



March 2, 1999

HOUSE BILL No. 1149

DIGEST OF HB 1149 (Updated March 1, 1999 8:55 pm - DI 92)

Citations Affected: IC 33-4; IC 33-5; IC 33-5.1; IC 33-8; IC 33-10.5; IC 33-19; noncode.

Synopsis: Court officers. Adds: (1) two full-time magistrates in Allen County; (2) one full-time magistrate in Clark County; (3) one judge in Elkhart County; (4) one full-time magistrate in Floyd County; (5) three full-time magistrates and three judges in Lake County; (6) one full-time magistrate in LaPorte County; (7) one full-time magistrate in Lawrence County; (8) one full-time magistrate in Madison County; (9) four judges and four full-time magistrates in Marion County; (10) two full-time magistrates in St. Joseph County; and (11) one full-time magistrate in Sullivan County; (12) two full-time magistrates in Vanderburgh County. Converts the county courts in Noble County to superior courts. Expands the jurisdiction of the magistrate appointed by the presiding judge of the Marion superior court who is currently empowered to preside over certain drug related proceedings to include
(Continued next page)

Effective: July 1, 1999; January 1, 2001.

**Villalpando, Ayres, Dvorak,
Richardson**

January 6, 1999, read first time and referred to Committee on Courts and Criminal Code.
February 16, 1999, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to House Rule 127.
March 1, 1999, amended, reported — Do Pass.

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jurisdiction over any criminal proceedings. Accelerates the creation of four courts in the Marion superior court from January 1, 2001, to July 1, 1999. Provides for the initial selection of the judges by appointment. Indicates that the initial election for the appointed judges is November 5, 2002. Creates a new elected superior court judge in St. Joseph County. Provides that the new superior court judge is the chief judge. Requires the chief judge to: (1) assign cases to a judge of the court or reassign cases from one judge of the court to another judge of the court to ensure the efficient operation and conduct of the court; (2) assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court; (3) annually submit to the fiscal body of St. Joseph County a budget for the court; (4) make appointments or selections on behalf of the court that are required of a superior court judge under any statute; (5) direct the employment and management of court personnel; and (6) enter into cooperative efforts with other courts for establishing and administering shared programs and facilities. Specifies that, whenever any action of the entire court is required and the judges are evenly divided, the decision joined by the chief judge controls. Allows the judge of the St. Joseph circuit court to sit as a judge of the St. Joseph superior court with the chief judge's permission. Eliminates the St. Joseph County judicial nominating commission and the St. Joseph County judicial qualifications commission. Eliminates two county courts in Tippecanoe County. Adds three superior courts in Tippecanoe County and gives each court a small claims and misdemeanor division. Abolishes the position of magistrate for the county court. Allows the new superior courts to appoint one full-time magistrate. Establishes a general justice fee. Requires a fee of \$5 to be collected from the following: (1) the defendant in each action that results in a felony conviction under IC 35-50-2; (2) the defendant in each action that results in a misdemeanor conviction under IC 35-50-3; (3) the party filing certain civil actions; and (4) the party filing a small claims action. Requires a fee of \$4 to be collected from the defendant in each action that results in a judgment for a violation constituting certain infractions. Requires 100% of the fee to be deposited in the state general fund.

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March 2, 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.

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HOUSE BILL No. 1149

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 33-4-1-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The county of
3 Clark shall constitute the Fourth Judicial Circuit of the State of Indiana.
4 (b) **The judges of the Clark circuit court and Clark superior
5 court may jointly appoint one (1) full-time magistrate under
6 IC 33-4-7 to serve the circuit and superior courts.**
7 (c) **The magistrate continues in office until removed by the
8 judges of the Clark circuit and superior courts.**
9 SECTION 2. IC 33-4-1-22 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The county of
11 Floyd shall constitute the Fifty-second Judicial Circuit.
12 (b) **The judges of the Floyd circuit court, Floyd superior court,
13 and Floyd county court may jointly appoint one (1) full-time
14 magistrate under IC 33-4-7 to serve the circuit, superior, and
15 county courts.**

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1 **(c) The magistrate continues in office until removed by the**
 2 **judges of the Floyd circuit, superior, and county courts.**

3 SECTION 3. IC 33-4-1-45 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45. (a) The county of
 5 Lake shall constitute the 31st judicial circuit.

