Reprinted
February 23, 1998

ENGROSSED
SENATE BILL No. 365

DIGEST OF SB 365 (Updated February 20, 1998 6:37 pm - DI 69)

Citations Affected: IC 3-13; IC 5-8; IC 33-4; IC 33-5; IC 33-5.1; IC 33-8; IC 33-10.1; noncode.

Synopsis: Family courts pilot program and new magistrates. Requires the division of state court administration to administer a family court demonstration program in counties volunteering to participate in the program. Requires the division to select for the program at least three counties that are representative of small, medium, and large populations. Provides for the program to begin January 1, 2000, for a two year duration. Removes the requirement that the governor's appointment to fill a vacancy occurring on the superior court of Lake County, county division, must be made from a list of three nominees presented to the governor by the judicial nominating commission. Adds: (1) one magistrate to serve the Allen superior courts; (2) one magistrate to serve the Clark circuit and superior courts; (3) one magistrate to serve the Elkhart circuit and superior courts; (4) one magistrate to serve the Floyd circuit and superior courts; (5) one

(Continued next page)

Effective: July 1, 1998.

Bray, Alexa, Randolph
(HOUSE SPONSORS — VILLALPANDO, AYRES)

January 8, 1998, read first time and referred to Committee on Judiciary.
January 22, 1998, reported favorably — Do Pass; reassigned to Committee on Finance.
January 29, 1998, reported favorably — Do Pass.
February 2, 1998, read second time, ordered engrossed. Engrossed.
February 3, 1998, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Courts and Criminal Code.
February 16, 1998, amended, reported — Do Pass; pursuant to Rule 127, referred to Committee on Ways and Means.
February 17, 1998, amended, reported — Do Pass.
February 20, 1998, read second time, amended, ordered engrossed.

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magistrate to serve the Lake circuit court; (6) one magistrate to serve the Lake superior court, civil division; (7) one magistrate to serve the Lake superior court, juvenile division; (8) one magistrate to serve the LaPorte circuit court; (9) four magistrates to serve the Marion superior court; (10) one magistrate to serve the St. Joseph circuit court; (11) two magistrates to serve the St. Joseph probate court; (12) one magistrate to serve the Porter circuit court; (13) one magistrate to serve the Sullivan circuit and superior courts; (14) one magistrate to serve the Vanderburgh circuit court; (15) two magistrates to serve the Vanderburgh superior court; (16) one magistrate to serve the Lawrence circuit and superior courts; and (17) one magistrate to serve the Dearborn circuit court. Adds one judge to the Lake superior court, civil division and one judge to the Lake superior court, county division. Adds one judge to DeKalb superior court. Eliminates the requirement that a judge of the Marion superior court file an oath of office with the Marion County clerk of the circuit court rather than the secretary of state. Allows the magistrate who formerly heard only drug related proceedings in the Marion superior court to hear other types of proceedings assigned by the presiding judge. Provides that the East Chicago city court has concurrent civil jurisdiction with the Lake circuit court where the amount in controversy does not exceed $6,000. (The introduced version of this bill was prepared by the commission on courts.)

C o p y

Reprinted
February 23, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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ENGROSSED
SENATE BILL No. 365

A BILL FOR AN ACT to amend the Indiana Code concerning court officers.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.18-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified,

holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) IC 33-5-29.5-39 **as it applies to a superior court of Lake County other than a superior court in the county division.**

(4) IC 33-5-40-44.

The person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19, AS AMENDED BY P.L.19-1995, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-5-5.1-37.1;

(2) IC 33-5-5.1-41.1;

(3) IC 33-5-29.5-39 **as it applies to a superior court of Lake County other than a superior court in the county division;** and

(4) IC 33-5-40-44;

appoint or select a successor to fill the vacancy in office.

SECTION 3. IC 33-4-1-2.8, AS ADDED BY P.L.281-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.8. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section 2.1 of this chapter, the judge of the Allen circuit court **and one (1) of the judges of the Allen superior court, family relations division,** may **jointly** appoint ~~a hearing officer with the powers of a~~ **one (1) full-time** magistrate under IC 33-4-7. The ~~hearing officer~~ **magistrate** continues in office until **jointly** removed by the judge **of the Allen circuit court and one (1) of the judges of the Allen superior court, family relations division. The magistrate has full authority to hear all**

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Title IV-D cases filed in Allen County.

~~(c) The salary of a hearing officer appointed under subsection (b) is equal to that of a magistrate under IC 33-4-7. The hearing officer's salary must be paid by the county. The hearing officer is a county employee.~~

SECTION 4. IC 33-4-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 5. IC 33-4-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. **(a)** The counties of Dearborn and Ohio shall constitute the Seventh Judicial Circuit of the State of Indiana.

(b) The judge of the Dearborn circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 6. IC 33-4-1-20.1, AS ADDED BY P.L.18-1995, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20.1. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7 to serve the circuit and superior courts.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 7. IC 33-4-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. **(a)** The county of Floyd shall constitute the Fifty-second Judicial Circuit.

(b) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 8. IC 33-4-1-45, AS AMENDED BY P.L.1-1997, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45. (a) The county of Lake shall constitute the 31st judicial circuit.

(b) The judge of the Lake circuit court may appoint ~~one (1)~~ **two (2)**

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full-time ~~magistrate~~ **magistrates** under IC 33-4-7. **One (1) magistrate appointed under this subsection shall be appointed** to serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. ~~A magistrate continues~~ **The magistrates continue** in office until removed by the judge of the circuit court.

