

January 30, 1998

HOUSE BILL No. 1198

DIGEST OF HB 1198 (Updated January 29, 1998 10:50 am - DI 51)

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

Synopsis: Courts and court magistrates. 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 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; and (15) two magistrates to serve the Vanderburgh superior court. Adds one judge
(Continued next page)

Effective: See text of bill.

**Keeler, Mahern, Villalpando,
Kuzman, Ayres**

January 8, 1998, read first time and referred to Committee on Courts and Criminal Code.
January 26, 1998, amended, reported — Do Pass; referred to Committee on Ways and Means.
January 29, 1998, amended, reported — Do Pass.

HB 1198—LS 6154/DI 41



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Digest Continued

to the Lake superior court, civil division and one judge to the Lake superior court, county division. 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.

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January 30, 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.

HOUSE BILL No. 1198

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

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

- 1 SECTION 1. IC 33-3-1-2.8, AS ADDED BY P.L.281-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1997]: Sec. 2.8. (a) The Allen circuit court has concurrent
4 jurisdiction with the Allen superior court concerning paternity actions.
5 (b) In addition to the magistrate appointed under section 2.1 of this
6 chapter, the judge of the Allen circuit court **and one (1) of the judges**
7 **of the Allen superior court, family relations division**, may jointly
8 appoint a **hearing officer with the powers of a one (1) full-time**
9 **magistrate under IC 33-4-7. The hearing officer magistrate** continues
10 in office until **jointly** removed by the judge **of the Allen circuit court**
11 **and one (1) of the judges of the Allen superior court, family**
12 **relations division. The magistrate has full authority to hear all**
13 **Title IV-D cases filed in Allen County.**
14 (c) The salary of a hearing officer appointed under subsection (b) is
15 equal to that of a magistrate under IC 33-4-7. The hearing officer's

HB 1198—LS 6154/DI 41



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1 salary must be paid by the county. The hearing officer is a county
2 employee.

3 SECTION 2. IC 33-4-1-10.5 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 1999]: **Sec. 10.5. (a) The judges of the Clark circuit and superior
6 courts may jointly appoint one (1) full-time magistrate under
7 IC 33-4-7 to serve the circuit and superior courts.**

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

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

13 SECTION 3. IC 33-4-1-20.1, AS ADDED BY P.L.18-1995,
14 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 1999]: **Sec. 20.1. (a) The judges of the Elkhart circuit and
16 superior courts may jointly appoint ~~one (1)~~ two (2) full-time magistrate
17 magistrates under IC 33-4-7 to serve the circuit and superior courts.**

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

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

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

28 SECTION 5. IC 33-4-1-45, AS AMENDED BY P.L.1-1997,
29 SECTION 121, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 1999]: **Sec. 45. (a) The county of Lake shall
31 constitute the 31st judicial circuit.**

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

39 SECTION 6. IC 33-4-1-46 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 46. (a) The county of
41 LaPorte shall constitute the thirty-second judicial circuit.**

42 **(b) The judge of the LaPorte circuit court may appoint one (1)**

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1 **full-time magistrate under IC 33-4-7. The magistrate continues in**
 2 **office until removed by the judge.**

3 SECTION 7. IC 33-4-1-64 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. (a) The county of
 5 Porter shall constitute the sixty-seventh judicial circuit.

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

9 SECTION 8. IC 33-4-1-75.1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the
 11 St. Joseph circuit court may appoint ~~one (1)~~ **two (2)** full-time
 12 ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~
 13 **magistrates continue** in office until removed by the judge.

14 SECTION 9. IC 33-4-1-77 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. (a) The County of
 16 Sullivan shall be and constitute the fourteenth judicial circuit.

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

21 SECTION 10. IC 33-4-1-82.1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 82.1. The judge of the
 23 Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time
 24 ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~
 25 **magistrates continue** in office until removed by the judge.

26 SECTION 11. IC 33-5-10-25 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 1999]: **Sec. 25. (a) The judges of the Clark**
 29 **circuit and superior courts may jointly appoint one (1) full-time**
 30 **magistrate under IC 33-4-7 to serve the circuit and superior courts.**

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

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

36 SECTION 12. IC 33-5-13.1-16, AS ADDED BY P.L.18-1995,
 37 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 1999]: Sec. 16. (a) The judges of the Elkhart circuit and
 39 superior courts may jointly appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~
 40 **magistrates** under IC 33-4-7.

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

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1 SECTION 13. IC 33-5-18.1-15 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 1999]: **Sec. 15. (a) The judges of the Floyd**
 4 **circuit and superior courts may jointly appoint one (1) full-time**
 5 **magistrate under IC 33-4-7.**

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

8 SECTION 14. IC 33-5-29.5-7.1, AS AMENDED BY P.L.18-1995,
 9 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 1999]: Sec. 7.1. **In addition to any other magistrates**
 11 **appointed by the court,** the judges of the:

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

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

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

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

23 SECTION 15. IC 33-5-29.5-21 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) The court is
 25 divided into civil (including probate), criminal, county, and juvenile
 26 divisions. The work of the court shall be divided among the divisions
 27 by the rules of the court.

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

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

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

6 SECTION 16. IC 33-5-29.5-27 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. The superior court
 8 of Lake County shall consist of ~~thirteen (13)~~ **fifteen (15)** judges plus
 9 the Lake circuit court judge if the circuit court judge chooses to sit on
 10 the superior court of Lake County.