6 (b) The judge of the Lake circuit court may appoint ~~one (1)~~ **two (2)**
 7 full-time ~~magistrate magistrates~~ under IC 33-4-7 to serve the **Lake**
 8 **circuit court. One (1) of the magistrates shall serve the** domestic
 9 relations counseling bureau established under IC 31-12-2. The judge
 10 shall specify the duties of a magistrate appointed under this subsection.
 11 A magistrate continues in office until removed by the judge of the
 12 circuit court.

13 SECTION 4. IC 33-4-1-46 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 46. (a) The county of
 15 LaPorte shall constitute the Thirty-second Judicial Circuit.

16 **(b) The judges of the LaPorte circuit court and LaPorte**
 17 **superior court No. 4 may jointly appoint one (1) full-time**
 18 **magistrate under IC 33-4-7 to serve the circuit and superior courts.**

19 **(c) The magistrate continues in office until removed by the**
 20 **judges of the LaPorte circuit court and LaPorte superior court**
 21 **No. 4.**

22 SECTION 5. IC 33-4-1-47 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 47. (a) The county of
 24 Lawrence shall be and constitute the eighty-first judicial circuit of the
 25 State of Indiana.

26 **(b) The judge of the Lawrence circuit court and the judges of**
 27 **the Lawrence superior court may jointly appoint one (1) full-time**
 28 **magistrate under IC 33-4-7 to serve the circuit and superior courts.**

29 **(c) The magistrate continues in office until removed by the**
 30 **judges of the Lawrence circuit and superior courts.**

31 SECTION 6. IC 33-4-1-75.1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the
 33 St. Joseph circuit court may appoint one (1) full-time magistrate under
 34 IC 33-4-7 ~~The~~ **to serve the circuit court. A** magistrate continues in
 35 office until removed by the judge.

36 SECTION 7. IC 33-4-1-77 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. (a) The County of
 38 Sullivan shall be and constitute the fourteenth judicial circuit.

39 **(b) The judge of the Sullivan circuit court and the judge of the**
 40 **Sullivan superior court may jointly appoint one (1) full-time**
 41 **magistrate under IC 33-4-7 to serve the circuit and superior courts.**

42 **(c) The magistrate continues in office until removed by the**



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1 **judge of the Sullivan circuit court and the judge of the Sullivan**
 2 **superior court.**

3 SECTION 8. IC 33-5-5.1-8 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The court may
 5 appoint such number of probate commissioners, juvenile referees,
 6 bailiffs, court reporters, probation officers, and such other personnel,
 7 including but not limited to an administrative officer, as shall in the
 8 opinion of the court be necessary to facilitate and transact the business
 9 of the court. In addition to the personnel authorized under this
 10 subsection and IC 31-31-3, the judges of the Allen superior court-civil
 11 division may jointly appoint not more than ~~two (2)~~ **three (3)** full-time
 12 magistrates under IC 33-4-7 to serve the Allen superior court-civil
 13 division. The judges of the Allen superior court-civil division may
 14 jointly assign any such magistrates the duties and powers of a probate
 15 commissioner. In addition to the personnel authorized under this
 16 subsection and IC 31-31-3, the judge of the Allen superior
 17 court-criminal division may jointly appoint not more than ~~two (2)~~ **three**
 18 **(3)** full-time magistrates under IC 33-4-7 to serve the Allen superior
 19 court-criminal division. Any such magistrate serves at the pleasure of,
 20 and continues in office until jointly removed by, the judges of the
 21 division that appointed the magistrate. All appointments made under
 22 this subsection shall be made without regard to the political affiliation
 23 of the appointees. The salaries of the above personnel shall be fixed
 24 and paid as provided by law. If the salaries of any of the above
 25 personnel are not provided by law, the amount and time of payment of
 26 such salaries shall be fixed by the court, to be paid out of the county
 27 treasury by the county auditor, upon the order of the court, and be
 28 entered of record. The officers and persons so appointed shall perform
 29 such duties as are prescribed by the court. Any such administrative
 30 officer appointed by the court shall operate under the jurisdiction of the
 31 chief judge and shall serve at the pleasure of the chief judge. Any such
 32 probate commissioners, magistrates, juvenile referees, bailiffs, court
 33 reporters, probation officers, and other personnel appointed by the
 34 court shall serve at the pleasure of the court.

