

SENATE BILL No. 272

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-31-1; IC 33-33-45.

Synopsis: Election of certain juvenile judges. Provides that the judge of the St. Joseph County probate court is elected in a nonpartisan election instead of in a partisan election, beginning in 2018. Provides that the judge of the juvenile division of the Lake County superior court (court) is elected in a nonpartisan election instead of being subject to a retention election as are the other judges of the court. Provides that a vacancy in the judgeship of the juvenile division is filled by the governor rather than by the governor from a list of names submitted by the Lake County judicial nominating commission. Provides that the first nonpartisan election of the judge of the juvenile division of the court is at the 2022 general election. Provides that in appointing magistrates, the judge of the St. Joseph County probate court and the juvenile judge of the Lake County superior court shall strive to reflect the ethnic and racial demographics of their respective counties. Makes a technical correction.

Effective: July 1, 2017.

Randolph Lonnie M

January 9, 2017, read first time and referred to Committee on Elections.



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. 272

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 33-31-1-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The court
- 3 consists of one (1) judge, to be elected by the legal voters of the county
- 4 for a term of six (6) years, **as provided in section 3.3 of this chapter.**
- 5 **The judge's term:**
- 6 (1) **beginning begins** on the first day of January following the
- 7 election of the judge; and
- 8 (2) **continuing continues** until the successor of the judge is
- 9 elected and qualified.
- 10 ~~The election must occur at the time of the general election every six (6)~~
- 11 ~~years.~~
- 12 (b) The judge shall be commissioned by the governor in the same
- 13 manner as judges of the circuit court. Vacancies occurring in the office
- 14 of judge of the probate court shall be filled by appointment by the
- 15 governor, in the same manner as vacancies in the office of judge of the
- 16 circuit court.
- 17 (c) To be eligible to hold office as judge of the court, a person must



1 be a resident of St. Joseph County.

2 SECTION 2. IC 33-31-1-3.3 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2017]: **Sec. 3.3. (a) The judge of the probate court shall be elected
5 in a nonpartisan election every six (6) years.**

6 **(b) During the period under IC 3-8-2-4 in which a declaration
7 of candidacy may be filed for a primary election, an individual who
8 wants to become a candidate for the office of judge of the probate
9 court must file with the election division a declaration of candidacy
10 adapted from the form prescribed under IC 3-8-2, signed by the
11 candidate.**

12 **(c) If an individual who files a declaration under subsection (b)
13 ceases to be a candidate after the final date for filing a declaration
14 under subsection (b), the election division may accept the filing of
15 additional declarations of candidacy for that judgeship not later
16 than noon August 1.**

17 **(d) All candidates for judge of the probate court shall be listed
18 on the general election ballot in the form prescribed by IC 3-11,
19 without party designation. The candidate receiving the highest
20 number of votes for the office of judge of the probate court is
21 elected to that office.**

22 **(e) IC 3, where not inconsistent with this section, applies to
23 elections under this section.**

24 SECTION 3. IC 33-31-1-3.4 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2017]: **Sec. 3.4. (a) The first election of the judge under section
27 3.3 of this chapter is the 2018 general election.**

28 **(b) The individual elected at the 2018 general election takes
29 office January 1, 2019, and serves a term of six (6) years until
30 January 1, 2025.**

31 **(c) This section expires July 1, 2025.**

32 SECTION 4. IC 33-31-1-24, AS AMENDED BY P.L.201-2011,
33 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: **Sec. 24. (a) The judge of the St. Joseph probate court
35 may appoint three (3) full-time magistrates under IC 33-23-5. The
36 magistrates continue in office until removed by the judge.**

37 **(b) In appointing magistrates, the judge shall strive to reflect the
38 ethnic and racial demographics of the county.**

39 SECTION 5. IC 33-33-45-12 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 12. (a) The senior judge
41 of each division may appoint the number of bailiffs, court reporters,
42 probation officers, and other personnel as the senior judge believes is**



1 necessary to judicially and efficiently facilitate and transact the
 2 business of the division. All appointments shall be made without regard
 3 to the political affiliation of the appointees. The salaries of the court
 4 personnel shall be fixed and paid as provided by law. The officers and
 5 persons appointed shall:

6 (1) perform the duties prescribed by the senior judge of each
 7 respective division; and

8 (2) serve at the pleasure of the senior judge.

9 (b) The court shall appoint an administrative officer who has the
 10 duties the court determines are necessary to ensure the efficient
 11 operation of the court. The court may appoint the number of deputy
 12 administrative officers as the court considers necessary to facilitate and
 13 transact the business of the court. Any appointment of an
 14 administrative officer or deputy administrative officer shall be made
 15 without regard to the political affiliation of the appointees. The salaries
 16 of the administrative officer and any deputy administrative officer shall
 17 be fixed by the court, to be paid out of the county treasury by the
 18 county auditor, upon the order of the court, and entered of record. Any
 19 administrative officer or deputy administrative officer appointed by the
 20 court shall:

21 (1) operate under the jurisdiction of the chief judge; and

22 (2) serve at the pleasure of the chief judge.