SECTION 9. IC 33-4-1-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 46. **(a)** The county of LaPorte shall constitute the thirty-second judicial circuit.

(b) The judge of the LaPorte circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 10. IC 33-4-1-47.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 47.1. (a) The judges of the Lawrence circuit court and the Lawrence superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until jointly removed by the judges.

SECTION 11. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. **(a)** The county of Porter shall constitute the sixty-seventh judicial circuit.

(b) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 12. IC 33-4-1-75.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the St. Joseph circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 13. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. **(a)** The County of Sullivan shall be and constitute the fourteenth judicial circuit.

(b) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until jointly removed by the judges.

SECTION 14. IC 33-4-1-82.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 82.1. The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~

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magistrates continue in office until removed by the judge.

SECTION 15. IC 33-5-10-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 16. IC 33-5-10.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. There is established a court of record to be known as the DeKalb superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "DeKalb Superior Court **No. 1**, DeKalb County, Indiana" and **"DeKalb Superior Court No. 2, DeKalb County, Indiana"**. DeKalb County comprises the judicial district of the court.

SECTION 17. IC 33-5-10.8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court has ~~one (1) judge,~~ **two (2) judges** who shall be elected at the general election every six (6) years in DeKalb County. ~~His~~ **A judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

(b) To be eligible to hold office as judge of the court, a person must:

(1) be a resident of DeKalb County;

(2) be under seventy (70) years of age at the time ~~he takes~~ **of taking** office; and

(3) be admitted to the bar of Indiana.

SECTION 18. IC 33-5-10.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~The~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the DeKalb circuit court. ~~The~~ **Each** judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 19. IC 33-5-10.8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. ~~The~~ **Each** judge of the court shall appoint a bailiff and an official court reporter for the court; their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the DeKalb circuit court. Their salaries shall be paid monthly out of the treasury of DeKalb County as provided by law.

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SECTION 20. IC 33-5-10.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The clerk of the court, under the direction of the ~~judge~~ **judges** of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 21. IC 33-5-10.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court and of the parties or their counsel, transfer any action or proceeding from the circuit court to the court. ~~The~~ **A** judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, transfer any action or proceeding from the court to the circuit court.

SECTION 22. IC 33-5-10.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court and of the parties or their counsel, sit as a judge of the court in any matter as if ~~he was~~ **the judge were** an elected judge of the court. ~~The~~ **A** judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, sit as a judge of the circuit court in any matter as if ~~he was~~ **the judge were** an elected judge of the circuit court.

SECTION 23. IC 33-5-10.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) ~~The~~ **Both superior** court ~~has~~ **No. 1 and superior court No. 2 have** a standard small claims and misdemeanor division.

(b) If the county executive establishes the position of small claims referee to serve the court, ~~the~~ **each** judge of the court may appoint a part-time small claims referee under IC 33-5-2.5 to assist the court in the exercise of its small claims jurisdiction.

(c) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) a year as recommended by the judge of the court **making the appointment** to be paid by the county after the salary is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(d) The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the small claims referee.

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(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

SECTION 24. IC 33-5-13.1-16, AS ADDED BY P.L.18-1995, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 25. IC 33-5-18.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 15. (a) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7.**

(b) The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 26. IC 33-5-29.5-7.1, AS AMENDED BY P.L.18-1995, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. **In addition to any other magistrates appointed by the court,** the judges of the:

(1) criminal division may appoint two (2) full-time magistrates under IC 33-4-7;

(2) civil division may appoint one (1) full-time magistrate under IC 33-4-7; and

(3) juvenile division may appoint one (1) full-time magistrate under IC 33-4-7.

The magistrates continue in office until removed by the judges of the ~~criminal~~ division **appointing the magistrates. A magistrate appointed for the criminal, civil, or juvenile division is entitled to the salary provided under IC 33-4-7-9.1. The state shall pay the salary.**

SECTION 27. IC 33-5-29.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) ~~Five (5)~~ **Six (6)** judges comprise the civil division. Four (4) judges comprise the criminal division. ~~Three (3)~~ **Four (4)** judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a division other than the county division of the court if the court determines that the change is necessary for the efficient operation

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of the court.

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

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the efficient operation of the court.

SECTION 28. IC 33-5-29.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. The superior court of Lake County shall consist of ~~thirteen (13)~~ **fifteen (15)** judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

SECTION 29. IC 33-5-29.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 39. **(a) This section and sections 35 through 38 of this chapter do not apply to the filling of a vacancy occurring on the superior court of Lake County, county division.**

(b) A vacancy occurring on the superior court of Lake County**, except a superior court in the county division,** shall be filled by appointment of the governor from a list of three (3) nominees presented to him by the judicial nominating commission. If the governor shall fail to make an appointment from the list within sixty (60) days from the day it is presented to him, the appointment shall be made by the chief justice or the acting chief justice of the Indiana supreme court from the same list, or altered list as provided for in section 38 of this chapter.

(c) The governor shall make all ~~such~~ appointments **under subsection (b)** to the superior court of Lake County without regard to the political affiliation of any of the three (3) nominees submitted to him. Further, in the interest of justice, the governor shall consider only those qualifications of the nominees included in section 36 of this chapter.

SECTION 30. IC 33-5-40.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. (a) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint**

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one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(b) The magistrate continues in office until jointly removed by the judges.

