HOUSE BILL No. 1335

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1-1; IC 3-13-6-1; IC 5-8-1-19; IC 31-30-1-2; IC 33-5-29.5; IC 33-5-29.6.

Synopsis: Lake superior court. Abolishes the superior court of Lake County. Establishes the Lake superior court. Provides for the selection of the judges of the new court by nonpartisan election from single-member districts. Provides for a county wide election of all judges. Repeals the statute establishing the abolished court and deletes cross-references to the repealed law.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.

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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.

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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:

SECTION 1. IC 3-8-1-1, AS AMENDED BY P.L.3-1997, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) This section does not apply to a candidate for any of the following offices:

(1) Judge of a city court in a city located in a county having a population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(2) Judge of a city court in a third class city. ~~or~~

(3) Judge of a town court.

(4) For elections held after January 1, 2000, judge of a superior court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) A person is not qualified to run for:

(1) a state office;
(2) a legislative office;
(3) a local office; or
(4) a school board office;

unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.

(c) If a candidate filing error is made by the election division or a circuit court clerk, the error does not invalidate the filing.

SECTION 2. 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) **Before January 1, 2001,** IC 33-5-29.5-39 **(repealed January 1, 2001).**
(4) IC 33-5-40-44.

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

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) **Before January 1, 2001,** IC 33-5-29.5-39 **(repealed January 1, 2001);** and

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

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

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

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

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

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

(4) A child who:

(A) is alleged to have committed an act that would be a crime if committed by an adult; and

(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having misdemeanor or felony jurisdiction.

SECTION 5. IC 33-5-29.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]:

Chapter 29.6. Lake Superior Court

Sec. 1. As used in this chapter, "circuit court" refers to the Lake circuit court.

Sec. 2. As used in this chapter, "court" refers to the Lake superior court established by section 3 of this chapter.

Sec. 3. (a) The Lake superior court is established as a court of record.

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(b) Lake County comprises the judicial district of the court.

(c) The court may have a seal containing the words "Lake Superior Court".

Sec. 4. The court consists of the following judges:

(1) Thirteen (13) judges elected under this chapter.

(2) The circuit court judge if the circuit court judge chooses to sit on the court.

Sec. 5. (a) The court has the following jurisdiction:

(1) The same jurisdiction as the circuit court in all civil and probate cases and matters, whether original or appellate.

(2) Original exclusive jurisdiction of all felony cases.

(3) Original concurrent jurisdiction of all misdemeanor cases, infraction cases, and ordinance violation cases.

(4) The same appellate jurisdiction in criminal cases as the circuit court.

(5) Original exclusive juvenile jurisdiction.

(b) The juvenile division of the court has exclusive jurisdiction over a child who:

(1) has been taken into custody in the county; and

(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

Sec. 6. Each judge of the court:

(1) has the same powers relating to the conduct of the business of the court as the judge of the circuit court; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

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

(1) Order books.

(2) Judgment dockets.

(3) Execution dockets.

(4) Fee books.

(5) Other books for the court.

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

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

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

(c) The Lake County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and

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facilities.

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

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

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

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

(1) Only a judge of the court may serve as a special judge when a change of judge is requested from the court.

(2) A judge of the court does not receive compensation other than regular salary for serving as a special judge if the change of venue from the judge is granted by the court.

(3) The statutes and rules governing the records, procedures, and practices of county courts apply to the county division of the court.

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

(1) Civil, including probate, comprising five (5) judges.

(2) Criminal, comprising four (4) judges.

(3) County, comprising three (3) judges.

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

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

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

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

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

(f) Except as provided in subsection (g), 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.

(g) A senior judge of a division or a judge of the county division may not be reassigned or rotated to another division under

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subsection (e) or (f).

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

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

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

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

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

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

Sec. 13. If an action of the entire court is required, the judges of the court shall act in concert. If a disagreement occurs, the decision of a majority of the judges shall control. However, if the judges are evenly divided, the decision joined by the chief judge controls.

