



Reprinted  
April 8, 1999

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# ENGROSSED SENATE BILL No. 274

DIGEST OF SB 274 (Updated April 7, 1999 5:05 pm - DI 44)

**Citations Affected:** IC 3-8; IC 5-4; IC 33-5; IC 33-14.

**Synopsis:** Residency of candidates. Makes changes concerning certain city court judges, including changes to the residency requirements and changes requiring that certain city court judges be attorneys. Requires a candidate for prosecuting attorney to be a resident of the judicial circuit that the person serves. Requires a full-time magistrate to be a resident of the jurisdiction served by the court that appoints the magistrate.

**Effective:** Upon passage.

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## Landske

(HOUSE SPONSORS — VILLALPANDO, RICHARDSON)

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January 7, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

January 26, 1999, amended; reassigned to Committee on Elections.

February 9, 1999, amended, reported favorably — Do Pass.

February 15, 1999, read second time, amended, ordered engrossed.

February 16, 1999, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Judiciary.

March 29, 1999, reported — Do Pass.

April 7, 1999, read second time, amended, ordered engrossed.

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ES 274—LS 7373/DI 13+



Reprinted  
April 8, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED SENATE BILL No. 274

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A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

- 1 SECTION 1. IC 3-8-1-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not  
3 apply to a candidate for any of the following offices:  
4 (1) Judge of a city court. ~~in a city located in a county having a~~  
5 ~~population of:~~  
6 (A) ~~more than four hundred thousand (400,000) but less than~~  
7 ~~seven hundred thousand (700,000); or~~  
8 (B) ~~more than two hundred thousand (200,000) but less than~~  
9 ~~three hundred thousand (300,000).~~  
10 (2) ~~judge of a city court in a third class city; or~~  
11 (3) (2) Judge of a town court.  
12 (b) A person is not qualified to run for:  
13 (1) a state office;  
14 (2) a legislative office;  
15 (3) a local office; or  
16 (4) a school board office;  
17 unless the person is registered to vote in the election district the person

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1 seeks to represent not later than the deadline for filing the declaration  
2 or petition of candidacy or certificate of nomination.

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

5 SECTION 2. IC 3-8-1-1.5 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This  
7 section applies to a candidate for any of the following offices:

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

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

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

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

15 ~~(3) (2) Judge of a town court.~~

16 (b) A person is not qualified to run for an office subject to this  
17 section unless **not later than the deadline for filing the declaration**  
18 **or petition of candidacy or certificate of nomination** the person is  
19 registered to vote in a county in which the municipality is located.

20 SECTION 3. IC 3-8-1-28.5 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) This  
22 section does not apply to a candidate for the office of judge of a city  
23 court in a city located in a county having a population of more than two  
24 hundred thousand (200,000) but less than three hundred thousand  
25 (300,000).

26 (b) A candidate for the office of judge of a city court must reside in  
27 the city upon filing a declaration of candidacy required under IC 3-8-2  
28 or a petition of nomination under IC 3-8-6.

29 (c) A candidate for the office of judge of a city court must reside in  
30 the county upon the filing of a certificate of candidate selection under  
31 IC 3-13-1-15 or IC 3-13-2-8.

32 **(d) This subsection applies to a candidate for the office of judge**  
33 **of a city court listed in IC 33-10.1-5-7(c). Before a candidate for the**  
34 **office of judge of the court may file a:**

35 **(1) declaration of candidacy or petition of nomination; or**

36 **(2) certificate of candidate selection under IC 3-13-1-15 or**  
37 **IC 3-13-2-8;**

38 **the candidate must be an attorney in good standing admitted to the**  
39 **practice of law in Indiana.**

40 SECTION 4. IC 3-8-1-29.5 IS ADDED TO THE INDIANA CODE  
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
42 UPON PASSAGE]: Sec. 29.5. (a) This section applies to a candidate

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1 **for the office of judge of a town court listed in IC 33-10.1-5-7(c).**

2 **(b) Before a candidate for the office of judge of the court may**  
 3 **file a:**

4 **(1) declaration of candidacy or petition of nomination; or**

5 **(2) certificate of candidate selection under IC 3-13-1-15 or**  
 6 **IC 3-13-2-8;**

7 **the candidate must be an attorney in good standing admitted to the**  
 8 **practice of law in Indiana.**

9 SECTION 5. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS  
 10 [EFFECTIVE UPON PASSAGE]: Sec. 4. The copy of the oath under  
 11 section 2 of this chapter shall be deposited by the person as follows:

12 (1) Of all officers whose oath is endorsed on the commission and  
 13 whose duties are not limited to a particular county, in the office  
 14 of the secretary of state.

15 (2) Of county officers, and constables of a small claims court, in  
 16 the circuit court clerk's office of the county.

