

SENATE BILL No. 385

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-4-8; IC 33-10.1-6-1.1; IC 33-10.1-6-2; IC 33-14-7-2; IC 36-4-10-4; IC 36-4-10-7.

Synopsis: Senior judge appointments and city court clerks. Specifies that a senior judge may be appointed for a county court and a probate court, in addition to a circuit court and superior court. Specifies that the clerk of a third class city serves as the clerk of the city court if the judge does not perform the duties of court clerk. Adds the service of clerk of the city court to the list of duties of clerks of second and third class cities. Allows a county that contains two department of correction facilities housing at least 100 but less than 1,500 offenders to appoint a second deputy prosecuting attorney. (The introduced version of this bill was prepared by the commission on courts.)

Effective: July 1, 1998.

Bray, Alexa

January 9, 1998, read first time and referred to Committee on Judiciary.

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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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SENATE BILL No. 385



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

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

1 SECTION 1. IC 33-4-8-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) A circuit court
3 may apply to the supreme court for the appointment of a senior judge
4 to serve the court.

5 (b) A superior court, **a county court, or a probate court** may
6 apply to the supreme court for the appointment of a senior judge to
7 serve the court.

8 (c) The application submitted under this section must include the
9 following:

10 (1) Reasons for the request.

11 (2) Estimated duration of the need for a senior judge.

12 SECTION 2. IC 33-4-8-2 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. Upon approving the
14 request by a circuit court, ~~or a superior court,~~ **county court, or probate**
15 **court** for a senior judge, the supreme court may appoint a senior judge
16 to serve that court for the duration specified in the application
17 submitted under section 1 of this chapter.



1 SECTION 3. IC 33-4-8-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The supreme court
 3 may not require a senior judge to accept an assignment to serve a
 4 circuit, ~~or~~ superior, **county, or probate** court. If a senior judge declines
 5 an assignment to serve, the supreme court may offer the senior judge
 6 subsequent assignments to serve a circuit, ~~or~~ superior, **county, or**
 7 **probate** court.

8 SECTION 4. IC 33-10.1-6-1.1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1.1. (a) The officers of
 10 a city court are a judge, a clerk, and a bailiff. However, in third class
 11 cities, the judge may act as clerk and perform all duties of the clerk of
 12 the court. **If the judge does not act as clerk of the court, the city**
 13 **clerk elected under IC 36-4-10 shall perform the duties of the clerk**
 14 **of the city court.**

15 (b) The clerk and bailiff may not receive any fees or compensation
 16 other than their respective salaries.

17 SECTION 5. IC 33-10.1-6-2 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) In second class
 19 cities, the city clerk is the clerk of the city court. ~~and~~ **The city clerk of**
 20 **a third class city is the clerk of the city court if the judge does not**
 21 **serve as clerk under section 1.1 of this chapter. A city clerk of a**
 22 **second or third class city who serves as the clerk of the city court**
 23 **shall give bond as prescribed in this chapter. The clerk may administer**
 24 **oaths. The clerk shall:**

25 (1) issue all process of the court, affix the seal of the court to it,
 26 and attest it;

27 (2) keep a complete record and docket of all cases, showing what
 28 persons were arrested and brought before the court, how the
 29 cases were disposed of, and giving an account of the fees, fines,
 30 penalties, forfeitures, judgments, executions, decrees, and orders
 31 in the same manner, as nearly as may be, as such records are
 32 kept by the clerk of the circuit court; and

33 (3) collect all fees, fines, penalties and forfeitures, judgments,
 34 executions, and money accruing to the city from the enforcement
 35 of ordinances.

36 (b) At the close of each week the clerk shall make out and deliver
 37 to the city controller a written report of all cases in which the clerk has
 38 received or collected any fines or forfeitures due the city. The clerk
 39 shall then pay over the money to the controller and take a receipt for
 40 them. At the end of each month the clerk shall make out and deliver to
 41 the county treasurer of the county in which the city is located a written
 42 report of all cases in which the clerk has received or collected any fines



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1 or forfeitures due the state during the month and then pay to the county
 2 treasurer all fines or forfeitures collected, taking a receipt for them. In
 3 those cities where the county treasurer rather than the city controller
 4 receives city money for deposit, the clerk shall report and deliver the
 5 money to the county treasurer.

6 (c) The clerk shall deposit all court costs collected by the clerk in
 7 accordance with IC 33-19-1-3. The clerk shall distribute the state and
 8 county share of court costs collected in accordance with IC 33-19-7-4.

9 SECTION 6. IC 33-14-7-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) A prosecuting
 11 attorney may appoint one (1) chief deputy prosecuting attorney. The
 12 maximum annual salary paid by the state of a chief deputy prosecuting
 13 attorney appointed under this subsection is as follows:

14 (1) If the prosecuting attorney is a full-time prosecuting attorney
 15 appointing a full-time chief deputy prosecuting attorney, the
 16 annual salary of the chief deputy prosecuting attorney is equal to
 17 seventy-five percent (75%) of the salary paid by the state to a
 18 full-time prosecuting attorney.