23 (c) The court may appoint part-time juvenile referees and
 24 magistrates as provided by IC 31-31-3.

25 (d) The court may appoint the number of probate commissioners
 26 provided for by IC 29-2-2. The probate commissioners shall be vested
 27 with the powers and duties provided by IC 29.

28 **(e) In appointing magistrates for the juvenile division, the judge**
 29 **of the juvenile division shall strive to reflect the ethnic and racial**
 30 **demographics of the county.**

31 SECTION 6. IC 33-33-45-21, AS AMENDED BY P.L.201-2011,
 32 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2017]: Sec. 21. (a) The court is divided into civil (including
 34 probate), criminal, county, and juvenile divisions. The work of the
 35 court shall be divided among the divisions by the rules of the court.

36 (b) Seven (7) judges comprise the civil division. Four (4) judges
 37 comprise the criminal division. Four (4) judges comprise the county
 38 division. One (1) judge comprises the juvenile division. However, the
 39 court by rule may alter the number of judges assigned to a division of
 40 the court, **except for the juvenile division**, if the court determines that
 41 the change is necessary for the efficient operation of the court.

42 (c) **This subsection does not apply to the juvenile division.** The



1 court by rule may reassign a judge of the court from one (1) division to
 2 another if the court determines that the change is necessary for the
 3 efficient operation of the court. The court by rule may establish a
 4 rotation schedule providing for the rotation of judges through the
 5 various divisions. The rotation schedule may be used if the court
 6 determines that an emergency exists. However, a senior judge of any
 7 division may not be reassigned or rotated to another division under this
 8 subsection.

9 (d) **This subsection does not apply to the juvenile division.** The
 10 chief judge of the court may assign a judge in one (1) division of the
 11 court to hear a case originating in another division of the court, and
 12 may reassign cases from one (1) judge to another, if the chief judge
 13 determines that the change is necessary for the efficient operation of
 14 the court.

15 (e) A judge of a division of the court who has not been appointed to
 16 the court under section 38 of this chapter is not eligible to be
 17 reassigned, rotated, or transferred to the other divisions of the court.
 18 However, a judge of a division of the court who has not been appointed
 19 to the court under section 38 of this chapter may apply to fill a vacancy
 20 in another division of the court through appointment as provided under
 21 this chapter.

22 SECTION 7. IC 33-33-45-25, AS AMENDED BY P.L.201-2011,
 23 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2017]: Sec. 25. (a) **This section does not apply to the judge
 25 of the juvenile division.**

26 (a) (b) At the general election immediately preceding the expiration
 27 of a judge's extended term, the question of that judge's retention in
 28 office or rejection shall be submitted to the electorate of Lake County
 29 under section 42 of this chapter. Thereafter, unless rejected by the
 30 electorate, each judge shall serve successive terms as provided in
 31 section ~~41(b)~~ 41(c) of this chapter.

32 (b) (c) A judge of the county division serving on June 30, 2011, is
 33 subject to the question of the judge's retention in office or rejection as
 34 provided in subsection (a) (b) at the expiration of the judge's term of
 35 office under the law in effect on June 30, 2011.

36 SECTION 8. IC 33-33-45-26.9 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2017]: Sec. 26.9. (a) **Sections 27, 28, 29, 30,
 39 31, 32, 33, 34, 35, 36, 37, and 38 of this chapter do not apply to the
 40 judge of the juvenile division.**

41 (b) **The judge of the juvenile division shall be elected as
 42 provided in section 46 of this chapter.**



1 **(c) If a vacancy occurs in the office of the judge of the juvenile**
 2 **division, the governor shall fill the vacancy, notwithstanding**
 3 **sections 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38 of this**
 4 **chapter.**

5 SECTION 9. IC 33-33-45-32 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 32. After:

7 (1) the attorney members of the commission have been elected;
 8 and

9 (2) the names of the nonattorney commissioners appointed by the
 10 **governor Lake County board of commissioners** have been
 11 certified to the secretary of state, clerk of the supreme court, and
 12 clerk of the Lake circuit court as this chapter provides;

13 the clerk of the Lake circuit court shall by regular mail notify the
 14 members of the commission of their election or appointment and shall
 15 notify the chairman of the judicial nominating commission of the same.

16 SECTION 10. IC 33-33-45-41, AS AMENDED BY P.L.201-2011,
 17 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2017]: Sec. 41. **(a) This section does not apply to the judge**
 19 **of the juvenile division of the court.**

20 ~~(a)~~ **(b)** Each judge appointed under section 38 of this chapter serves
 21 an initial term, which begins on the effective date of the appointment
 22 of the judge and continues through December 31 in the year of the
 23 general election that follows the expiration of two (2) years after the
 24 effective date of the judge's appointment.

25 ~~(b)~~ **(c)** Unless rejected by the electorate of Lake County under
 26 section 42 of this chapter, a judge of the superior court shall serve
 27 successive six (6) year terms.