35 (b) Any probate commissioner so appointed by the court may be
 36 vested by said court with all suitable powers for the handling and
 37 management of the probate and guardianship matters of the court,
 38 including the fixing of all bonds, the auditing of accounts of estates and
 39 guardianships and trusts, acceptance of reports, accounts, and
 40 settlements filed in said court, the appointment of personal
 41 representatives, guardians, and trustees, the probating of wills, the
 42 taking and hearing of evidence on or concerning such matters, or any



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1 other probate, guardianship, or trust matters in litigation before such
 2 court, the enforcement of court rules and regulations, the making of
 3 reports to the court concerning his doings in the above premises,
 4 including the taking and hearing of evidence together with such
 5 commissioner's findings and conclusions regarding the same, all of
 6 such matters, nevertheless, to be under the final jurisdiction and
 7 decision of the judges of said court.

8 (c) Any juvenile referee so appointed by the court may be vested by
 9 said court with all suitable powers for the handling and management of
 10 the juvenile matters of the court, including the fixing of bonds, the
 11 taking and hearing of evidence on or concerning any juvenile matters
 12 in litigation before the court, the enforcement of court rules and
 13 regulations, the making of reports to the court concerning his doings in
 14 the above premises, all of such matters, nevertheless, to be under final
 15 jurisdiction and decision of the judges of said court.

16 (d) For any and all of the foregoing purposes, any probate
 17 commissioner and juvenile referee shall have the power to summon
 18 witnesses to testify before the said commissioner and juvenile referee,
 19 to administer oaths and take acknowledgments in connection with and
 20 in furtherance of said duties and powers.

21 SECTION 9. IC 33-5-10-25 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 1999]: **Sec. 25. (a) The judges of the Clark circuit court and
 24 Clark superior court may jointly appoint one (1) full-time
 25 magistrate under IC 33-4-7 to serve the circuit and superior courts.**

26 **(b) The magistrate continues in office until removed by the
 27 judges of the Clark circuit and superior courts.**

28 SECTION 10. IC 33-5-13.1-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court has,
 30 **before January 1, 2001, five (5) and, after December 31, 2000, six
 31 (6) judges**, who shall be elected at the general election every six (6)
 32 years in Elkhart County. A judge's term begins January 1 following the
 33 judge's election and ends December 31 following the election of the
 34 judge's successor.

35 (b) To be eligible to hold office as a judge of the court, a person
 36 must:

- 37 (1) be a resident of Elkhart County;
- 38 (2) be under seventy (70) years of age at the time the judge takes
 39 office; and
- 40 (3) be admitted to the bar of Indiana.

41 SECTION 11. IC 33-5-13.1-10 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. **Before January 1,**



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1 **2001, three (3) and, after December 31, 2000, four (4)** of the judges
 2 of the court shall hold sessions in the Elkhart County courts building
 3 in the city of Elkhart. Two (2) of the judges of the court shall hold
 4 sessions in an appropriate place in the city of Goshen selected by the
 5 county commissioners. The board of county commissioners shall
 6 provide and maintain suitable courtrooms and other rooms and
 7 facilities, including furniture and equipment, as may be necessary. The
 8 county council of Elkhart County shall appropriate sufficient funds for
 9 the provision and maintenance of such rooms and facilities.

10 SECTION 12. IC 33-5-18.1-15 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 1999]: **Sec. 15. (a) The judges of the Floyd**
 13 **circuit court, Floyd superior court, and Floyd county court may**
 14 **jointly appoint one (1) full-time magistrate under IC 33-4-7 to**
 15 **serve the circuit, superior, and county courts.**

16 (b) **The magistrate continues in office until removed by the**
 17 **judges of the Clark circuit, superior, and county courts.**

18 SECTION 13. IC 33-5-29.5-7.1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. (a) The judges of
 20 the criminal division may appoint two (2) full-time magistrates under
 21 IC 33-4-7 ~~The magistrates continue to serve the criminal division.~~ **A**
 22 **magistrate appointed under this subsection continues** in office until
 23 removed by the judges of the criminal division.

