

January 22, 1998

HOUSE BILL No. 1335

DIGEST OF HB 1335 (Updated January 20, 1998 3:06 pm - DI 51)

Citations Affected: IC 3-13; IC 5-8; IC 31-30; IC 33-5; noncode.

Synopsis: Lake superior court. Abolishes the superior court of Lake County. Establishes the Lake superior court. Provides for the election of the judges of the new court. Repeals the statute establishing the abolished court and deletes cross-references to the repealed law.

Effective: July 1, 1998; January 1, 2001.

C. Brown

January 13, 1998, read first time and referred to Committee on Courts and Criminal Code.
January 21, 1998, amended, reported — Do Pass.

C
O
P
Y

HB 1335—LS 6628/DI 51



January 22, 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. 1335

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

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

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

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

- 11 (1) the end of the unexpired term; or
12 (2) a successor is elected at the next general election and
13 qualified;

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

HB 1335—LS 6628/DI 51



C
O
P
Y

1 elected and qualified.

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

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

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

6 (3) **Before January 1, 2001, IC 33-5-29.5-39 (repealed**
7 **January 1, 2001).**

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

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

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

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

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

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

25 (3) **Before January 1, 2001, IC 33-5-29.5-39 (repealed**
26 **January 1, 2001);** and

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

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

29 SECTION 3. IC 31-30-1-2, AS ADDED BY P.L.1-1997,
30 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 1998]: Sec. 2. Except as provided in IC 33-5-29.5-4 (**repealed**
32 **January 1, 2001), IC 33-5-29.6-5, ~~IC 33-5-35.1-4,~~ and section 8 of**
33 this chapter, the juvenile law does not apply to the following:

34 (1) A child at least sixteen (16) years of age who allegedly
35 committed a violation of a traffic law, the violation of which is
36 a misdemeanor, unless the violation is an offense under
37 IC 9-30-5.

38 (2) A child who is alleged to have committed a violation of a
39 statute defining an infraction, except as provided under
40 IC 7.1-5-7.

41 (3) A child who is alleged to have committed a violation of an
42 ordinance.



C
O
P
Y

- 1 (4) A child who:
 2 (A) is alleged to have committed an act that would be a
 3 crime if committed by an adult; and
 4 (B) has previously been waived under IC 31-30-3 (or
 5 IC 31-6-2-4 before its repeal) to a court having
 6 misdemeanor or felony jurisdiction.
- 7 SECTION 4. IC 33-5-29.6 IS ADDED TO THE INDIANA CODE
 8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2001]:
- 10 **Chapter 29.6. Lake Superior Court**
- 11 **Sec. 1. As used in this chapter, "circuit court" refers to the**
 12 **Lake circuit court.**
- 13 **Sec. 2. As used in this chapter, "court" refers to the Lake**
 14 **superior court established by section 3 of this chapter.**
- 15 **Sec. 3. (a) The Lake superior court is established as a court of**
 16 **record.**
- 17 **(b) Lake County comprises the judicial district of the court.**
- 18 **(c) The court may have a seal containing the words "Lake**
 19 **Superior Court".**
- 20 **Sec. 4. The court consists of the following judges:**
- 21 **(1) Thirteen (13) judges elected under this chapter.**
- 22 **(2) The circuit court judge if the circuit court judge chooses**
 23 **to sit on the court.**
- 24 **Sec. 5. (a) The court has the following jurisdiction:**
- 25 **(1) The same jurisdiction as the circuit court in all civil and**
 26 **probate cases and matters, whether original or appellate.**
- 27 **(2) Original exclusive jurisdiction of all felony cases.**
- 28 **(3) Original concurrent jurisdiction of all misdemeanor**
 29 **cases, infraction cases, and ordinance violation cases.**
- 30 **(4) The same appellate jurisdiction in criminal cases as the**
 31 **circuit court.**
- 32 **(5) Original exclusive juvenile jurisdiction.**
- 33 **(b) The juvenile division of the court has exclusive jurisdiction**
 34 **over a child who:**
- 35 **(1) has been taken into custody in the county; and**
- 36 **(2) has allegedly committed an act that would be a**
 37 **misdemeanor traffic offense if committed by an adult.**
- 38 **Sec. 6. Each judge of the court:**
- 39 **(1) has the same powers relating to the conduct of the**
 40 **business of the court as the judge of the circuit court; and**
- 41 **(2) may administer oaths, solemnize marriages, and take and**
 42 **certify acknowledgments of deeds.**



C
O
P
Y

1 **Sec. 7. (a) The clerk of the circuit court, under the direction of**
2 **the court, shall provide the following:**

