

HOUSE BILL No. 1343

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-4-1-18; IC 33-4-11; IC 33-5-12.1.

Synopsis: Delaware County courts. Establishes a unified court for Delaware County by combining the current Delaware circuit court and the four Delaware superior courts into a unified circuit court with five judges. Specifies that the superior court judges serving on June 30, 1998, serve as judges of the unified Delaware circuit court. Provides for the nonpartisan election of circuit court judges in Delaware County. Specifies that the current Delaware circuit court judge serves as the first presiding judge of the unified court.

Effective: July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Courts and Criminal Code.

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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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HOUSE BILL No. 1343



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 33-4-1-18 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 18. (a) The county of
- 3 Delaware ~~in said State~~, shall constitute the Forty-sixth Judicial Circuit.
- 4 (b) **There are five (5) judges of the Delaware circuit court.**
- 5 SECTION 2. IC 33-4-11 IS ADDED TO THE INDIANA CODE AS
- 6 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 1998]:
- 8 **Chapter 11. Delaware Circuit Court**
- 9 **Sec. 1. (a) The Delaware circuit court is a court of general**
- 10 **jurisdiction with five (5) judges. The divisions of the court shall be**
- 11 **known as the Delaware circuit court No. 1, No. 2, No. 3, No. 4, and**
- 12 **No. 5. The county of Delaware constitutes the judicial district of the**
- 13 **court and each of the court's divisions. The court shall maintain the**
- 14 **following dockets:**
- 15 (1) **Small claims.**
- 16 (2) **Minor offenses and violations.**
- 17 (3) **Criminal.**



1 (4) Juvenile.

2 (5) Civil.

3 (6) Probate.

4 (b) The assignment of judges of the court to the dockets
5 specified in subsection (a) shall be by rule of the court. However,
6 Delaware circuit court No. 4 and Delaware circuit court No. 5 shall
7 each have a standard small claims and misdemeanor docket.

8 Sec. 2. The judges of the Delaware circuit court shall select from
9 among themselves a presiding judge of the court. The presiding
10 judge shall be selected for a minimum term of twelve (12) months.

11 Sec. 3. Whenever action of the entire court is required, including
12 selection of a presiding judge under section 2 of this chapter and
13 adoption of rules under section 5 of this chapter, the judges of the
14 court shall act in concert. If the judges disagree, the decision of the
15 majority of the judges controls.

16 Sec. 4. In accordance with rules adopted by the judges of the
17 Delaware circuit court under section 5 of this chapter, the
18 presiding judge shall do the following:

19 (1) Ensure that the court operates efficiently and judicially.

20 (2) Annually submit to the fiscal body of Delaware County a
21 budget for the court, including amounts necessary for the
22 following:

23 (A) Operation of the Delaware circuit court's probation
24 department.

25 (B) Defense of indigents.

26 (C) Maintenance of an adequate law library.

27 (3) Make appointments or selections required of a circuit or
28 superior court judge.

29 Sec. 5. (a) The judges of the Delaware circuit court shall adopt
30 rules to provide for the administration of the court, including rules
31 governing the following:

32 (1) Allocation of case load.

33 (2) Legal representation for indigents.

34 (3) Budgetary matters of the court.

35 (4) Operation of the probation department.

36 (5) Term of administration of the presiding judge.

37 (6) Employment and management of court personnel.

38 (7) Cooperative efforts with other courts for establishing and
39 administering shared programs and facilities.

40 (b) The court shall file with the division of state court
41 administration a copy of the rules adopted under this section.

42 Sec. 6. (a) Each judge of the Delaware circuit court may, subject

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1 to the budget approved for the court by the fiscal body of Delaware
 2 County, employ personnel necessary for the proper administration
 3 of the judge's docket.

4 (b) Personnel employed under this section:

5 (1) include court reporters, bailiffs, clerical staff, and any
 6 additional officers necessary for the proper administration of
 7 the court; and

8 (2) are subject to the rules concerning employment and
 9 management of court personnel adopted by the court under
 10 section 5 of this chapter.

