

HOUSE BILL No. 1116

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-2-11; IC 33-5.1-2; IC 33-12-4.

Synopsis: Marion County juvenile court. Establishes the Marion County juvenile court as a separate court and provides for the partisan election of the judge. Provides that the judge currently serving as judge of the juvenile division of the Marion superior court serves as the initial judge of the new juvenile court. Reduces the number of judges of the Marion superior court by one to reflect the move of the juvenile division judge. Provides that the current magistrates of the superior court, juvenile division, continue to serve as magistrates of the new juvenile court. Abolishes the current juvenile division of the Marion superior court and transfers pending matters to the new Marion County juvenile court.

Effective: July 1, 1998.

Marendt

January 6, 1998, read first time and referred to Committee on Courts and Criminal Code.



Introduced

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. 1116

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 3-10-2-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) A judge of the
3 circuit court shall be elected at:

4 (1) the first general election following an appointment by the
5 governor to fill a vacancy in the office of judge of the circuit court;
6 or

7 (2) the general election before the term of the judge expires under
8 Article 7, Section 7 of the Constitution of the State of Indiana;
9 whichever occurs first, and every six (6) years thereafter.

10 (b) Except as otherwise provided by law, judges of the superior,
11 probate, and county courts, **and the Marion County juvenile court**,
12 shall be elected at the general election before their terms of office expire
13 and every six (6) years thereafter.

14 SECTION 2. IC 33-5.1-2-1, AS ADDED BY P.L.16-1995,
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 1998]: Sec. 1. (a) There is established a superior court in
17 Marion County, Indiana. The court consists of:

1998

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1 (1) ~~thirty-one (31)~~ **thirty (30)** judges, until January 1, 2001; and
 2 (2) ~~thirty-two (32)~~ **thirty-one (31)** judges, after December 31,
 3 2000.

4 (b) To be qualified to serve as a judge of the court, a person must be,
 5 at the time a declaration of candidacy or a petition of nomination under
 6 IC 3-8-6 is filed:

7 (1) a resident of Marion County; and
 8 (2) an attorney who has been admitted to the bar of Indiana for at
 9 least five (5) years.

10 (c) During the term of office, a judge of the court must remain a
 11 resident of Marion County.

12 SECTION 3. IC 33-5.1-2-4, AS ADDED BY P.L.16-1995,
 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 1998]: Sec. 4. The court has the following jurisdiction:

15 (1) Concurrent and coextensive jurisdiction with the Marion circuit
 16 court in all cases and upon all subject matters, including civil,
 17 criminal, ~~juvenile~~, probate, and statutory cases and matters,
 18 whether original or appellate.

19 (2) Original and exclusive jurisdiction in all matters pertaining to
 20 the following:

21 (A) The probate and settlement of decedents' estates, trusts,
 22 and guardianships.

23 (B) The probate of wills.

24 (C) Proceedings to resist the probate of wills.

25 (D) Proceedings to contest wills.

26 (E) The appointment of guardians, assignees, executors,
 27 administrators, and trustees.

28 (F) The administration and settlement of:

29 (i) estates of protected persons (as defined in
 30 IC 29-3-1-13) and deceased persons;

31 (ii) trusts, assignments, adoptions, and surviving
 32 partnerships; and

33 (iii) all other probate matters.

34 (3) Original jurisdiction of all violations of Indiana law. Whenever
 35 jurisdiction is by law conferred on a small claims court, the court
 36 has the appellate jurisdiction provided by law.

37 ~~(4) Original and exclusive juvenile jurisdiction.~~

38 SECTION 4. IC 33-5.1-2-8, AS ADDED BY P.L.16-1995,
 39 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 1998]: Sec. 8. (a) Each judge of the court shall be elected for a
 41 term of six (6) years, that shall commence January 1 after the year of the
 42 judge's election and continue through December 31 in the sixth year. The



1 judge shall hold office for the six (6) year term or until the judge's
 2 successor is elected and qualified. A candidate for judge shall run at large
 3 for the office of judge of the court and not as a candidate for judge of a
 4 particular room or division of the court.