SECTION 31. IC 33-5-43-1.1, AS AMENDED BY P.L.18-1995, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.1. (a) The judges of the Vanderburgh superior court may jointly appoint not more than ~~two (2)~~ **four (4)** full-time magistrates under IC 33-4-7.

(b) A magistrate continues in office until jointly removed by the judges.

SECTION 32. IC 33-5.1-2-22, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".

~~The oath shall be filed with the clerk of the county.~~

SECTION 33. IC 33-5.1-2-26, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-4-7.

(b) A magistrate appointed under this section may ~~only~~ hear:

(1) criminal proceedings brought under IC 35-48; ~~and~~

(2) drug related proceedings brought under IC 34-4-30.1; **and**

(3) any other proceedings assigned to the magistrate by the presiding judge.

(c) The magistrate continues in office until removed by the presiding judge.

SECTION 34. IC 33-5.1-2-27, AS ADDED BY P.L.18-1995, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. (a) In addition to the magistrate appointed under section 26 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint ~~four (4)~~ **eight (8)** full-time magistrates under IC 33-4-7.

(b) Not more than ~~two (2)~~ **four (4)** of the magistrates appointed under this section may be of the same political party.

(c) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(d) A party to a superior court proceeding that has been assigned to

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a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. Upon a request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 35. IC 33-8-2-25, AS AMENDED BY P.L.1-1997, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate~~ **magistrates** may exercise:

(1) probate jurisdiction under IC 33-8-2-9; and

(2) juvenile jurisdiction under IC 33-8-2-10;

and ~~continues~~ **continue** in office until removed by the judge.

SECTION 36. IC 33-10.1-2-4, AS AMENDED BY P.L.12-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. **(a) Except as provided in this section,** the city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000).

(b) The city court in a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) has concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed six thousand dollars ($6,000).

(c) ~~The~~ **A** court **described in this section** has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

(1) actions for slander or libel;

(2) matters relating to decedents' estates, appointment of guardians, and all related matters;

(3) dissolution of marriage actions; or

(4) injunction or mandate actions.

SECTION 37. [EFFECTIVE JANUARY 1, 1998

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(RETROACTIVE)] **(a) Notwithstanding IC 33-5-10.8-2, as amended by this act, the initial election of the judge of the DeKalb superior court No. 2 is the general election to be held November 3, 1998. Notwithstanding IC 33-5-10.8-2, as amended by this act, the person elected takes office July 1, 1999. The initial term of the judge of the DeKalb superior court No. 2 expires December 31, 2004.**

(b) This SECTION expires January 2, 2000.

SECTION 38. [EFFECTIVE JULY 1, 1999] **(a) As used in this SECTION, "division" refers to the division of state court administration.**

(b) As used in this SECTION, "program" refers to the family court demonstration program established by subsection (c).

(c) The division shall establish and administer a voluntary family court demonstration program. The division shall begin operation of the program not later than January 1, 2000, and shall operate the program until December 31, 2001.

(d) The division shall:

(1) establish procedures for the selection of counties for the program; and

(2) grant funds to the counties chosen to participate in the program.

(e) The program must operate in at least three (3) counties, including one (1) county containing a small population, one (1) county containing a medium population, and one (1) county containing a large population, as determined by the division.

(f) A county desiring to participate in the program must submit a plan to the division not later than September 30, 1999. The plan must include the following information:

(1) The structure of the county's proposed family court, including the types of cases to be handled by the court.

(2) The amount of funding needed by the county for the operation of the family court, including costs of personnel.

(3) Any other information required by the division.

(g) A county family court program that is awarded a grant under this SECTION shall submit a monthly report to the division specifying the number and type of cases handled by the family court and any other information required by the division.

(h) The division shall:

(1) analyze and compile the results of the monthly reports received under subsection (g); and

(2) not later than January 31, submit an annual report to the chief justice of the supreme court and to the commission on

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courts.

(i) This SECTION expires July 1, 2001.

SECTION 39. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 365, 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 and be reassigned to the Senate Committee on Finance.

(Reference is made to Senate Bill 365 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 1.

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SENATE MOTION

Mr. President: I move that Senator Randolph be added as coauthor of Senate Bill 365.

BRAY

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill 365, 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 made to Senate Bill 365 as printed January 23, 1998.)

BORST, Chairperson

Committee Vote: Yeas 11, Nays 1.

Copy

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning court officers and to make an appropriation.

Page 1 between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.18-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

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

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

~~(3) IC 33-5-29.5-39.~~

~~(4)~~ **(3)** IC 33-5-40-44.

Subject to IC 33-5-29.5-41, the person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19, AS AMENDED BY P.L.19-1995, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general

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shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-5-5.1-37.1;

(2) IC 33-5-5.1-41.1;

~~(3) IC 33-5-29.5-39;~~ and

~~(4)~~ **(3)** IC 33-5-40-44;

appoint or select a successor to fill the vacancy in office.