24 (b) **The judges of the civil division may appoint two (2) full-time**
 25 **magistrates under IC 33-4-7 to serve the civil division. A**
 26 **magistrate appointed under this subsection continues in office until**
 27 **removed by the judges of the civil division.**

28 SECTION 14. IC 33-5-29.5-21 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. (a) The court is
 30 divided into civil (including probate), criminal, county, and juvenile
 31 divisions. The work of the court shall be divided among the divisions
 32 by the rules of the court.

33 (b) **Before January 1, 2001, five (5) and, after December 31,**
 34 **2000, seven (7) judges** comprise the civil division. Four (4) judges
 35 comprise the criminal division. **Before January 1, 2001, three (3)**
 36 **judges, and, after December 31, 2000, four (4) judges** comprise the
 37 county division. One (1) judge comprises the juvenile division.
 38 However, the court by rule may alter the number of judges assigned to
 39 a division other than the county division of the court if the court
 40 determines that the change is necessary for the efficient operation of
 41 the court.

42 (c) The court by rule may reassign a judge of the court from one (1)

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1 division to another if the court determines that the change is necessary
 2 for the efficient operation of the court. The court by rule shall establish
 3 a rotation schedule providing for the rotation of judges through the
 4 various divisions. The rotation schedule may be used if a judge
 5 determines that an emergency exists. However, a senior judge of any
 6 division or a judge of the county division may not be reassigned or
 7 rotated to another division under this subsection.

8 (d) The chief judge of the court may assign a judge in one (1)
 9 division of the court to hear a case originating in another division of the
 10 court, and may reassign cases from one (1) judge to another, if the chief
 11 judge determines that the change is necessary for the efficient operation
 12 of the court.

13 SECTION 15. IC 33-5-29.5-27 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. The superior court
 15 of Lake County shall consist of:

16 (1) **before January 1, 2001, thirteen (13) judges; and**

17 (2) **after December 31, 2000, sixteen (16) judges;**

18 plus the Lake circuit court judge if the circuit court judge chooses to sit
 19 on the superior court of Lake County.

20 SECTION 16. IC 33-5-33.1-8.5 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 1999]: **Sec. 8.5. (a) The judges of the Madison
 23 superior court and the judges of the Madison county court may
 24 jointly appoint one (1) full-time magistrate under IC 33-4-7 to
 25 serve the superior and county courts.**

26 (b) **The magistrate continues in office until removed by the
 27 judges of the Madison superior and county courts.**

28 SECTION 17. IC 33-5-31.1-12 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) The judges of
 30 the court may, by a vote of the majority of the judges, appoint one (1)
 31 full-time magistrate under IC 33-4-7.

32 (b) **The judges of the LaPorte circuit court and LaPorte
 33 superior court No. 4 may jointly appoint one (1) full-time
 34 magistrate under IC 33-4-7 to serve the circuit and superior courts.**

35 (c) The magistrate **appointed under subsection (a)** continues
 36 in office until removed by the vote of a majority of the judges of the
 37 court.

38 (d) **The magistrate appointed under subsection (b) continues in
 39 office until removed by the judges of the LaPorte circuit court and
 40 LaPorte superior court No. 4.**

41 SECTION 18. IC 33-5-37.5-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. There is established



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1 a court of record to be known as the Noble superior court (referred to
 2 as "the "court" in this chapter). The court may have a seal containing
 3 the words "Noble Superior Court, Noble County, Indiana". Noble
 4 County comprises the judicial district of the ~~court courts~~.

5 SECTION 19. IC 33-5-37.5-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The court has ~~one~~
 7 (~~1~~) **two (2)** judges who shall be elected at the general election every six
 8 (6) years in Noble County. ~~His~~ **The term of a judge** begins January 1
 9 following ~~his the date of the judge's~~ election and ends December 31
 10 following the election of ~~his the judge's~~ successor.