5 (b) At the primary election a political party may nominate candidates
 6 for judge of the court as follows:

7 (1) Beginning with the primary election held in 1996 and every six
 8 (6) years thereafter, a political party may nominate not more than
 9 eight (8) candidates for judge of the court.

10 (2) Beginning with the primary election held in 2000 and every six
 11 (6) years thereafter, a political party may nominate not more than
 12 nine (9) candidates for judge of the court.

13 The candidates shall be voted on at the general election. Other candidates
 14 may qualify under IC 3-8-6 to be voted on at the general election.

15 (c) The names of the party candidates nominated and properly
 16 certified to the Marion County election board, along with the names of
 17 other candidates who have qualified, shall be placed on the ballot at the
 18 general election in the form prescribed by IC 3-11-2. All persons eligible
 19 to vote at the general election may vote for candidates for judge of the
 20 court as follows:

21 (1) Beginning with the 1996 general election and every six (6)
 22 years thereafter, for fifteen (15) candidates for judge of the court.

23 (2) Beginning with the 2000 general election and every six (6)
 24 years thereafter, for ~~seventeen (17)~~ **sixteen (16)** candidates for
 25 judge of the court.

26 (d) The candidates for judge of the court receiving the highest
 27 number of votes shall be elected to the vacancies. The names of the
 28 candidates elected as judges of the court shall be certified to the county
 29 election board as provided by law.

30 SECTION 5. IC 33-5.1-2-9, AS ADDED BY P.L.16-1995,
 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 1998]: Sec. 9. (a) Not more than thirty (30) days after taking the
 33 oath of office, the judges shall meet and designate three (3) of the judges
 34 as the executive committee for administrative purposes. The executive
 35 committee shall be selected by a vote of two-thirds (2/3) of the judges
 36 sitting at the time the vote is taken. If all vacancies cannot be filled by a
 37 two-thirds (2/3) vote, vacancies may be filled by such other method as
 38 provided by court rule. The executive committee is responsible for the
 39 operation and conduct of the court. A member of the executive committee
 40 shall serve in the capacity provided by rules adopted by the court under
 41 section 6 of this chapter. A member of the executive committee serves for
 42 a term of two (2) years beginning on the date of the member's election.



1 Any or all of the members elected to the executive committee may be
 2 reelected. Of the three (3) judges elected to the executive committee, not
 3 more than two (2) may be members of the same political party.

4 (b) One (1) of the three (3) judges elected to the executive committee
 5 shall be elected as presiding judge and two (2) of the three (3) judges
 6 elected to the executive committee shall be elected as associate presiding
 7 judges. Each judge who is a member of the executive committee has an
 8 equal vote in all matters pertaining to the business of the court when an
 9 action requires a majority vote. Any action taken by the executive
 10 committee may be overruled by a vote of two-thirds (2/3) of all the judges
 11 sitting at the time the vote is taken. The physical reassignment of a judge
 12 to a different courtroom requires a unanimous vote of the executive
 13 committee. The executive committee shall assign cases, offices, and
 14 courtrooms for trial judges or reassignment of newly filed cases in the
 15 interests of the speedy, economical, and uniform disposition of cases. All
 16 matters of trial dates, continuances, and subpoenas used for trial shall be
 17 determined by the trial judge in accordance with rules of the superior
 18 court. The executive committee shall perform such other duties as
 19 determined by rules of the court.

20 (c) The court shall, by rules of the court, divide the work of the court
 21 into various divisions, including but not limited to the following:

- 22 (1) Civil.
- 23 (2) Criminal.
- 24 (3) Probate.
- 25 ~~(4) Juvenile.~~

26 (d) The work of each division shall be allocated by the rules of the
 27 court.