SECTION 3. IC 33-4-1-2.8, AS ADDED BY P.L.281-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.8. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section 2.1 of this chapter, the judge of the Allen circuit court **and one (1) of the judges of the Allen superior court, family relations division,** may **jointly** appoint ~~a hearing officer with the powers of a~~ **one (1) full-time** magistrate under IC 33-4-7. The ~~hearing officer~~ **magistrate** continues in office until **jointly** removed by the judge **of the Allen circuit court and one (1) of the judges of the Allen superior court, family relations division. The magistrate has full authority to hear all Title IV-D cases filed in Allen County.**

~~(c) The salary of a hearing officer appointed under subsection (b) is equal to that of a magistrate under IC 33-4-7. The hearing officer's salary must be paid by the county. The hearing officer is a county employee.~~

SECTION 4. IC 33-4-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 5. IC 33-4-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. **(a)** The counties of Dearborn and Ohio shall constitute the Seventh Judicial Circuit of the State of Indiana.

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(b) The judge of the Dearborn circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 6. IC 33-4-1-20.1, AS ADDED BY P.L.18-1995, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20.1. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7 to serve the circuit and superior courts.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 7. IC 33-4-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. **(a)** The county of Floyd shall constitute the Fifty-second Judicial Circuit.

(b) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 8. IC 33-4-1-45, AS AMENDED BY P.L.1-1997, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45. (a) The county of Lake shall constitute the 31st judicial circuit.

(b) The judge of the Lake circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. **One (1) magistrate appointed under this subsection shall be appointed** to serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. ~~A magistrate continues~~ **The magistrates continue** in office until removed by the judge of the circuit court.

SECTION 9. IC 33-4-1-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 46. **(a)** The county of LaPorte shall constitute the thirty-second judicial circuit.

(b) The judge of the LaPorte circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 10. IC 33-4-1-47.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 47.1. (a) The judges of the Lawrence circuit court and the Lawrence superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until jointly removed by

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the judges.

SECTION 11. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. **(a)** The county of Porter shall constitute the sixty-seventh judicial circuit.

(b) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 12. IC 33-4-1-75.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the St. Joseph circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 13. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. **(a)** The County of Sullivan shall be and constitute the fourteenth judicial circuit.

(b) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until jointly removed by the judges.

SECTION 14. IC 33-4-1-82.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 82.1. The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 15. IC 33-5-10-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 16. IC 33-5-10.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. There is established a court of record to be known as the DeKalb superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "DeKalb Superior Court **No. 1**, DeKalb County, Indiana" and **"DeKalb Superior Court No. 2, DeKalb County, Indiana"**. DeKalb County comprises the judicial district of the court.

SECTION 17. IC 33-5-10.8-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court has ~~one (1) judge,~~ **two (2) judges** who shall be elected at the general election every six (6) years in DeKalb County. ~~His~~ **A judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

(b) To be eligible to hold office as judge of the court, a person must:

(1) be a resident of DeKalb County;

(2) be under seventy (70) years of age at the time ~~he takes~~ **of taking** office; and

(3) be admitted to the bar of Indiana.

SECTION 18. IC 33-5-10.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~The~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the DeKalb circuit court. ~~The~~ **Each** judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 19. IC 33-5-10.8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. ~~The~~ **Each** judge of the court shall appoint a bailiff and an official court reporter for the court; their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the DeKalb circuit court. Their salaries shall be paid monthly out of the treasury of DeKalb County as provided by law.

SECTION 20. IC 33-5-10.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The clerk of the court, under the direction of the ~~judge~~ **judges** of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 21. IC 33-5-10.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court and of the parties or their counsel, transfer any action or proceeding from the circuit court to the court. ~~The~~ **A** judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, transfer any action or proceeding from the court to the circuit court.

SECTION 22. IC 33-5-10.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court and of the parties or their counsel, sit as a judge of the court in any matter as if ~~he was~~ **the judge were** an elected judge of the court. ~~The~~

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A judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, sit as a judge of the circuit court in any matter as if ~~he was~~ **the judge were** an elected judge of the circuit court.

SECTION 23. IC 33-5-10.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) ~~The~~ **Both superior** court ~~has~~ **No. 1 and superior court No. 2 have** a standard small claims and misdemeanor division.

(b) If the county executive establishes the position of small claims referee to serve the court, ~~the~~ **each** judge of the court may appoint a part-time small claims referee under IC 33-5-2.5 to assist the court in the exercise of its small claims jurisdiction.

(c) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) a year as recommended by the judge of the court **making the appointment** to be paid by the county after the salary is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(d) The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the small claims referee.

(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

SECTION 24. IC 33-5-13.1-16, AS ADDED BY P.L.18-1995, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 25. IC 33-5-18.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 15. (a) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7.**

(b) The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 26. IC 33-5-29.5-7.1, AS AMENDED BY P.L.18-1995, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. **In addition to any other magistrates**

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appointed by the court, the judges of the:

(1) criminal division may appoint two (2) full-time magistrates under IC 33-4-7;

(2) civil division may appoint one (1) full-time magistrate under IC 33-4-7; and

(3) juvenile division may appoint one (1) full-time magistrate under IC 33-4-7.

The magistrates continue in office until removed by the judges of the ~~criminal~~ division **appointing the magistrates. A magistrate appointed for the criminal, civil, or juvenile division is entitled to the salary provided under IC 33-4-7-9.1. The state shall pay the salary.**

SECTION 27. IC 33-5-29.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) ~~Five (5)~~ **Six (6)** judges comprise the civil division. Four (4) judges comprise the criminal division. ~~Three (3)~~ **Four (4)** judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a division other than the county division of the court if the court determines that the change is necessary for the efficient operation of the court.

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

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the efficient operation of the court.