11 (b) To be eligible to hold office as judge of ~~the a~~ court, a person
 12 must:

- 13 (1) be a resident of Noble County;
- 14 (2) be under seventy (70) years of age at the time he takes office;
- 15 and
- 16 (3) be admitted to the bar of Indiana.

17 SECTION 20. IC 33-5-37.5-3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. ~~The A~~ court has the
 19 same jurisdiction as the Noble circuit court.

20 SECTION 21. IC 33-5-37.5-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The judge of ~~the a~~
 22 court has the same powers relating to the conduct of the business of ~~the~~
 23 **a** court as the judge of the Noble circuit court. The judge of ~~the a~~ court
 24 also may administer oaths, solemnize marriages, and take and certify
 25 acknowledgments of deeds.

26 SECTION 22. IC 33-5-37.5-8 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. The judge of ~~the a~~
 28 court shall appoint a bailiff and an official court reporter for the court;
 29 their salaries shall be fixed in the same manner as the salaries of the
 30 bailiff and official court reporter for the Noble circuit court. Their
 31 salaries shall be paid monthly out of the treasury of Noble County as
 32 provided by law.

33 SECTION 23. IC 33-5-37.5-9 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. The clerk of ~~the a~~
 35 court, under the direction of the judge of the court, shall provide order
 36 books, judgment dockets, execution dockets, fee books, and other
 37 books for ~~the a~~ court, which shall be kept separately from the books
 38 and papers of other courts.

39 SECTION 24. IC 33-5-37.5-10 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. ~~The A~~ court shall
 41 hold its sessions in the Noble County courthouse in Albion, Indiana, or
 42 in such other places in the county as the board of county commissioners

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1 of Noble County may provide. The board of county commissioners
 2 shall provide and maintain a suitable courtroom and other rooms and
 3 facilities, including furniture and equipment, as may be necessary. The
 4 county council of Noble County shall appropriate sufficient funds for
 5 the provision and maintenance of such rooms and facilities.

6 SECTION 25. IC 33-5-37.5-11 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. The jury
 8 commissioners appointed by the judge of the Noble circuit court shall
 9 serve as the jury commissioners for ~~the a~~ court. Juries shall be selected
 10 in the same manner as juries for the Noble circuit court. The grand jury
 11 selected for the Noble circuit court shall also serve as the grand jury for
 12 ~~the a~~ court as may be necessary.

13 SECTION 26. IC 33-5-37.5-13 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The judge of the
 15 Noble circuit court may, with the consent of the judge of ~~the a~~ court,
 16 transfer any action or proceeding from the circuit court to the court.
 17 The judge of ~~the a~~ court may, with consent of the judge of the circuit
 18 court, transfer any action or proceeding from the court to the circuit
 19 court.

20 SECTION 27. IC 33-5-37.5-14 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The judge of the
 22 Noble circuit court may, with the consent of the judge of ~~the a~~ court, sit
 23 as a judge of the court in any matter as if he was an elected judge of the
 24 court. The judge of ~~the a~~ court may, with consent of the judge of the
 25 circuit court, sit as a judge of the circuit court in any matter as if he was
 26 an elected judge of the circuit court.

27 SECTION 28. IC 33-5-37.5-15 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 1999]: **Sec. 15. The court has a standard**
 30 **small claims and misdemeanor division.**

31 SECTION 29. IC 33-5-40-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is
 33 established a superior court in St. Joseph County, Indiana ~~which~~
 34 (referred to as "the court" in this chapter).

35 (b) **Before January 1, 2001, the court shall consist consists** of
 36 eight (8) judges.

37 (c) **After December 31, 2000, the court consists of nine (9)**
 38 **judges.**

39 SECTION 30. IC 33-5-40-23 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. (a) **Before January**
 41 **1, 2001,** the court, by rules duly adopted by the court, shall designate
 42 one (1) of the judges as presiding judge and fix the time he shall



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1 preside. ~~and said~~

2 (b) After December 31, 2000, the additional judge added under
3 section 1(c) of this chapter shall serve as the chief judge of the
4 court. The chief judge shall be elected at the general election every
5 six (6) years in St. Joseph County. The chief judge's term begins
6 January 1 following the election and ends December 31 following
7 the election of the chief judge's successor.