19 (2) If the prosecuting attorney is a full-time prosecuting attorney
 20 appointing a part-time chief deputy prosecuting attorney, the
 21 annual salary of the chief deputy prosecuting attorney is equal to
 22 seventy-five percent (75%) of the salary paid by the state to a
 23 part-time prosecuting attorney serving the judicial district served
 24 by the chief deputy prosecuting attorney.

25 (3) If the prosecuting attorney is a part-time prosecuting attorney
 26 appointing a full-time chief deputy prosecuting attorney, the
 27 annual salary of the chief deputy prosecuting attorney is equal to
 28 seventy-five percent (75%) of the salary paid by the state to a
 29 full-time prosecuting attorney.

30 (4) If the prosecuting attorney is a part-time prosecuting attorney
 31 appointing a part-time chief deputy prosecuting attorney, the
 32 annual salary of the chief deputy prosecuting attorney is equal to
 33 seventy-five percent (75%) of the salary paid by the state to a
 34 part-time prosecuting attorney.

35 (b) The prosecuting attorney in a county in which is located at
 36 least one (1) institution operated by the department of correction that
 37 houses at least one thousand five hundred (1,500) offenders may
 38 appoint two (2) additional deputy prosecuting attorneys. In a county
 39 having two (2) institutions, each of which houses at least one thousand
 40 five hundred (1,500) offenders, the prosecuting attorney may appoint
 41 a third deputy prosecuting attorney.

42 (c) The prosecuting attorney in a county in which is located an



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1 institution operated by the department of correction that houses at least
 2 one hundred (100) but less than one thousand five hundred (1,500)
 3 adult offenders may appoint one (1) additional deputy prosecuting
 4 attorney. **In a county having two (2) institutions operated by the**
 5 **department of correction, each of which houses at least one**
 6 **hundred (100) but less than one thousand five hundred (1,500)**
 7 **adult offenders, the prosecuting attorney may appoint a second**
 8 **deputy prosecuting attorney.**

9 (d) The prosecuting attorney in a county in which is located a state
 10 institution (as defined in IC 12-7-2-184) that has a daily population of
 11 at least three hundred fifty (350) patients may appoint one (1)
 12 additional deputy prosecuting attorney.

13 (e) The annual salary of a deputy prosecuting attorney appointed
 14 under subsections (b) through (d) may not be less than seventy-five
 15 percent (75%) of the annual salary of the appointing prosecuting
 16 attorney, as determined under section 5 of this chapter as though the
 17 prosecuting attorney had not elected full-time status.

18 (f) The salaries provided in this section shall be paid by the state
 19 once every two (2) weeks from the state general fund. There is
 20 appropriated annually out of the general fund of the state sufficient
 21 funds to pay any such amount as may be necessary. However, the
 22 salaries fixed in this chapter are determined to be maximum salaries to
 23 be paid by the state. Nothing in this chapter shall limit the power of
 24 counties comprising the respective judicial circuits to pay additional
 25 salaries upon proper action by the appropriate county officials.

26 (g) There shall also be appropriated annually by the various county
 27 councils for other deputy prosecuting attorneys, investigators, clerical
 28 assistance, witness fees, out-of-state travel, postage, telephone tolls and
 29 telegraph, repairs to equipment, office supplies, other operating
 30 expenses, and equipment an amount as may be necessary for the proper
 31 discharge of the duties imposed by law upon the office of the
 32 prosecuting attorney of each judicial circuit.

33 SECTION 7. IC 36-4-10-4 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The clerk shall do
 35 the following:

- 36 (1) Serve as clerk of the city legislative body under IC 36-4-6-9
 37 and maintain custody of its records.
- 38 (2) Maintain all records required by law.
- 39 (3) Keep the city seal.
- 40 (4) As soon as a successor is elected and qualified, deliver to the
 41 successor all the records and property of the clerk's office.
- 42 (5) Perform other duties prescribed by law.



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- 1 (6) Administer oaths when necessary in the discharge of the
- 2 clerk's duties, without charging a fee.
- 3 (7) Take depositions, without charging a fee.
- 4 (8) Take acknowledgement of instruments that are required by
- 5 statute to be acknowledged, without charging a fee.
- 6 **(9) Serve as clerk of the city court under IC 33-10.1-6-2, if**
- 7 **the judge of the court does not serve as clerk of the court**
- 8 **under IC 33-10.1-6-1.1.**
- 9 SECTION 8. IC 36-4-10-7 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. (a) This section
- 11 applies to third class cities.
- 12 (b) The clerk shall appoint the number of deputies and employees
- 13 needed for the effective operation of the office, with the approval of the
- 14 city legislative body. The clerk's deputies and employees serve at the
- 15 clerk's pleasure.
- 16 (c) If a city owns a utility and the clerk is directly responsible for
- 17 the billing and collection of that utility's rates and charges, the clerk
- 18 shall appoint those employees who are also responsible for that billing
- 19 and collection. These employees serve at the clerk's pleasure.
- 20 **(d) Whenever the city court judge does not serve as clerk of**
- 21 **the city court under IC 33-10.1-6-1.1, the clerk shall serve as clerk**
- 22 **of the city court.**

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