SECTION 28. IC 33-5-29.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. The superior court of Lake County shall consist of ~~thirteen (13)~~ **fifteen (15)** judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

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SECTION 29. IC 33-5-29.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 39. A vacancy occurring on the superior court of Lake County shall be filled by appointment of the governor ~~from a list of three (3) nominees presented to him by the judicial nominating commission. If the governor shall fail to make an appointment from the list within sixty (60) days from the day it is presented to him, the appointment shall be made by the chief justice or the acting chief justice of the Indiana supreme court from the same list, or altered list as provided for in section 38 of this chapter.~~

~~The governor shall make all such appointments to the superior court of Lake County without regard to the political affiliation of any of the three (3) nominees submitted to him. Further, in the interest of justice, the governor shall consider only those qualifications of the nominees included in section 36 of this chapter.~~ **under IC 3-13-6-1.**

SECTION 30. IC 33-5-29.5-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 40. An appointment by the governor ~~or chief justice, as required by section 39 of this chapter,~~ to **fill a vacancy on** the superior court of Lake County shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if no such vacancy yet exists at the date of appointment.

SECTION 31. IC 33-5-29.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 41. (a) Each judge appointed under ~~section 39 of this chapter~~ **IC 3-13-6-1** shall serve an initial term, which shall commence on the effective date of the appointment of any such judge and shall continue through December 31 in the year of the general election that follows the expiration of two (2) years from the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the civil division, criminal division, and juvenile division shall serve successive six (6) year terms.

(c) The term of office of a judge of the county division of the Lake superior court is six (6) years.

(d) Each six (6) year term commences on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and shall continue for six (6) years.

SECTION 32. IC 33-5-29.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 42. (a) The question of the retention in office or rejection of each judge of the following divisions of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately

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preceding expiration of the term of such judge:

(1) Civil division.

(2) Criminal division.

(3) Juvenile division.

(b) At such general election the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If that a majority of the ballots cast by the electors voting on any such question shall be "Yes", the judge whose name appeared on such question shall be approved for a six (6) year term commencing on January 1 following the general election as provided in section 41(b) of this chapter.

(d) If that a majority of the ballots cast by the electors voting on any such question shall be "No", the judge whose name appeared on such question shall be rejected. The office of the rejected judge shall be vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor pursuant to ~~section 39 of this chapter.~~ **IC 3-13-6-1.**

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

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days prior to any such general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office shall become vacant at the expiration of the term.

SECTION 33. IC 33-5-40.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. (a) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until jointly removed by the judges.

SECTION 34. IC 33-5-43-1.1, AS AMENDED BY P.L.18-1995, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.1. (a) The judges of the

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Vanderburgh superior court may jointly appoint not more than ~~two (2)~~ **four (4)** full-time magistrates under IC 33-4-7.

(b) A magistrate continues in office until jointly removed by the judges.

SECTION 35. IC 33-5.1-2-22, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".

~~The oath shall be filed with the clerk of the county.~~

SECTION 36. IC 33-5.1-2-26, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-4-7.

(b) A magistrate appointed under this section may ~~only~~ hear:

(1) criminal proceedings brought under IC 35-48; ~~and~~

(2) drug related proceedings brought under IC 34-4-30.1; **and**

(3) any other proceedings assigned to the magistrate by the presiding judge.

(c) The magistrate continues in office until removed by the presiding judge.

SECTION 37. IC 33-5.1-2-27, AS ADDED BY P.L.18-1995, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. (a) In addition to the magistrate appointed under section 26 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint ~~four (4)~~ **eight (8)** full-time magistrates under IC 33-4-7.

(b) Not more than ~~two (2)~~ **four (4)** of the magistrates appointed under this section may be of the same political party.

(c) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(d) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. Upon a request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 38. IC 33-8-2-25, AS AMENDED BY P.L.1-1997,

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SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate~~ **magistrates** may exercise:

(1) probate jurisdiction under IC 33-8-2-9; and

(2) juvenile jurisdiction under IC 33-8-2-10;

and ~~continues~~ **continue** in office until removed by the judge.

SECTION 39. IC 33-10.1-2-4, AS AMENDED BY P.L.12-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. **(a) Except as provided in this section,** the city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000).

(b) The city court in a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) has concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed six thousand dollars ($6,000).

(c) ~~The~~ **A** court **described in this section** has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

(1) actions for slander or libel;

(2) matters relating to decedents' estates, appointment of guardians, and all related matters;

(3) dissolution of marriage actions; or

(4) injunction or mandate actions.

SECTION 40. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1998]: IC 33-5-29.5-28; IC 33-5-29.5-29; IC 33-5-29.5-30; IC 33-5-29.5-31; IC 33-5-29.5-32; IC 33-5-29.5-33; IC 33-5-29.5-34; IC 33-5-29.5-35; IC 33-5-29.5-36; IC 33-5-29.5-37; IC 33-5-29.5-38.

SECTION 41. [EFFECTIVE JULY 1, 1998] **A judge appointed to the civil, criminal, or juvenile division of the Lake superior court before July 1, 1998, may continue to serve the remainder of the judge's term of office after June 30, 1998, before having the**

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question of the judge's retention in office submitted to the voters under IC 33-5-29.5-42.

SECTION 42. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)] **(a) Notwithstanding IC 33-5-10.8-2, as amended by this act, the initial election of the judge of the DeKalb superior court No. 2 is the general election to be held November 3, 1998. Notwithstanding IC 33-5-10.8-2, as amended by this act, the person elected takes office July 1, 1999. The initial term of the judge of the DeKalb superior court No. 2 expires December 31, 2004.**

(b) This SECTION expires January 2, 2000.".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 44. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 365 as printed January 30, 1998.)