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

Sec. 15. (a) The judge of division No. 1, division No. 2, and division No. 3 of the court may each appoint one (1) full-time magistrate under IC 33-4-7 to serve as the court requires. A magistrate appointed under this section:

(1) need not be a resident of the county; and

(2) continues in office until removed by the judge that the magistrate serves.

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

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

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

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

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

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

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

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

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

(d) The officers and persons appointed:

(1) shall perform the duties prescribed by the senior judge of each respective division; and

(2) serve at the pleasure of the senior judge.

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

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

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

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

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

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

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

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

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

Sec. 22. The judge of the circuit court may, with the consent of the court, transfer any action, cause, or proceeding filed and

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docketed in the circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding and without further transcript to be redocketed and disposed of as if originally filed with the court.

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

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

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

(1) Engage in the practice of law.

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

(3) Take part in any political campaign.

Sec. 26. The term of a judge of the court is six (6) years beginning January 1 following the judge's election and ending December 31 following the election of the judge's successor.

Sec. 27. (a) Judges of the court shall be elected from the districts established under section 33 of this chapter as follows:

(1) Judges for the county division from three (3) single-member districts.

(2) The remaining judges from ten (10) single-member districts.

(b) Judges of the court shall be elected at nonpartisan elections held at each general election.

(c) The number of judges elected at a general election shall be equal to the number of judges of the court whose terms expire the following January 1.

Sec. 28. To be eligible for election, a candidate must satisfy all of the following:

(1) The candidate is domiciled in Lake County.

(2) The candidate is a citizen of the United States.

(3) The candidate is admitted to the practice of law in Indiana.

(4) The candidate satisfies either of the following:

(A) The candidate is a resident of the district in which the candidate is filing.

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(B) The candidate is permitted to file as a nonresident of the district under section 30 of this chapter.

Sec. 29. (a) An individual who wants to become a candidate for judge of the court must file with the clerk of the circuit court a nominating petition.

(b) The petition required by subsection (a) must satisfy the following:

(1) The petition must be signed by the candidate.

(2) The petition must designate the number of the district the candidate seeks to represent as a judge.

(3) The petition must be filed not earlier than noon one hundred four (104) days before the general election and not later than noon seventy-four (74) days before the general election.

(c) The clerk shall reject a petition that does not satisfy subsection (b).

Sec. 30. (a) This section applies to a district in which no resident of the district has filed a declaration of candidacy as of noon eighty-nine (89) days before the general election.

(b) An individual who is not a resident of the district, but meets all the other qualifications in section 28(1) through 28(3) of this chapter, may file a declaration of candidacy in the district any time after noon eighty-nine (89) days before the general election and not later than noon seventy-four (74) days before the general election.

(c) The filing of a declaration of candidacy by a resident of the district after the eighty-ninth day before the general election does not disqualify a nonresident who filed properly under this section.

Sec. 31. (a) All candidates for judge in a district shall be listed on the general election ballot by district in the form prescribed by IC 3-11-2 without party designation.

(b) All of the voters in Lake County may vote for a judge from each district.

(c) The candidate receiving the highest number of votes on the ballot relative to all other candidates from the same district is elected judge from the district.

Sec. 32. IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

Sec. 33. (a) The county redistricting commission established by IC 36-2-2-4(b) shall divide Lake County into districts as follows:

(1) Three (3) districts for the election of county division judges. The districts established under this subdivision shall

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be numbered "county divisions" one (1) through three (3).

(2) Ten (10) districts for the election of the remaining judges. The districts established under this subdivision shall be numbered one (1) through ten (10).

(b) The districts must have the following characteristics:

(1) Districts must be contiguous.

(2) A precinct may not be divided into more than one (1) district.

(3) The districts must be as nearly equal in population as practicable.

(4) Districts must be drawn in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1971 et seq.).

(c) Districts must be established each year in which a federal decennial census becomes effective under IC 1-1-3.5.