28 (e) The judges shall be assigned to various divisions or rooms as
 29 provided by rules of the court. Whenever possible, an incumbent judge
 30 shall be allowed the option of remaining in a particular room or division.
 31 Whenever any action of the court is required, the judges of the court shall
 32 act in concert, by a vote under section 6 of this chapter. The court shall
 33 keep appropriate records of rules, orders, and assignments of the court.

34 SECTION 6. IC 33-5.1-2-11, AS ADDED BY P.L.16-1995,
 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 1998]: Sec. 11. (a) An appointed probate hearing judge or
 37 probate commissioner shall be vested by the judge of the probate division
 38 with suitable powers for the handling of all probate matters of the court,
 39 including the following:

- 40 (1) Fixing of all bonds.
- 41 (2) Auditing accounts of estates, guardianships, and trusts.
- 42 (3) Acceptance of reports, accounts, and settlements filed in the



- 1 court.
- 2 (4) Appointment of personal representatives, guardians, and
- 3 trustees.
- 4 (5) Probating wills.
- 5 (6) Taking or hearing evidence on or concerning matters described
- 6 in this subsection or any other probate, guardianship, or trust
- 7 matters in litigation before the court.
- 8 (7) Enforcement of court rules.
- 9 (8) Making reports to the court concerning the judge's or
- 10 commissioner's doings in the proceedings described in this
- 11 subsection, including reports concerning the commissioner's
- 12 findings and conclusions regarding the proceedings.

13 However, all matters handled by a hearing judge or commissioner under

14 this subsection are under the final jurisdiction and decision of the judge

15 of the probate division.

16 ~~(b) A juvenile referee appointed by the judge of the juvenile division~~

17 ~~shall have all suitable powers for the handling of the juvenile matters of~~

18 ~~the court, including the following:~~

- 19 ~~(1) Fixing of bonds.~~
- 20 ~~(2) Taking and hearing evidence on or concerning juvenile matters~~
- 21 ~~in litigation before the court.~~
- 22 ~~(3) Enforcement of court rules.~~
- 23 ~~(4) Making reports to the court concerning the juvenile referee's~~
- 24 ~~handling of proceedings of the juvenile division of the court.~~

25 However, all matters handled by a juvenile referee under this subsection

26 are under final jurisdiction and decision of the judge or judges of the

27 juvenile division designated by rules of the court.

28 ~~(e) (b) A bail commissioner shall have all suitable powers for the~~

29 ~~fixing of bonds, including the following:~~

- 30 ~~(1) Determining whether an individual is to be released on the~~
- 31 ~~individual's own recognizance in criminal cases and proceedings.~~
- 32 ~~(2) Making reports to the court concerning the bail commissioner's~~
- 33 ~~activities.~~

34 All matters handled by a bail commissioner under this subsection are

35 under the final jurisdiction and decision of the judge or judges of the

36 criminal division as designated by rules of the court.

37 ~~(d) (c) For any of the purposes specified in this section a probate~~

38 ~~hearing judge, probate commissioner, referee, or bail commissioner has~~

39 ~~the power to do the following:~~

- 40 ~~(1) Summon witnesses to testify before the probate hearing judge,~~
- 41 ~~probate commissioner, referee, or bail commissioner.~~
- 42 ~~(2) Administer oaths and take acknowledgments in connection with~~



1 duties.

2 (3) Administer oaths and take acknowledgments generally.

3 ~~(e)~~ **(d)** A master commissioner appointed by the court under this
4 section has the powers and duties prescribed for a magistrate under
5 IC 33-4-7-4 through IC 33-4-7-8. A master commissioner shall report the
6 findings in each of the matters before the master commissioner in writing
7 to the judge or judges of the division to which the master commissioner is
8 assigned or as designated by rules of the court.