11 (c) A commissioner is entitled to practice law in any division of
 12 the court in which the commissioner does not have appointive
 13 judicial authority. A commissioner only has judicial authority in
 14 the division of the court presided over by the judge who appointed
 15 the commissioner.

16 Sec. 7. (a) The Delaware circuit court may appoint a court
 17 administrator subject to the budget approved for the court by the
 18 fiscal body of Delaware County.

19 (b) A court administrator appointed under this section is subject
 20 to the rules concerning employment and management of court
 21 personnel adopted by the court under section 5 of this chapter.

22 Sec. 8. (a) A judge of the Delaware circuit court shall be elected
 23 in nonpartisan elections held every six (6) years.

24 (b) During the period under IC 3-8-2-4 in which a declaration
 25 of candidacy may be filed for a primary election, a person desiring
 26 to become a candidate for one (1) of the five (5) Delaware circuit
 27 court judgeships shall file with the clerk of the Delaware circuit
 28 court a nominating petition, signed by the candidate and
 29 designating on the petition which judgeship the candidate seeks. A
 30 petition without the designation must be rejected by the clerk. To
 31 be eligible for election, a candidate must be:

32 (1) domiciled in the county of Delaware;

33 (2) a citizen of the United States; and

34 (3) admitted to the practice of law in the courts of this state.

35 (c) All candidates for election to a judgeship under this chapter
 36 must be listed on the general election ballot in the form prescribed
 37 by IC 3-11-2, without party designation. The candidate receiving
 38 the highest number of votes on the ballot for each judgeship shall
 39 be elected to that office.

40 (d) IC 3, where not inconsistent with the provisions of this
 41 chapter, applies to elections under this chapter.

42 SECTION 3. IC 33-5-12.1 IS REPEALED [EFFECTIVE JULY 1,



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1 1998].

2 SECTION 4. [EFFECTIVE JULY 1, 1998] (a) **The judge of the**
3 **Delaware circuit court serving on June 30, 1998, is entitled to serve**
4 **as the initial presiding judge of the Delaware circuit court created**
5 **by IC 33-4-11, as added by this act.**

6 (b) **Notwithstanding IC 33-4-11-8, as added by this act, the**
7 **judge of the Delaware circuit court may serve as judge of the**
8 **Delaware circuit court under IC 33-4-11, as added by this act, until**
9 **expiration of the Delaware circuit court term that the judge was**
10 **serving on June 30, 1998. Upon the expiration of the judge's term,**
11 **the judge may become a candidate for election under IC 33-4-11-8,**
12 **as added by this act.**

13 (c) **This SECTION expires January 1, 2002.**

14 SECTION 5. [EFFECTIVE JULY 1, 1998] (a) **A judge of the**
15 **Delaware superior court under IC 33-5-12.1 (repealed by this act)**
16 **serving on the Delaware superior court on June 30, 1998, is entitled**
17 **to serve as a judge of the Delaware circuit court created by**
18 **IC 33-4-11, as added by this act, for a term beginning July 1, 1998.**
19 **Notwithstanding IC 33-4-11-8, as added by this act, the judge may**
20 **serve as judge of the Delaware circuit court under IC 33-4-11, as**
21 **added by this act, until expiration of the Delaware superior court**
22 **term that the judge was serving on June 30, 1998. Upon the**
23 **expiration of a judge's term, the judge may become a candidate for**
24 **election under IC 33-4-11-8, as added by this act.**

25 (b) **The superior court for Delaware County is abolished as of**
26 **July 1, 1998, and all matters pending in the Delaware superior**
27 **court on June 30, 1998, shall be transferred to the Delaware circuit**
28 **court in accordance with the venue requirements prescribed under**
29 **Rule 75 of the Indiana Rules of Trial Procedure. These matters**
30 **have the same effect as if originally filed in or issued by the**
31 **Delaware circuit court.**

32 (c) **This SECTION expires January 1, 2002.**

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