11 SECTION 17. IC 33-5-40.5-12 IS ADDED AS A NEW SECTION
 12 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 12. (a)**
 13 **The judges of the Sullivan circuit court and the Sullivan superior**
 14 **court may jointly appoint one (1) full-time magistrate under**
 15 **IC 33-4-7 to serve the circuit and superior courts.**

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

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

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

25 SECTION 19. IC 33-5.1-2-22, AS ADDED BY P.L.16-1995,
 26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 1999]: Sec. 22. Each judge, before entering upon the duties of
 28 office, shall take and subscribe the following oath or affirmation:

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

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

34 SECTION 20. IC 33-5.1-2-26, AS ADDED BY P.L.16-1995,
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 1999]: Sec. 26. (a) The presiding judge may appoint one (1)
 37 full-time magistrate under IC 33-4-7.

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

- 39 (1) criminal proceedings brought under IC 35-48; ~~and~~
 40 (2) drug related proceedings brought under IC 34-4-30.1; ~~and~~
 41 (3) **any other proceedings assigned to the magistrate by the**
 42 **presiding judge.**

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

3 SECTION 21. IC 33-5.1-2-27, AS ADDED BY P.L.18-1995,
4 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 1999]: Sec. 27. (a) In addition to the magistrate appointed
6 under section 26 of this chapter, the judges of the superior court may,
7 by a vote of a majority of the judges, appoint ~~four (4)~~ **eight (8)** full-time
8 magistrates under IC 33-4-7.

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

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

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

20 SECTION 22. IC 33-8-2-25, AS AMENDED BY P.L.1-1997,
21 SECTION 126, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any appointments
23 made by the judge of the St. Joseph probate court under IC 31-31-3, the
24 judge of the St. Joseph probate court may appoint ~~one (1)~~ **three (3)**
25 full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate~~
26 **magistrates** may exercise:

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

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

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

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1198, 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 courts and 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 33-4-1-20.1, AS ADDED BY P.L.18-1995, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20.1. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one~~ **(two)** 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 2. IC 33-4-1-45, AS AMENDED BY P.L.1-1997, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 45. (a) The county of Lake shall constitute the 31st judicial circuit.

(b) The judge of the Lake circuit court may appoint ~~one~~ **(two)** 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 3. IC 33-4-1-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 46. (a) The county of LaPorte shall constitute the thirty-second 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 4. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 5. IC 33-4-1-75.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 75.1. The judge of the

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St. Joseph circuit court may appoint ~~one~~ **(+) two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 6. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 7. IC 33-4-1-82.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 82.1. The judge of the Vanderburgh circuit court may appoint ~~one~~ **(+) two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. The ~~magistrate continues~~ **magistrates continue** in office until removed by the judge.

SECTION 8. IC 33-5-13.1-16, AS ADDED BY P.L.18-1995, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) The judges of the Elkhart circuit and superior courts may jointly appoint ~~one~~ **(+) 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 9. 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, 1998]: 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~~ **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 10. IC 33-5-29.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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.



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(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 11. IC 33-5-29.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 12. IC 33-5-40.5-12 IS ADDED AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 13. IC 33-5-43-1.1, AS AMENDED BY P.L.18-1995, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 14. IC 33-5.1-2-22, AS ADDED BY P.L.16-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 22. Each judge, before entering upon the duties of

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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."~~

Page 2, after line 11, begin a new paragraph and insert:

"SECTION 17. IC 33-8-2-25, AS AMENDED BY P.L.1-1997, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: 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 18. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 33-5-29.5-35, the judicial nominating commission for the superior court of Lake County established by IC 33-5-29.5-28 may, without a notice from the clerk of the Lake circuit court informing the chairman of the commission of a vacancy on the Lake superior court, meet before July 1, 1998, and take all other necessary action to nominate candidates for the judicial positions established by IC 33-5-29.5-21, as amended by this act. IC 33-5-29.5 applies to the appointment of a judge under this SECTION.**

SECTION 19. [EFFECTIVE JULY 1, 1998] **(a) The definitions in P.L.260-1997(ss), SECTION 1 apply throughout this SECTION.**

(b) In addition to the amounts appropriated in P.L.260-1997(ss) for the biennium, one million eight hundred thirty-five thousand dollars (\$1,835,000) is appropriated from the state general fund for year 1998-99 for the salaries, fringe benefits, and judicial conference training expenses payable by the state for the judges and magistrates added by this act.

SECTION 20. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1198 as introduced.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1198, 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 January 26, 1998.

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE JULY 1, 1999]".

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

"SECTION 1. IC 33-3-1-2.8, AS ADDED BY P.L.281-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997]: 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 2. 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 3. 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

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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 4. 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 5. 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 6. 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 7. 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 8. 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 9. 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.



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(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 10. 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 11. 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 12. 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 13. 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 14. 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**



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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 15. 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 16. 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 17. IC 33-5-40.5-12 IS ADDED 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**



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the judges.

SECTION 18. 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 19. 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."~~

Page 2, after line 11, begin a new paragraph and insert:

"SECTION 22. 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."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1198 as introduced and as amended by the Committee Report of the Committee on Courts and Criminal Code adopted January 26, 1998.)

BAUER, Chair

Committee Vote: yeas 17, nays 1.

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