- 3 **(1) Order books.**
4 **(2) Judgment dockets.**
5 **(3) Execution dockets.**
6 **(4) Fee books.**
7 **(5) Other books for the court.**

8 **(b) The books and dockets shall be kept separately from the**
9 **books and papers of other courts.**

10 **Sec. 8. (a) The court shall hold sessions in the places in Lake**
11 **County that the court determines.**

12 **(b) The Lake County executive shall provide and maintain**
13 **suitable courtrooms and other rooms and facilities, including**
14 **furniture and equipment, that are necessary.**

15 **(c) The Lake County fiscal body shall appropriate sufficient**
16 **funds for the provision and maintenance of the rooms and**
17 **facilities.**

18 **Sec. 9. (a) The jury commissioner for the circuit court shall**
19 **serve as jury commissioner for the court.**

20 **(b) Juries for the court shall be selected in the same manner as**
21 **juries for the circuit court.**

22 **(c) The grand jury selected for the circuit court shall also serve**
23 **as the grand jury for the court as necessary.**

24 **Sec. 10. All Indiana law and rules adopted by the supreme**
25 **court of Indiana governing the circuit courts of Indiana apply to**
26 **the court. However, all of the following apply to the court:**

- 27 **(1) Only a judge of the court may serve as a special judge**
28 **when a change of judge is requested from the court.**
29 **(2) A judge of the court does not receive compensation other**
30 **than regular salary for serving as a special judge if the**
31 **change of venue from the judge is granted by the court.**
32 **(3) The statutes and rules governing the records, procedures,**
33 **and practices of county courts apply to the county division of**
34 **the court.**

35 **Sec. 11. (a) The court is divided into the following divisions:**

- 36 **(1) Civil, including probate, comprising five (5) judges and**
37 **numbered "Civil Division, Room 1" through "Civil Division,**
38 **Room 5".**
39 **(2) Criminal, comprising four (4) judges "and numbered**
40 **"Criminal Division, Room 1" through "Criminal Division,**
41 **Room 4".**
42 **(3) County, comprising three (3) judges and numbered**



C
O
P
Y

1 "County Division, Room 1" through "County Division,
2 Room 3".

3 (4) Juvenile, comprising one (1) judge.

4 (b) The work of the court shall be divided among the divisions
5 by the rules of the court.

6 (c) The court by rule may alter the number of judges assigned
7 to a division other than the county division if the court determines
8 that the change is necessary for the efficient operation of the court.

9 (d) The judges shall be assigned to various divisions or rooms
10 as provided by rules of the court. Whenever possible, an incumbent
11 judge shall be allowed the option of remaining in a particular room
12 or division.

13 (e) Except as provided in subsection (g), the court by rule may
14 reassign a judge of the court from one (1) division to another
15 division if the court determines that the change is necessary for the
16 efficient operation of the court.

17 (f) Except as provided in subsection (g), the court by rule shall
18 establish a rotation schedule providing for the rotation of judges
19 through the various divisions. The rotation schedule may be used
20 if a judge determines that an emergency exists.

21 (g) A senior judge of a division or a judge of the county
22 division may not be reassigned or rotated to another division under
23 subsection (e) or (f).

24 (h) The chief judge of the court may do either of the following
25 if the chief judge determines that the change is necessary for the
26 efficient operation of the court:

27 (1) Assign a judge in one (1) division of the court to hear a
28 case originating in another division of the court.

29 (2) Reassign cases from one (1) judge to another.

30 Sec. 12. (a) The court by rules of the court shall designate one
31 (1) of the judges as chief judge and shall fix the term that the chief
32 judge shall preside. The chief judge is responsible for the efficient
33 operation and conduct of the court.

34 (b) The judges of each division of the court shall, in accordance
35 with the rules adopted by the judges of the division, designate a
36 judge as the senior judge of the division and fix the term that the
37 senior judge serves.

38 (c) The senior judge of each division shall report to the chief
39 judge concerning how the division should best judicially operate.

40 Sec. 13. If an action of the entire court is required, the judges
41 of the court shall act in concert. If a disagreement occurs, the
42 decision of a majority of the judges shall control. However, if the



1 judges are evenly divided, the decision joined by the chief judge
2 controls.

3 **Sec. 14.** The judges of the criminal division may jointly appoint
4 two (2) full-time magistrates under IC 33-4-7. The magistrates
5 continue in office until removed by the judges of the criminal
6 division.