8 (c) To be eligible to hold office as chief judge of the court, a
9 person must:

10 (1) be a resident of St. Joseph County; and

11 (2) be admitted to the practice of law in Indiana.

12 (d) The chief judge shall be responsible for the operation and
13 conduct of the court and to seeing that ~~said~~ the court shall efficiently
14 and judicially operate.

15 (e) The chief judge shall do the following:

16 (1) Assign cases to a judge of the court or reassign cases from
17 one (1) judge of the court to another judge of the court to
18 ensure the efficient operation and conduct of the court.

19 (2) Assign and allocate courtrooms, other rooms, and other
20 facilities to ensure the efficient operation and conduct of the
21 court.

22 (3) Annually submit to the fiscal body of St. Joseph County a
23 budget for the court.

24 (4) Make appointments or selections on behalf of the court
25 that are required of a superior court judge under any statute.

26 (5) Direct the employment and management of court
27 personnel.

28 (6) Conduct cooperative efforts with other courts for
29 establishing and administering shared programs and facilities.

30 (f) The provisions of sections 33 through 47 do not apply to the
31 chief judge of the court.

32 SECTION 31. IC 33-5-40-24 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Whenever any
34 action of the entire court is required, then the judges of the court will
35 act in concert. In the event of disagreement, then the decision of the
36 majority of the judges shall control. **However, if the judges are evenly
37 divided, the decision joined by the chief judge controls.**

38 SECTION 32. IC 33-5-40-25 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The court shall,
40 when in its opinion it shall be necessary, appoint such additional
41 personnel for the proper administration of the court, including but not
42 limited to an administrative officer who shall operate under the



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1 jurisdiction of the ~~presiding~~ **chief** judge.

2 SECTION 33. IC 33-5-40-26 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. The judge of the
4 circuit court may, with the consent of ~~this court~~ **the chief judge**,
5 transfer any action, cause, or proceeding filed and docketed in the
6 circuit court to this court by transferring all original papers and
7 instruments filed in such action, cause, or proceeding without further
8 transcript thereof to be redocketed and disposed of as if originally filed
9 with this court.

10 SECTION 34. IC 33-5-40-27 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. ~~Any~~ **The chief**
12 judge of this court may, with the consent of the judge of the circuit
13 court, transfer any action, cause, or proceeding filed and docketed in
14 this court to the circuit court by transferring all original papers and
15 instruments filed in such action, cause, or proceeding without further
16 transcript thereof to be redocketed and disposed of as if originally filed
17 with the circuit court.

18 SECTION 35. IC 33-5-40-28 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. The judge of the St.
20 Joseph Circuit Court shall be, at ~~his~~ **the circuit court judge's**
21 discretion, authorized to sit as a judge of this court, with the ~~court's~~
22 **chief judge's** permission, in all matters pending before this court,
23 without limitation and without any further order, in the same manner
24 and stead as if ~~he~~ **the judge of the circuit court** were a judge of this
25 court with all the rights and powers as if ~~he~~ **the judge of the circuit**
26 **court** were a duly elected judge of this court.

27 SECTION 36. IC 33-5-40-34 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 34. (a) The judicial
29 nominating commission, hereafter called the commission, shall consist
30 of ~~seven (7)~~ **five (5)** members, the majority of whom shall form a
31 quorum. ~~The chief justice of Indiana shall appoint a justice of the~~
32 ~~Indiana supreme court or a judge of the Indiana court of appeals to~~
33 ~~serve as a member and chairman of the commission until a successor~~
34 ~~is appointed: Those admitted to the practice of law in the state of~~
35 ~~Indiana and residing in St. Joseph County or maintaining their principal~~
36 ~~law office in St. Joseph County shall elect, pursuant to sections 36 and~~
37 ~~37 of this chapter, three (3) of their number to serve as attorney~~
38 ~~members of the commission: If any attorney member of the commission~~
39 ~~terminates his residence in St. Joseph county or discontinues the~~
40 ~~maintenance of his principal law office in St. Joseph county, he shall~~
41 ~~be considered to have resigned from the commission: The three (3)~~
42 ~~remaining members of the commission shall be persons not admitted~~