DVORAK, Chair

Committee Vote: yeas 12, nays 1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the committee report of the committee on courts and criminal code adopted February 16, 1998.

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning court officers.

Page 1 between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-13-6-1, AS AMENDED BY P.L.18-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

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

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

~~(3) IC 33-5-29.5-39.~~

~~(4)~~ **(3)** IC 33-5-40-44.

Subject to IC 33-5-29.5-41, the person who is appointed holds office for the remainder of the unexpired term.

SECTION 2. IC 5-8-1-19, AS AMENDED BY P.L.19-1995, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior,

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probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-5-5.1-37.1;

(2) IC 33-5-5.1-41.1;

~~(3) IC 33-5-29.5-39;~~ and

~~(4)~~ **(3)** IC 33-5-40-44;

appoint or select a successor to fill the vacancy in office.

SECTION 3. IC 33-4-1-2.8, AS ADDED BY P.L.281-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2.8. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section 2.1 of this chapter, the judge of the Allen circuit court **and one (1) of the judges of the Allen superior court, family relations division,** may **jointly** appoint ~~a hearing officer with the powers of a~~ **one (1) full-time** magistrate under IC 33-4-7. The ~~hearing officer~~ **magistrate** continues in office until **jointly** removed by the judge **of the Allen circuit court and one (1) of the judges of the Allen superior court, family relations division. The magistrate has full authority to hear all Title IV-D cases filed in Allen County.**

~~(c) The salary of a hearing officer appointed under subsection (b) is equal to that of a magistrate under IC 33-4-7. The hearing officer's salary must be paid by the county. The hearing officer is a county employee.~~

SECTION 4. IC 33-4-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 5. IC 33-4-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. **(a)** The counties of

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Dearborn and Ohio shall constitute the Seventh Judicial Circuit of the State of Indiana.

(b) The judge of the Dearborn circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 6. IC 33-4-1-20.1, AS ADDED BY P.L.18-1995, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20.1. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7 to serve the circuit and superior courts.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 7. IC 33-4-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. **(a)** The county of Floyd shall constitute the Fifty-second Judicial Circuit.

(b) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 8. IC 33-4-1-45, AS AMENDED BY P.L.1-1997, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45. (a) The county of Lake shall constitute the 31st judicial circuit.

(b) The judge of the Lake circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. **One (1) magistrate appointed under this subsection shall be appointed** to serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. ~~A magistrate continues~~ **The magistrates continue** in office until removed by the judge of the circuit court.

SECTION 9. IC 33-4-1-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 46. **(a)** The county of LaPorte shall constitute the thirty-second judicial circuit.

(b) The judge of the LaPorte circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 10. IC 33-4-1-47.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 47.1. (a) The judges of the Lawrence circuit court and the Lawrence superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to**

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serve the circuit and superior courts.

(b) The magistrate continues in office until jointly removed by the judges.

SECTION 11. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. **(a)** The county of Porter shall constitute the sixty-seventh judicial circuit.

(b) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge.

SECTION 12. IC 33-4-1-75.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the St. Joseph circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 13. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. **(a)** The County of Sullivan shall be and constitute the fourteenth judicial circuit.

(b) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until jointly removed by the judges.

SECTION 14. IC 33-4-1-82.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 82.1. The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 15. IC 33-5-10-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25. (a) The judges of the Clark circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until removed by the judges of the Clark circuit and superior courts.

(c) The appointment and removal of a magistrate under this section may be made only by a majority vote of the circuit and superior court judges.

SECTION 16. IC 33-5-10.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. There is established a court of record to be known as the DeKalb superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "DeKalb Superior Court **No. 1**, DeKalb County, Indiana" and **"DeKalb Superior Court No. 2, DeKalb County, Indiana"**. DeKalb

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County comprises the judicial district of the court.

SECTION 17. IC 33-5-10.8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court has ~~one (1) judge,~~ **two (2) judges** who shall be elected at the general election every six (6) years in DeKalb County. ~~His~~ **A judge's** term begins January 1 following ~~his~~ **the judge's** election and ends December 31 following the election of ~~his~~ **the judge's** successor.

(b) To be eligible to hold office as judge of the court, a person must:

(1) be a resident of DeKalb County;

(2) be under seventy (70) years of age at the time ~~he takes~~ **of taking** office; and

(3) be admitted to the bar of Indiana.

SECTION 18. IC 33-5-10.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~The~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the DeKalb circuit court. ~~The~~ **Each** judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 19. IC 33-5-10.8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. ~~The~~ **Each** judge of the court shall appoint a bailiff and an official court reporter for the court; their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the DeKalb circuit court. Their salaries shall be paid monthly out of the treasury of DeKalb County as provided by law.

SECTION 20. IC 33-5-10.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The clerk of the court, under the direction of the ~~judge~~ **judges** of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

SECTION 21. IC 33-5-10.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court and of the parties or their counsel, transfer any action or proceeding from the circuit court to the court. ~~The~~ **A** judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, transfer any action or proceeding from the court to the circuit court.