Sec. 34. A vacancy occurring on the court shall be filled as provided in IC 3-13-6-1.

SECTION 6. IC 33-5-29.5 IS REPEALED [EFFECTIVE JANUARY 1, 2001].

SECTION 7. [EFFECTIVE JULY 1, 1998] **(a) As used in this SECTION, "commission" refers to the county redistricting commission established by IC 36-2-2-4(b).**

(b) As used in this SECTION, "court" refers to the Lake superior court established by IC 33-5-29.6-3, as added by this act.

(c) As used in this SECTION, "judge" refers to a judge of the court, but does not include a judge of the county division of the court.

(d) Notwithstanding IC 33-5-29.6-33(c), as added by this act, the commission shall divide the county into the ten (10) districts required by IC 33-5-29.6-33(a)(2), as added by this act, before January 1, 2000.

(e) At a meeting held during September 2000, the commission shall randomly designate the districts established under subsection (d) as follows:

(1) Three (3) districts so that the judges elected from those districts serve two (2) year terms.

(2) Three (3) districts so that the judges elected from those districts serve four (4) year terms.

(3) Four (4) districts so that the judges elected from those districts serve six (6) year terms.

(f) The initial election of the judges of the court is the general election to be held November 5, 2000. The following apply to the election held under this SECTION:

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(1) IC 3, when not inconsistent with this SECTION and IC 33-5-29.6, as added by this act.

(2) IC 33-5-29.6, as added by this act, when not inconsistent with this SECTION.

(g) Notwithstanding IC 33-5-29.6-26, as added by this act, the term of a judge elected under this SECTION is as follows:

(1) The term of a judge elected from a district designated under subsection (e)(1) is two (2) years, beginning January 1, 2001.

(2) The term of a judge elected from a district designated under subsection (e)(2) is four (4) years, beginning January 1, 2001.

(3) The term of a judge elected from a district designated under subsection (e)(3) is six (6) years, beginning January 1, 2001.

(h) This SECTION expires January 1, 2007.

SECTION 8. [EFFECTIVE JULY 1, 1998] **(a) As used in this SECTION, "court" refers to the Lake superior court established by IC 33-5-29.6-3, as added by this act.**

(b) As used in this SECTION, "commission" refers to the county redistricting commission established by IC 36-2-2-4(b).

(c) As used in this SECTION, "judge" refers only to a judge of the county division of the court.

(d) Notwithstanding IC 33-5-29.6-33(c), as added by this act, the commission shall divide Lake County into the three (3) districts required by IC 33-5-29.6-33(a)(1), as added by this act, before January 1, 2000.

(e) At a meeting held during September 2000, the commission shall randomly designate the districts as follows:

(1) One (1) district so that the judge elected from that district serves a two (2) year term.

(2) One (1) district so that the judge elected from that district serves a four (4) year term.

(3) One (1) district so that the judge elected from that district serves a six (6) year term.

(f) The initial election of the judges is the general election to be held November 7, 2000. The following apply to the election held under this SECTION:

(1) IC 3, when not inconsistent with this SECTION and IC 33-5-29.6, as added by this act.

(2) IC 33-5-29.6, as added by this act, when not inconsistent with this SECTION.

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(g) Notwithstanding IC 33-5-29.6-26, as added by this act, the term of a judge elected under this SECTION is as follows:

(1) The term of the judge elected from the district designated under subsection (e)(1) is two (2) years, beginning January 1, 2001.

(2) The term of the judge elected from the district designated under subsection (e)(2) is four (4) years, beginning January 1, 2001.

(3) The term of the judge elected from the district designated under subsection (e)(3) is six (6) years, beginning January 1, 2001.

(h) This SECTION expires January 1, 2007.

SECTION 9. [EFFECTIVE JULY 1, 1998] **(a) As used in this SECTION, "court" refers to the Lake superior court established by IC 33-5-29.6-3, as added by this act.**

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

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

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

(e) This SECTION expires January 2, 2001.

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