7 **Sec. 15.** (a) The judge of county division, room 1, county
8 division, room 2, and county division, room 3 of the court may each
9 appoint one (1) full-time magistrate under IC 33-4-7 to serve as the
10 court requires. A magistrate appointed under this section:

- 11 (1) must be a resident of the county; and
12 (2) continues in office until removed by the judge that the
13 magistrate serves.

14 (b) The appointment of a magistrate under this section must
15 be in writing.

16 (c) The judge may specifically determine the duties of the
17 magistrate within the limits established under IC 33-4-7.

18 **Sec. 16.** (a) The county executive shall provide and maintain
19 suitable facilities for the use of the magistrates, including necessary
20 furniture and equipment.

21 (b) The court shall employ administrative staff necessary to
22 support the functions of the magistrates.

23 (c) The county fiscal body shall appropriate sufficient funds
24 for the provision of staff and facilities required by this section.

25 **Sec. 17.** A magistrate is entitled to annual compensation as
26 established under IC 33-4-7-9.1. The state shall pay the salary set
27 under IC 33-4-7-9.1.

28 **Sec. 18.** (a) The senior judge of each division may appoint the
29 number of bailiffs, court reporters, probation officers, and other
30 personnel that the senior judge considers necessary to judicially
31 and efficiently facilitate and transact the business of the division.

32 (b) All appointments shall be made without regard to the
33 political affiliation of the appointees.

34 (c) The salaries of the court personnel shall be fixed and paid
35 as provided by law.

36 (d) The officers and persons appointed:

- 37 (1) shall perform the duties prescribed by the senior judge of
38 each respective division; and
39 (2) serve at the pleasure of the senior judge.

40 **Sec. 19.** (a) The court shall appoint an administrative officer
41 who has the duties that the court determines necessary to ensure
42 the efficient operation of the court.



C
O
P
Y

1 (b) The court may appoint the number of deputy
2 administrative officers that the court considers necessary to
3 facilitate and transact the business of the court.

4 (c) An appointment of an administrative officer or a deputy
5 administrative officer shall be made without regard to the political
6 affiliation of the appointee.

7 (d) The salaries of the administrative officer and a deputy
8 administrative officer shall be fixed by the court, to be paid out of
9 the county treasury by the county auditor, upon the order of the
10 court, and entered of record.

11 (e) An administrative officer or a deputy administrative officer
12 appointed by the court:

13 (1) shall operate under the direction of the chief judge; and

14 (2) serves at the pleasure of the chief judge.

15 Sec. 20. The court may appoint part-time juvenile referees and
16 magistrates as provided by IC 31-31-3.

17 Sec. 21. The court may appoint the number of probate
18 commissioners provided for by IC 29-2-2. The probate
19 commissioners shall be vested with the powers and duties provided
20 by IC 29.

21 Sec. 22. The judge of the circuit court may, with the consent of
22 the court, transfer any action, cause, or proceeding filed and
23 docketed in the circuit court to the court by transferring all
24 original papers and instruments filed in the action, cause, or
25 proceeding and without further transcript to be redocketed and
26 disposed of as if originally filed with the court.

27 Sec. 23. A judge of the court may, with the consent of the judge
28 of the circuit court, transfer any civil action, cause, or proceeding
29 filed and docketed in the court to the circuit court by transferring
30 all original papers and instruments filed in the action, cause, or
31 proceeding without further transcript to be redocketed and
32 disposed of as if originally filed with the circuit court.

33 Sec. 24. The judge of the circuit court may, at the judge's
34 discretion, sit as a judge of the court, with the court's permission,
35 in the civil division in the same manner as a judge of the court.

36 Sec. 25. A judge of the court may not during a term of office
37 as judge of the court do any of the following:

38 (1) Engage in the practice of law.

39 (2) Run for elective office, unless the elective office is that of
40 judge of the court.

41 (3) Take part in any political campaign.

42 Sec. 26. The term of a judge of the court is six (6) years

C
O
P
Y



1 beginning January 1 following the judge's election and ending
2 December 31 following the election of the judge's successor.

3 Sec. 27. To be eligible for election, a candidate must satisfy all
4 of the following:

- 5 (1) The candidate is domiciled in Lake County.
- 6 (2) The candidate is a citizen of the United States.
- 7 (3) The candidate is admitted to the practice of law in
8 Indiana.

9 SECTION 5. IC 33-5-29.5 IS REPEALED [EFFECTIVE
10 JANUARY 1, 2001].

11 SECTION 6. [EFFECTIVE JULY 1, 1998] (a) As used in this
12 SECTION, "court" refers to the Lake superior court established
13 by IC 33-5-29.6-3, as added by this act.