9 SECTION 7. IC 33-12-4 IS ADDED TO THE INDIANA CODE
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 1998]:

12 **Chapter 4. Marion County Juvenile Court**

13 **Sec. 1. As used in this chapter, "juvenile court" refers to the**
14 **Marion County juvenile court established by section 2 of this**
15 **chapter.**

16 **Sec. 2. The Marion County juvenile court is established. The**
17 **court is presided over by one (1) judge elected as provided in this**
18 **chapter.**

19 **Sec. 3. The juvenile court has exclusive juvenile jurisdiction in**
20 **Marion County.**

21 **Sec. 4. (a) The judge of the juvenile court shall be elected under**
22 **IC 3-10-2-11 by the voters of Marion County. The judge serves a**
23 **term of six (6) years beginning on the first day of January following**
24 **the judge's election and ending when the judge's successor has been**
25 **elected and qualified.**

26 **(b) Vacancies occurring in the office of judge of the juvenile**
27 **court shall be filled by appointment of the governor in the same**
28 **manner as vacancies in the office of judge of the circuit court.**

29 **Sec. 5. (a) The court shall hold session in such places in Marion**
30 **County as the court may determine.**

31 **(b) The city-county council shall provide and maintain:**

32 **(1) a suitable and convenient courtroom for the holding of the**
33 **court;**

34 **(2) conference rooms and offices for the judge, other court**
35 **officers, and personnel; and**

36 **(3) other facilities as may be necessary.**

37 **The city-county council shall also provide all necessary furniture and**
38 **equipment for rooms and offices of the court.**

39 **Sec. 6. The judge of the juvenile court qualifies for office of**
40 **judge in the same manner as judges of the Marion superior court.**

41 **Sec. 7. The juvenile court shall operate under a budget that is**
42 **separate from the budgets of the circuit and superior courts in**



1 Marion County.

2 Sec. 8. A juvenile referee appointed by the court has all suitable
3 powers for the handling of the juvenile matters of the juvenile court,
4 including the following:

- 5 (1) Fixing of bonds.
6 (2) Taking and hearing evidence on or concerning juvenile
7 proceedings before the juvenile court.
8 (3) Enforcement of juvenile court rules.
9 (4) Making reports to the juvenile court concerning the
10 juvenile referee's handling of proceedings of the juvenile
11 court.

12 However, all matters handled by a juvenile referee under this section
13 are under the final jurisdiction and decision of the judge of the
14 juvenile court.

15 SECTION 8. [EFFECTIVE JULY 1, 1998] (a) Notwithstanding IC
16 33-12-4-4, as added by this act, the person serving on June 30, 1998,
17 as judge of the juvenile division of the Marion superior court under
18 IC 33-5.1 shall serve as the initial judge of the Marion County
19 juvenile court established by IC 33-12-4, as added by this act, for a
20 term beginning July 1, 1998, and ending December 31, 2002.

21 (b) The initial election of the judge of the juvenile court under
22 IC 33-12-4, as added by this act, is the general election to be held
23 November 5, 2002. The person elected as judge serves for a term
24 beginning January 1, 2003, and ending December 31, 2008.

25 (c) A person serving on June 30, 1998, as a magistrate for the
26 juvenile division of the Marion superior court under IC 33-5.1 shall
27 serve as a magistrate for the Marion County juvenile court
28 established by IC 33-12-4, as added by this act. A magistrate
29 continues in office until removed by the judge of the juvenile court.

30 SECTION 9. [EFFECTIVE JULY 1, 1998] (a) The juvenile
31 division of the Marion superior court is abolished as of July 1, 1998,
32 and all matters pending in the juvenile division of the Marion
33 superior court on June 30, 1998, shall be transferred to the Marion
34 County juvenile court established by IC 33-12-4, as added by this
35 act, in accordance with the venue requirements prescribed for
36 juvenile courts under IC 31-32, IC 31-34, and IC 31-37. These
37 matters have the same effect as if originally filed in or issued by the
38 Marion County juvenile court.

39 (b) This SECTION expires July 2, 1998.