28 ~~(c)~~ **(d)** Each six (6) year term begins on the first day of January
 29 following the expiration of the preceding initial term or the preceding
 30 six (6) year term, as the case may be, and continues for six (6) years.

31 SECTION 11. IC 33-33-45-42, AS AMENDED BY P.L.201-2011,
 32 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2017]: Sec. 42. **(a) This section does not apply to the judge**
 34 **of the juvenile division of the court.**

35 ~~(a)~~ **(b)** The question of the retention in office or rejection of each
 36 judge of the superior court of Lake County shall be submitted to the
 37 electorate of Lake County at the general election immediately
 38 preceding expiration of the term of the judge.

39 ~~(b)~~ **(c)** At the general election, the question of the retention in office
 40 or rejection of a judge described in subsection ~~(a)~~ **(b)** shall be
 41 submitted to the electorate of Lake County in the form prescribed by
 42 IC 3-11 and must state "Shall Judge (insert name) of the superior court



1 of Lake County be retained in office for an additional term?".

2 ~~(e)~~ **(d)** If a majority of the ballots cast by the electors voting on any
3 question is "Yes", the judge whose name appeared on the question shall
4 be approved for a six (6) year term beginning January 1 following the
5 general election as provided in section ~~41(b)~~ **41(c)** of this chapter.

6 ~~(d)~~ **(e)** If a majority of the ballots cast by the electors voting on any
7 question is "No", the judge whose name appeared on the question shall
8 be rejected. The office of the rejected judge is vacant on January 1
9 following the rejection. The vacancy shall be filled by appointment by
10 the governor under section 38 of this chapter.

11 ~~(e)~~ **(f)** The Lake County election board shall submit the question of
12 the retention in office or rejection of a judge described in subsection ~~(a)~~
13 **(b)** to the electorate of Lake County. The submission of the question is
14 subject to the provisions of IC 3 that are not inconsistent with this
15 chapter.

16 ~~(f)~~ **(g)** If a judge who is appointed does not desire to serve any
17 further term, the judge shall notify in writing the clerk of the Lake
18 circuit court at least sixty (60) days before any general election, in
19 which case the question of that judge's retention in office or rejection
20 shall not be submitted to the electorate, and the office becomes vacant
21 at the expiration of the term.

22 SECTION 12. IC 33-33-45-44, AS AMENDED BY P.L.201-2011,
23 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2017]: Sec. 44. (a) A judge of the superior court may not
25 during a term of office as judge of the superior court do any of the
26 following:

- 27 (1) Engage in the practice of law.
- 28 (2) Run for elective office, **other than for judge of the juvenile**
29 **division of the court.**
- 30 (3) Take part in any political campaign.

31 (b) Failure to comply with this section is sufficient cause for the
32 commission on judicial qualifications to recommend to the supreme
33 court that the judge be censured or removed.

34 (c) A political party may not directly or indirectly campaign for or
35 against a judge subject to retention, ~~or~~ rejection, **or election** under this
36 chapter.

37 SECTION 13. IC 33-33-45-46 IS ADDED TO THE INDIANA
38 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2017]: **Sec. 46. (a) This section applies only**
40 **to the judge of the juvenile division of the court.**

41 **(b) The judge of the juvenile division shall be elected in a**
42 **nonpartisan election every six (6) years.**



1 (c) During the period under IC 3-8-2-4 in which a declaration of
2 candidacy may be filed for a primary election, an individual who
3 wants to become a candidate for the office of judge of the juvenile
4 division must file with the election division a declaration of
5 candidacy adapted from the form prescribed under IC 3-8-2,
6 signed by the candidate. To be eligible for election, a candidate
7 must satisfy all of the following:

8 (1) The candidate must be a resident of Lake County.

9 (2) The candidate must be a citizen of the United States.

10 (3) The candidate must be admitted to the practice of law in
11 Indiana.

12 (d) If an individual who files a declaration under subsection (c)
13 ceases to be a candidate after the final date for filing a declaration
14 under subsection (c), the election division may accept the filing of
15 additional declarations of candidacy for that judgeship not later
16 than noon August 1.

17 (e) All candidates for judge of the juvenile division shall be
18 listed on the general election ballot in the form prescribed by
19 IC 3-11, without party designation. The candidate receiving the
20 highest number of votes for the office of judge of the juvenile
21 division of the court is elected to that office.

22 (f) IC 3, where not inconsistent with this section, applies to
23 elections under this section.

24 SECTION 14. IC 33-33-45-46.3 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2017]: Sec. 46.3. (a) This section applies only
27 to the election of the judge of the juvenile division of the court.

28 (b) The first election of the judge under section 46 of this
29 chapter is the 2022 general election.

30 (c) The individual elected at the 2022 general election takes
31 office January 1, 2023, and serves a term of six (6) years until
32 January 1, 2029.

33 (d) This section expires July 1, 2029.

