and transportation shall advise the bureau of motor vehicles regarding the suitability of a special group (as defined in IC 9-13-2-170) to receive a special group recognition license plate for the special group (as defined in IC 9-13-2-170) for the first time under IC 9-18.5-12-4 and the suitability of a special group (as defined in IC 9-13-2-170) to continue participating in the special group recognition license plate program under IC 9-18.5-12-5.

(c) In addition to the issues assigned under subsection (a), the interim study committee on corrections and criminal code shall review current trends with respect to criminal behavior, sentencing, incarceration, and treatment and may:

- (1) identify particular needs of the criminal justice system that can be addressed by legislation; and
- (2) prepare legislation to address the particular needs found by the committee.

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(d) In each even-numbered year, in addition to the issues assigned under subsection (a), the interim study committee on courts and the judiciary shall review, consider, and make recommendations concerning all requests for new courts, new judicial officers, and changes in jurisdiction of existing courts. A request under this subsection must include at least the following information to receive full consideration by the committee:

(1) The level of community support for the change, including support from the local fiscal body.

(2) The results of a survey that shall be conducted by the county requesting the change, sampling members of the bar, members of the judiciary, and local officials to determine needs and concerns of existing courts.

(3) Whether the county is already using a judge or magistrate from an overserved area of the judicial district.

(4) The relative severity of need based on the most recent weighted caseload measurement system report published by the office of judicial administration.

(5) Whether the county is using any problem solving court as described in IC 33-23-16-11, and, if so, the list of problem solving courts established in the county, and any evaluation of the impact of the problem solving courts on the overall judicial caseload.

(6) A description of the:

(A) county's population growth in the ten (10) years before the date of the request; and

(B) projected population growth in the county for the ten (10) years after the date of the request, to the extent available;

and any documentation to support the information provided under this subdivision.

(7) A description of the county's use of pre-incarceration diversion services and post-incarceration reentry services in an effort to decrease recidivism.

(8) If the request is a request for a new court or new courts, an acknowledgment from the county fiscal body (as defined in IC 36-1-2-6) with the funding sources and estimated costs the county intends to pay toward the county's part of the operating costs associated with the new court or new courts.

The office of judicial administration shall post the list of required information provided under this subsection on its Internet web site.

(e) In each even-numbered year, in addition to the issues



assigned under subsection (a), the interim study committee on courts and the judiciary shall review the most recent weighted caseload measurement system report published by the office of judicial administration and do the following:

- (1) Identify each county in which the number of courts or judicial officers exceeds the number used by the county in that report year.
- (2) Determine the number of previous report years in which the number of courts or judicial officers in a county identified in subdivision (1) exceeded the number used by the county in that particular report year.
- (3) Make a recommendation on whether the number of courts or judicial officers in the county should be decreased.

The office of judicial administration shall post a list of the number of courts or judicial officers used in each county for each report year, and the number of years in which the number of courts or judicial officers in the county has exceeded the number used by the county, on its Internet web site.

SECTION 2. IC 33-33-10-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 1.1. IC 33-29-1 does not apply to this chapter.**

SECTION 3. IC 33-33-10-2.5, AS ADDED BY P.L.201-2011, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2.5. (a)** The Clark circuit court is a court of general jurisdiction with four (4) judges. The divisions of the court shall be known as Clark circuit court No. 1, No. 2, No. 3, and No. 4. Clark County constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

- (1) A small claims and misdemeanor division under IC 33-28-3 that has a:
  - (A) small claims docket; and
  - (B) minor offenses and violations docket.
- (2) Criminal.
- (3) Juvenile.
- (4) Civil.
- (5) Probate.

(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court.

**(c) This section expires January 1, 2025.**

SECTION 4. IC 33-33-10-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2021]: **Sec. 2.7. (a) This section applies beginning January 1, 2025.**

**(b) The Clark circuit court is a court of general jurisdiction with six (6) judges.**

**(c) The court shall have six (6) divisions, known as Clark circuit court No. 1, No. 2, No. 3, No. 4, No. 5, and No. 6.**

**(d) Clark County constitutes the judicial district of the court and each of the court's divisions.**

**(e) The court shall maintain the following dockets:**

**(1) A small claims and misdemeanor division under IC 33-28-3 that has a:**

**(A) small claims docket; and**

**(B) minor offenses and violations docket.**

**(2) Criminal.**

**(3) Juvenile.**

**(4) Civil.**

**(5) Probate.**

**(f) The assignment of judges of the circuit court to the dockets specified in subsection (e) must be by rule of the circuit court.**