14 (b) Notwithstanding IC 35-5-29.6-26, as added by this act, the
15 terms of the initial judges elected to the court are as follows:

16 (1) The term of the judge elected to each of the following is
17 two (2) years, beginning January 1, 2001:

- 18 (A) Lake superior court, civil division, room 1.
- 19 (B) Lake superior court, civil division, room 2.
- 20 (C) Lake superior court, criminal division, room 1.
- 21 (D) Lake superior court, county division, room 1.

22 (2) The term of the judge elected to each of the following is
23 four (4) years, beginning January 1, 2001:

- 24 (A) Lake superior court, civil division, room 3.
- 25 (B) Lake superior court, criminal division, room 2.
- 26 (C) Lake superior court, criminal division, room 3.
- 27 (D) Lake superior court, county division, room 2.

28 (3) The term of the judge elected to each of the following is
29 six (6) years, beginning January 1, 2001:

- 30 (A) Lake superior court, civil division, room 4.
- 31 (B) Lake superior court, civil division, room 5.
- 32 (C) Lake superior court, criminal division, room 4.
- 33 (D) Lake superior court, county division, room 3.
- 34 (E) Lake superior court, juvenile division.

35 (c) The initial election of the judges of the court is the general
36 election to be held November 7, 2000.

37 SECTION 7. [EFFECTIVE JULY 1, 1998] (a) As used in this
38 SECTION, "court" refers to the Lake superior court established
39 by IC 33-5-29.6-3, as added by this act.

40 (b) On January 1, 2001, the superior court of Lake County
41 established by IC 33-5-29.5-1 is abolished and all powers, duties,
42 and functions adhering to the court terminate.



C
O
P
Y

1 (c) Notwithstanding IC 33-5-29.5 or any other statute, the term
2 of a judge holding office under IC 33-5-29.5 expires on January 1,
3 2001.

4 (d) On January 1, 2001, all property of the superior court of
5 Lake County established by IC 33-5-29.5-1, and all causes of action
6 pending before the superior court of Lake County are transferred
7 to the Lake Superior court.

8 (e) This SECTION expires January 2, 2001.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1335, 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:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 9.

Page 5, line 20, delete "." and insert **"and numbered "Civil Division, Room 1" through "Civil Division, Room 5"."**

Page 5, line 21, delete "." and insert **"and numbered "Criminal Division, Room 1" through "Criminal Division, Room 4"."**

Page 5, line 22, delete "." and insert **"and numbered "County Division, Room 1" through "County Division, Room 3"."**

Page 6, line 27, delete "division No. 1, division No. 2, and" and insert **"county division, room 1, county division, room 2, and county division, room 3"**.

Page 6, line 28, delete "division No. 3".

Page 6, line 31, delete "need not" and insert **"must"**.

Page 8, delete lines 23 through 33.

Page 8, line 34, delete "28." and insert **"27."**

Page 8, delete lines 40 through 42.

Delete page 9.

Page 10, delete lines 1 through 16.

Page 10, delete lines 19 through 21.

Page 10, line 22, delete "(b)" and insert **"SECTION 6. [EFFECTIVE JULY 1, 1998] (a)"**.

Page 10, delete lines 24 through 39, begin a new paragraph and insert:

"(b) Notwithstanding IC 35-5-29.6-26, as added by this act, the terms of the initial judges elected to the court are as follows:

(1) The term of the judge elected to each of the following is two (2) years, beginning January 1, 2001:

(A) Lake superior court, civil division, room 1.

(B) Lake superior court, civil division, room 2.

(C) Lake superior court, criminal division, room 1.

(D) Lake superior court, county division, room 1.

(2) The term of the judge elected to each of the following is four (4) years, beginning January 1, 2001:

(A) Lake superior court, civil division, room 3.

(B) Lake superior court, criminal division, room 2.

(C) Lake superior court, criminal division, room 3.

(D) Lake superior court, county division, room 2.



C
O
P
Y

(3) The term of the judge elected to each of the following is six (6) years, beginning January 1, 2001:

- (A) Lake superior court, civil division, room 4.**
- (B) Lake superior court, civil division, room 5.**
- (C) Lake superior court, criminal division, room 4.**
- (D) Lake superior court, county division, room 3.**
- (E) Lake superior court, juvenile division. "**

Page 10, line 40, delete "(f)" and insert "(c)".

Page 10, line 41, delete "November 5, 2000." and insert "**November 7, 2000.**".

Page 10, line 41, delete "The following apply to the".

Page 10, delete line 42.

Delete page 11.

Page 12, delete lines 1 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1335 as introduced.)

DVORAK, Chair

Committee Vote: yeas 8, nays 3.

C
O
P
Y