SECTION 22. IC 33-5-10.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The judge of the DeKalb circuit court may, with the consent of ~~the~~ **a** judge of the court

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and of the parties or their counsel, sit as a judge of the court in any matter as if ~~he was~~ **the judge were** an elected judge of the court. ~~The~~ **A** judge of the court may, with consent of the judge of the circuit court and of the parties or their counsel, sit as a judge of the circuit court in any matter as if ~~he was~~ **the judge were** an elected judge of the circuit court.

SECTION 23. IC 33-5-10.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) ~~The~~ **Both superior** court ~~has~~ **No. 1 and superior court No. 2 have** a standard small claims and misdemeanor division.

(b) If the county executive establishes the position of small claims referee to serve the court, ~~the~~ **each** judge of the court may appoint a part-time small claims referee under IC 33-5-2.5 to assist the court in the exercise of its small claims jurisdiction.

(c) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) a year as recommended by the judge of the court **making the appointment** to be paid by the county after the salary is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(d) The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the small claims referee.

(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

SECTION 24. IC 33-5-13.1-16, AS ADDED BY P.L.18-1995, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7.

(b) The ~~magistrate continues~~ **magistrates continue** in office until removed by the judges of the circuit and superior courts.

SECTION 25. IC 33-5-18.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 15. (a) The judges of the Floyd circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7.**

(b) The magistrate continues in office until removed by the judges of the circuit and superior courts.

SECTION 26. IC 33-5-29.5-7.1, AS AMENDED BY P.L.18-1995,

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SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. **In addition to any other magistrates appointed by the court,** the judges of the:

(1) criminal division may appoint two (2) full-time magistrates under IC 33-4-7;

(2) civil division may appoint one (1) full-time magistrate under IC 33-4-7; and

(3) juvenile division may appoint one (1) full-time magistrate under IC 33-4-7.

The magistrates continue in office until removed by the judges of the ~~criminal~~ division **appointing the magistrates. A magistrate appointed for the criminal, civil, or juvenile division is entitled to the salary provided under IC 33-4-7-9.1. The state shall pay the salary.**

SECTION 27. IC 33-5-29.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) ~~Five (5)~~ **Six (6)** judges comprise the civil division. Four (4) judges comprise the criminal division. ~~Three (3)~~ **Four (4)** judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a division other than the county division of the court if the court determines that the change is necessary for the efficient operation of the court.

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

(d) The chief judge of the court may assign a judge in one (1) division of the court to hear a case originating in another division of the court, and may reassign cases from one (1) judge to another, if the chief judge determines that the change is necessary for the efficient operation of the court.

SECTION 28. IC 33-5-29.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. The superior court of Lake County shall consist of ~~thirteen (13)~~ **fifteen (15)** judges plus

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the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

SECTION 29. IC 33-5-29.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 39. A vacancy occurring on the superior court of Lake County shall be filled by appointment of the governor ~~from a list of three (3) nominees presented to him by the judicial nominating commission. If the governor shall fail to make an appointment from the list within sixty (60) days from the day it is presented to him, the appointment shall be made by the chief justice or the acting chief justice of the Indiana supreme court from the same list, or altered list as provided for in section 38 of this chapter.~~

~~The governor shall make all such appointments to the superior court of Lake County without regard to the political affiliation of any of the three (3) nominees submitted to him. Further, in the interest of justice, the governor shall consider only those qualifications of the nominees included in section 36 of this chapter.~~ **under IC 3-13-6-1.**

SECTION 30. IC 33-5-29.5-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 40. An appointment by the governor ~~or chief justice, as required by section 39 of this chapter,~~ to **fill a vacancy on** the superior court of Lake County shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if no such vacancy yet exists at the date of appointment.

SECTION 31. IC 33-5-29.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 41. (a) Each judge appointed under ~~section 39 of this chapter~~ **IC 3-13-6-1** shall serve an initial term, which shall commence on the effective date of the appointment of any such judge and shall continue through December 31 in the year of the general election that follows the expiration of two (2) years from the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the civil division, criminal division, and juvenile division shall serve successive six (6) year terms.

(c) The term of office of a judge of the county division of the Lake superior court is six (6) years.

(d) Each six (6) year term commences on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and shall continue for six (6) years.

SECTION 32. IC 33-5-29.5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 42. (a) The question of the retention in office or rejection of each judge of the following

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divisions of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of such judge:

(1) Civil division.

(2) Criminal division.

(3) Juvenile division.

(b) At such general election the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If that a majority of the ballots cast by the electors voting on any such question shall be "Yes", the judge whose name appeared on such question shall be approved for a six (6) year term commencing on January 1 following the general election as provided in section 41(b) of this chapter.

(d) If that a majority of the ballots cast by the electors voting on any such question shall be "No", the judge whose name appeared on such question shall be rejected. The office of the rejected judge shall be vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor pursuant to ~~section 39 of this chapter.~~ **IC 3-13-6-1.**

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

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days prior to any such general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office shall become vacant at the expiration of the term.

SECTION 33. IC 33-5-40.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. (a) The judges of the Sullivan circuit court and the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.**

(b) The magistrate continues in office until jointly removed by the judges.

SECTION 34. IC 33-5-43-1.1, AS AMENDED BY P.L.18-1995,

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SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.1. (a) The judges of the Vanderburgh superior court may jointly appoint not more than ~~two (2)~~ **four (4)** full-time magistrates under IC 33-4-7.

(b) A magistrate continues in office until jointly removed by the judges.

SECTION 35. IC 33-5.1-2-22, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".