17 (3) Of county council members, officers appointed by the board  
 18 of county commissioners, and township officers that the board  
 19 may require to do so, with the county auditor.

20 (4) Of township board members, with the township trustee.

21 (5) Of city officers, in the office of the clerk of the city-county  
 22 council, city clerk, or city clerk-treasurer.

23 (6) Of deputies of the surveyor, in a book kept by the surveyor for  
 24 this purpose.

25 (7) Of town officers, in the office of the town clerk-treasurer.

26 (8) Of a justice, judge, or prosecuting attorney, in the office of the  
 27 secretary of state.

28 (9) Of a deputy prosecuting attorney, in the office of the clerk of  
 29 the circuit court of the county in which the deputy prosecuting  
 30 attorney resides **or serves**.

31 (10) Of a school board member, in the circuit court clerk's office  
 32 of the county containing the greatest percentage of population of  
 33 the school corporation.

34 SECTION 6. IC 33-4-7-2 IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE UPON PASSAGE]: Sec. 2. A magistrate must be:

36 **(1) admitted to the practice of law in Indiana; and**

37 **(2) a resident of the jurisdiction served by the court that**  
 38 **appoints the magistrate.**

39 SECTION 7. IC 33-5-29.5-7.2 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) The judge  
 41 of division No. 1, division No. 2, and division No. 3 of the court may  
 42 each appoint one (1) full-time magistrate under IC 33-4-7 to serve as

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1 the court requires. A magistrate appointed under this section:

2 (1) ~~need not~~ **must** be a resident of the county; and

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

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

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

9 (d) The county executive shall provide and maintain suitable  
10 facilities for the use of the magistrate, including necessary furniture  
11 and equipment.

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

14 (f) The county fiscal body shall appropriate sufficient funds for the  
15 provision of staff and facilities required under this section.

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

19 SECTION 8. IC 33-14-1-1.5 IS ADDED TO THE INDIANA CODE  
20 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
21 **UPON PASSAGE]: 1.5. (a) This section does not apply to a deputy**  
22 **prosecuting attorney appointed by a prosecuting attorney or a**  
23 **special prosecutor appointed by a court.**

24 (b) **To be eligible to hold office as a prosecuting attorney, a**  
25 **person must be a resident of the judicial circuit that the person**  
26 **serves.**

27 SECTION 9. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 274, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Elections.

(Reference is to SB 274 as introduced.)

GARTON, Chairperson

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COMMITTEE REPORT

Mr. President: The Senate Committee on Elections, to which was referred Senate Bill No. 274, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 10, after "FOLLOWS" insert "[EFFECTIVE UPON PASSAGE]".

and when so amended that said bill do pass.

(Reference is to SB 274 as printed January 27, 1999.)

LANDSKE, Chairperson

Committee Vote: Yeas 9, Nays 0.

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## SENATE MOTION

Mr. President: I move that Senate Bill 274 be AMENDED to read as follows:

Page 3, after line 8 and before line 9, begin a new paragraph and insert:

"SECTION 5. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

- (1) Of all officers whose oath is endorsed on the commission and whose duties are not limited to a particular county, in the office of the secretary of state.
- (2) Of county officers, and constables of a small claims court, in the circuit court clerk's office of the county.
- (3) Of county council members, officers appointed by the board of county commissioners, and township officers that the board may require to do so, with the county auditor.
- (4) Of township board members, with the township trustee.
- (5) Of city officers, in the office of the clerk of the city-county council, city clerk, or city clerk-treasurer.
- (6) Of deputies of the surveyor, in a book kept by the surveyor for this purpose.
- (7) Of town officers, in the office of the town clerk-treasurer.
- (8) Of a justice, judge, or prosecuting attorney, in the office of the secretary of state.
- (9) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides **or serves**.
- (10) Of a school board member, in the circuit court clerk's office of the county containing the greatest percentage of population of the school corporation."

Page 3, line 9, delete "SECTION 5." and insert "SECTION 6."

Page 3, line 17, delete "SECTION 6." and insert "SECTION 7."

(Reference is to Senate Bill 274 as printed February 10, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 274, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

VILLALPANDO, Chair

Committee Vote: yeas 9, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 274 be amended to read as follows:

Page 3, between lines 33 and 34, begin a new paragraph and insert:  
 "SECTION 6. IC 33-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A magistrate must be:

- (1) admitted to the practice of law in Indiana; and
- (2) a resident of the jurisdiction served by the court that appoints the magistrate.**

SECTION 7. IC 33-5-29.5-7.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (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~~ **must** 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.

(d) The county executive shall provide and maintain suitable facilities for the use of the magistrate, including necessary furniture and equipment.

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

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

(g) 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."

Renumber all SECTIONS consecutively.

(Reference is to ESB 274 as printed March 30, 1999.)

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