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1 to the practice of law, herein after referred to as "non-attorney
2 members"; and residents of St. Joseph County. However, no more than
3 two (2) of the non-attorney members shall be from the same political
4 party and that the appointment of the non-attorney members of the
5 commission shall be made under section 35 of this chapter. No more
6 than four (4) commission members shall be from the same political
7 party.

8 No member of the commission shall hold any other salaried public
9 office, and no member shall hold an office in a political party
10 organization. Nor shall any member of the commission be eligible for
11 appointment to a judicial office in St. Joseph County who has, within
12 a period of four (4) years immediately preceding such an appointment,
13 served on the commission. If any non-attorney member of the
14 commission terminates his residence in St. Joseph County, he shall be
15 considered to have resigned from the commission.

16 **(b) The commission has the following membership:**

17 **(1) Two (2) members of the general assembly who:**

18 **(A) reside in St. Joseph County; and**

19 **(B) are appointed by the governor.**

20 **(2) The mayor of South Bend or the mayor's designee.**

21 **(3) The mayor of Mishawaka or the mayor's designee.**

22 **(4) One (1) member of the county council of St. Joseph County**
23 **selected by a majority of the members of the county council.**

24 **(c) The commission shall select one (1) member of the**
25 **commission as its chairman.**

26 SECTION 37. IC 33-5-40-40 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 40. (a) When a vacancy
28 occurs in the St. Joseph superior court, the clerk of the court shall
29 promptly notify the chairman of the commission of the vacancy. The
30 chairman shall call a meeting of the commission within ten (10) days
31 following this notice. The commission shall submit its nominations of
32 five (5) candidates for each vacancy and certify them to the governor
33 as promptly as possible, and in any event not later than sixty (60) days
34 from the time the vacancy occurs. When it is known that a vacancy will
35 occur at a definite future date within the term of the governor then
36 serving, but the vacancy has not yet occurred, the clerk shall notify the
37 commission immediately, and the commission may within fifty (50)
38 days of the notice of vacancy make its nominations and submit to the
39 governor the names of five (5) persons nominated for the forthcoming
40 vacancy.

41 **(b) Meetings of the commission shall be called by its chairman, or**
42 **in the event of his failure to call a necessary meeting, upon the call of**



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1 any ~~four (4)~~ **three (3)** members of the commission. The chairman,
 2 whenever he deems a meeting necessary, or upon the request by any
 3 ~~four (4)~~ **three (3)** members of the commission for a meeting, shall give
 4 each member of the commission at least five (5) days written notice by
 5 mail of the time and place of every meeting unless the commission at
 6 its previous meeting designated the time and place of its next meeting.

7 (c) Meetings of the commission are to be held at such a place in the
 8 St. Joseph County courthouse in South Bend, Indiana, as the clerk of
 9 the St. Joseph superior court may arrange.

10 (d) The commission shall act only at a meeting, and may act only by
 11 the concurrence of a majority of its members attending a meeting. ~~Four~~
 12 ~~(4)~~ **Three (3)** members are required to constitute a quorum at a
 13 meeting. The commission shall have power to adopt reasonable and
 14 proper rules and regulations for the conduct of its proceedings and the
 15 discharge of its duties.

16 SECTION 38. IC 33-5-40-44 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 44. A vacancy
 18 occurring in the St. Joseph superior court shall be filled by appointment
 19 of the governor from a list of nominees presented to him by the judicial
 20 nominating commission. If the governor fails to make an appointment
 21 from the list within sixty (60) days from the day it is presented to him,
 22 the appointment shall be made by the chief justice, or the acting chief
 23 justice, of the supreme court of Indiana from the same list presented to
 24 the governor.