SECTION 5. IC 33-33-10-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2.8. (a) The first judge of Clark circuit court No. 5 elected under Article 7, Section 7 of the Constitution of the State of Indiana shall:**

**(1) be elected at the November 2024 general election;**

**(2) take office January 1, 2025; and**

**(3) serve a term of six (6) years.**

**(b) The first judge of Clark circuit court No. 6 elected under Article 7, Section 7 of the Constitution of the State of Indiana shall:**

**(1) be elected at the November 2024 general election;**

**(2) take office January 1, 2025; and**

**(3) serve a term of six (6) years.**

**(c) This section expires January 1, 2026.**

SECTION 6. IC 33-33-10-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.1. (a) Two (2) superior courts are established in Clark County.**

**(b) Each court established by subsection (a) consists of one (1) judge, appointed by the governor.**

**(c) Each judge appointed under subsection (b) will take office July 1, 2021.**

**(d) The term of office of a judge appointed under subsection (b)**



expires January 1, 2025.

(e) To be eligible to hold office as a judge of Clark superior court, an individual must be:

- (1) a resident of Clark County; and
- (2) admitted to the bar of Indiana.

(f) The courts established by subsection (a) will convert to Clark circuit court No. 5 and Clark circuit court No. 6 on January 1, 2025.

(g) This section expires January 2, 2025.

SECTION 7. IC 33-33-10-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 4.1. (a) The superior courts shall be known as Clark superior court No. 5 and Clark superior court No. 6.

(b) Clark County constitutes the judicial district of each court.

(c) Each superior court shall be a court of record having the same jurisdiction as the circuit court. A judge of the superior court has the same powers relating to the conduct of business of the court as the judge of the circuit court.

(d) Each court shall have a seal containing the words "Clark Superior Court \_\_\_\_\_ (insert "No. 5" or "No. 6") of Clark County, Indiana".

(e) This section expires January 1, 2025.

SECTION 8. IC 33-33-10-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 5.1. (a) Each judge of a superior court may make and adopt rules and regulations for conducting the business of the judge's court, not inconsistent with Indiana law.

(b) This section expires January 1, 2025.

SECTION 9. IC 33-33-10-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6.1. (a) Each judge of a superior court has the same power to do any of the following as is conferred on circuit courts or the judges of circuit courts:

- (1) Grant restraining orders and injunctions.
- (2) Issue writs of habeas corpus and of mandate and prohibition.
- (3) Appoint receivers, master commissioners to convey real property, and grant commissions for the examination of witnesses.
- (4) Appoint other officers necessary to facilitate and transact the business of the court.



**(b) This section expires January 1, 2025.**

SECTION 10. IC 33-33-10-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 7.1. (a) Each superior court shall hold its sessions at the courthouse of the county, or at other convenient places in the county as the court designates.**

**(b) The county commissioners shall provide suitable quarters for each court.**

**(c) This section expires January 1, 2025.**

SECTION 11. IC 33-33-10-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 8.1. (a) The clerk, under the direction of a judge of the superior court, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers, and records as are necessary for that court.**

**(b) All books, papers, and proceedings of each court shall be kept distinct and separate from those of other courts, and the records of all civil cases separate and apart from the records of juvenile matters.**

**(c) This section expires January 1, 2025.**

SECTION 12. IC 33-33-10-9.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 9.1. (a) Each judge of a superior court shall appoint a bailiff for the court, whose salary shall be fixed and paid as provided by law.**

**(b) This section expires January 1, 2025.**

SECTION 13. IC 33-33-10-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 10.1. (a) Each judge of a superior court shall appoint a court reporter, whose duties, salary, and term shall be regulated in the same manner as the court reporter of circuit courts.**

**(b) This section expires January 1, 2025.**

SECTION 14. IC 33-33-10-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 11.1. (a) All laws governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior courts.**



**(b) This section expires January 1, 2025.**

SECTION 15. IC 33-33-10-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 12.1. (a) The process of each superior court must have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.**

**(b) This section expires January 1, 2025.**

SECTION 16. IC 33-33-10-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 15.3. (a) A judge of the circuit court may, with the consent of a judge of the superior court, transfer any action or proceeding from the circuit court to that superior court.**

**(b) A judge of the superior court may, with the consent of a judge of the circuit court, transfer any action or proceeding from that superior court to that circuit court.**

**(c) A judge of the superior court may, with the consent of the judge of the other superior court, transfer any action or proceeding from that superior court to the other superior court.**

**(d) A judge of the circuit court may, with the consent of a judge of the superior court, sit as a judge of that superior court in any matter, as if the judge were judge of that superior court.**

**(e) A judge of the superior court may, with consent of a judge of the circuit court, sit as a judge of that circuit court as if the judge were judge of the circuit court.**

**(f) A judge of the superior court may, with the consent of the judge of the other superior court, sit as judge of the other superior court as if the judge of that superior court.**

**(g) This section expires January 1, 2025.**

SECTION 17. IC 33-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2. (a) The Delaware circuit court is a court of general jurisdiction with ~~five (5)~~ **six (6)** judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, ~~and No. 5,~~ **and No. 6.** The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:**

- (1) Small claims.
- (2) Minor offenses and violations.
- (3) Criminal.
- (4) Juvenile.
- (5) Civil.