~~The oath shall be filed with the clerk of the county.~~

SECTION 36. IC 33-5.1-2-26, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-4-7.

(b) A magistrate appointed under this section may ~~only~~ hear:

(1) criminal proceedings brought under IC 35-48; ~~and~~

(2) drug related proceedings brought under IC 34-4-30.1; **and**

(3) any other proceedings assigned to the magistrate by the presiding judge.

(c) The magistrate continues in office until removed by the presiding judge.

SECTION 37. IC 33-5.1-2-27, AS ADDED BY P.L.18-1995, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. (a) In addition to the magistrate appointed under section 26 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint ~~four (4)~~ **eight (8)** full-time magistrates under IC 33-4-7.

(b) Not more than ~~two (2)~~ **four (4)** of the magistrates appointed under this section may be of the same political party.

(c) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(d) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. Upon a request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the

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superior court judge.

SECTION 38. IC 33-8-2-25, AS AMENDED BY P.L.1-1997, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate~~ **magistrates** may exercise:

(1) probate jurisdiction under IC 33-8-2-9; and

(2) juvenile jurisdiction under IC 33-8-2-10;

and ~~continues~~ **continue** in office until removed by the judge.

SECTION 39. IC 33-10.1-2-4, AS AMENDED BY P.L.12-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. **(a) Except as provided in this section,** the city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000).

(b) The city court in a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) has concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed six thousand dollars ($6,000).

(c) ~~The~~ **A** court **described in this section** has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

(1) actions for slander or libel;

(2) matters relating to decedents' estates, appointment of guardians, and all related matters;

(3) dissolution of marriage actions; or

(4) injunction or mandate actions.

SECTION 40. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1998]: IC 33-5-29.5-28; IC 33-5-29.5-29; IC 33-5-29.5-30; IC 33-5-29.5-31; IC 33-5-29.5-32; IC 33-5-29.5-33; IC 33-5-29.5-34; IC 33-5-29.5-35; IC 33-5-29.5-36; IC 33-5-29.5-37; IC 33-5-29.5-38.

SECTION 41. [EFFECTIVE JULY 1, 1998] **A judge appointed to the civil, criminal, or juvenile division of the Lake superior court**

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before July 1, 1998, may continue to serve the remainder of the judge's term of office after June 30, 1998, before having the question of the judge's retention in office submitted to the voters under IC 33-5-29.5-42.

SECTION 42. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)] **(a) Notwithstanding IC 33-5-10.8-2, as amended by this act, the initial election of the judge of the DeKalb superior court No. 2 is the general election to be held November 3, 1998. Notwithstanding IC 33-5-10.8-2, as amended by this act, the person elected takes office July 1, 1999. The initial term of the judge of the DeKalb superior court No. 2 expires December 31, 2004.**

(b) This SECTION expires January 2, 2000.".

Page 1, line 1, replace the effective date in SECTION 1 with "[EFFECTIVE JULY 1, 1999]".

Page 1, line 8, delete "1999" and insert "**2000**".

Page 1, line 9, delete "2000." and insert "**2001.**".

Page 2, line 3, delete "1998" and insert "**1999**".

Page 2, delete lines 20 through 29.

Page 2, line 30, delete "(j)" and insert "**(i)**".

Page 2, line 30, delete "2000" and insert "**2001**".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 44. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 365 as printed January 30, 1998, and as amended by the committee report of the committee on courts and criminal code adopted February 16, 1998.)

BAUER, Chair

Committee Vote: yeas 22, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 365 be amended to read as follows:

Page 2, line 8, reset in roman.

Page 2, line 8, after "IC 33-5-29.5-39" delete "." and insert "**as it applies to a superior court of Lake County other than a superior court in the county division.**".

Page 2, line 9, reset in roman "(4)".

Page 2, line 9, delete "(3)".

Page 2, line 10, delete "Subject to IC 33-5-29.5-41, the" and insert "The".

Page 2, line 26, reset in roman "(3) IC 33-5-29.5-39;".

Page 2, line 26, after "IC 33-5-29.5-39" delete ";" and insert "**as it applies to a superior court of Lake County other than a superior court in the county division;**".

Page 2, line 27, reset in roman "(4)".

Page 2, line 27, delete "(3)".

Page 8, line 19, after "Sec. 39." insert "**(a) This section and sections 35 through 38 of this chapter do not apply to the filling of a vacancy occurring on the superior court of Lake County, county division.**

(b)".

Page 8, line 20, after "County" insert ", **except a superior court in the county division,**".

Page 8, line 21, reset in roman "from a list of three (3) nominees presented".

Page 8, reset in roman lines 22 through 26.

Page 8, line 27, before "The" insert "**(c)**".

Page 8, line 27, reset in roman "The governor shall make all".

Page 8, line 27, reset in roman "appointments".

Page 8, line 27, after "appointments" insert "**under subsection (b)**".

Page 8, line 27, reset in roman "to the superior court".

Page 8, reset in roman lines 28 through 30.

Page 8, line 31, reset in roman "included in section 36 of this chapter.".

Page 8, line 31, delete "under IC 3-13-6-1.".

Page 8, delete lines 32 through 42.

Delete page 9.

Page 10, delete lines 1 through 6.

Page 12, delete lines 10 through 19.

Page 12, line 28, delete ":".

C o p y

Renumber all SECTIONS consecutively.

(Reference is to Engrossed Senate Bill 365 as printed February 18, 1998.)

VILLALPANDO

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