(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. ~~However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.~~

SECTION 18. IC 33-33-18-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2.1. (a) Notwithstanding section 2 of this chapter, Delaware circuit court No. 6 is established January 1, 2023.**

**(b) The first judge of Delaware circuit court No. 6 shall:**

- (1) be elected at the November 2022 general election;**
- (2) take office January 1, 2023; and**
- (3) serve a term of six (6) years.**

**(c) This section expires January 1, 2029.**

SECTION 19. IC 33-33-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. **(a) Gibson County constitutes the sixty-sixth judicial circuit.**

**(b) The judges of the Gibson superior court and Gibson circuit court may appoint one (1) full-time magistrate under IC 33-23-5 to serve both courts.**

**(c) The magistrate continues in office until removed by the judge of the Gibson superior court and the judge of the Gibson circuit court.**

SECTION 20. IC 33-33-29-6, AS AMENDED BY P.L.12-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. **(a) The judge of the Hamilton circuit court and the judges of the Hamilton superior courts may jointly appoint ~~three (3)~~ four (4) full-time magistrates under IC 33-23-5 to serve the circuit and superior courts.**

**(b) A magistrate continues in office until jointly removed by the judge of the Hamilton circuit court and the judges of the Hamilton superior courts.**

SECTION 21. IC 33-33-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. **(a) Jennings County constitutes the eighty-sixth judicial circuit.**

**(b) The Jennings circuit court has a standard small claims and misdemeanor division.**

**(c) The judge of the Jennings circuit court and the judge of the Jennings superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.**





**(d) A magistrate continues in office until jointly removed by the judge of the Jennings circuit court and the judge of the Jennings superior court.**

SECTION 22. IC 33-33-50-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) There are established ~~two (2)~~ **three (3)** courts of record to be known as the Marshall superior court No. 1, ~~and~~ the Marshall superior court No. 2, **and the Marshall superior court No. 3.**

(b) The Marshall superior courts are standard superior courts as described in IC 33-29-1.

(c) Marshall County comprises the judicial district of each court.

SECTION 23. IC 33-33-50-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. The Marshall superior court No. 1 has one (1) judge who shall hold sessions in the Marshall County courthouse in Plymouth. The Marshall superior court No. 2 has one (1) judge who shall hold sessions in a place in the county as the board of county commissioners may provide. **The Marshall superior court No. 3 has one (1) judge who shall hold sessions in a place in the county as the board of county commissioners may provide.**

SECTION 24. IC 35-33-8-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (a) As used in this section, "disposition" has the meaning set forth in section 3.2(c) of this chapter.

(b) **The Indiana criminal justice institute shall collect the following data from each court exercising criminal jurisdiction in Indiana:**

**(1) Of those defendants who are released on personal recognizance, the number of defendants who are rearrested before the disposition of the defendant's charges.**

**(2) Of those defendants who are released pursuant to the payment of money bail of one thousand dollars (\$1,000) or less, the number of defendants who are rearrested before the disposition of the defendant's charges.**

**(c) Data collected under subsection (b) shall be compiled in such a manner to present the rearrest rate for:**

**(1) the entire state;**

**(2) each county; and**

**(3) each circuit, superior, city, and town court, including each separate division of each court, if applicable.**

**(d) The Indiana criminal justice institute shall, before August 1,**



2021, and before August 1 of each year thereafter, submit an annual report containing the information collected under this section to the legislative council in an electronic format under IC 5-14-6. The initial report submitted by the Indiana criminal justice institute before August 1, 2021, must also include all data described in subsection (b) for the period beginning after December 31, 2019, through December 31, 2020.

SECTION 25. [EFFECTIVE JULY 1, 2020] (a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(b) The legislative council is urged to assign to the interim study committee on courts and the judiciary during the 2020 legislative interim the topic of providing mutual full faith and credit to the judgments, decrees, orders, warrants, subpoenas, and other judicial acts of a tribal court of a federally recognized Indian tribe (as defined by IC 5-33.5-2-1) that are not already given full faith and credit as required under federal law.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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