25 The governor shall make all appointments to the St. Joseph superior
 26 court without regard to the political affiliation of any of the nominees
 27 submitted to him. Further in the interest of justice, the governor shall
 28 consider only those qualifications of the nominees included in section
 29 41 of this chapter.

30 If the St. Joseph County judicial nominating commission shall by a
 31 vote of any ~~five (5)~~ **four (4)** of its members determine that, of the
 32 persons considered for any existing or expected vacancy in the St.
 33 Joseph superior court, less than five (5) are qualified for judicial office,
 34 within the scope of this chapter, it shall certify that determination to the
 35 governor together with the name or names of the person or persons
 36 whom it has found to be qualified as under this chapter; and in that
 37 event, the governor, chief justice or acting chief justice shall make the
 38 selection or, if but one name is submitted, make the appointment
 39 forthwith.

40 SECTION 39. IC 33-5-40-48 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 48. **(a) This subsection**
 42 **does not apply to the chief judge of the court.** During his term of

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1 office, no judge of the St. Joseph superior court shall engage in the
 2 practice of law, run for an elective office other than a judicial office,
 3 directly or indirectly make any contributions to, or hold any office in,
 4 a political party or organization; nor shall he take part in any political
 5 campaign except if he be a candidate for retention in judicial office
 6 and, in that event, his campaign participation shall be absolutely devoid
 7 of partisan association and shall be limited to activities designed to
 8 acquaint the electorate with his judicial record.

9 **(b) This subsection applies to the chief judge of the court.**
 10 **During the chief judge's term of office, the chief judge of the St.**
 11 **Joseph superior court may not:**

- 12 **(1) engage in the practice of law;**
 13 **(2) run for an elective office;**
 14 **(3) directly or indirectly make any contributions to, or hold**
 15 **any office in, a political party or organization; or**
 16 **(4) take part in any political campaign other than for a**
 17 **judicial office.**

18 **(c)** Failure to comply with this section shall be sufficient cause for
 19 the commission on judicial qualifications created by this chapter to
 20 recommend to the supreme court of Indiana that such judge be
 21 censured or removed from office.

22 SECTION 40. IC 33-5-40-51 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 51. (a) The judicial
 24 qualifications commission shall meet from time to time as may be
 25 necessary to discharge its statutory responsibilities. Meetings of the
 26 commission shall be called in the same manner as prescribed for the
 27 judicial nominating commission. A quorum for the transaction of
 28 business shall be ~~four (4)~~ **three (3)** members of the commission.

29 **(b)** The clerk of the St. Joseph circuit court shall make such
 30 arrangements for a meeting place in St. Joseph County as the
 31 commission may request.

32 **(c)** The commission shall act only at a meeting. The commission
 33 shall have the power to adopt reasonable and proper rules and
 34 regulations for the conduct of its meetings and discharge of its duties.

35 SECTION 41. IC 33-5-40-64 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. If the commission
 37 finds good cause, it shall recommend to the supreme court the censure,
 38 retirement or removal of the judge. The affirmative vote of ~~four (4)~~
 39 **three (3)** members of the commission, including a majority of those
 40 who were present at the hearing or hearings when the evidence was
 41 produced, is required for a recommendation of discipline, retirement or
 42 removal of a judge.



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1 SECTION 42. IC 33-5-40-73 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 1999]: **Sec. 73. (a) The judges of the court
 4 may jointly appoint one (1) full-time magistrate under IC 33-4-7 to
 5 serve the court.**

6 **(b) A magistrate continues in office until removed by the judges
 7 of the court.**

8 SECTION 43. IC 33-5-42.2 IS ADDED TO THE INDIANA CODE
 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 10 JANUARY 1, 2001]:

11 **Chapter 42.2. Tippecanoe Superior Court No. 4, No. 5, and No.
 12 6**

13 **Sec. 1. There are established three (3) courts of record in
 14 Tippecanoe County to be known as:**

15 **(1) Tippecanoe superior court No. 4;**

16 **(2) Tippecanoe superior court No. 5; and**

17 **(3) Tippecanoe superior court No. 6;**

18 **(referred to as "the court" in this chapter). Tippecanoe superior
 19 court No. 4, No. 5, and No. 6 may each have a seal containing the
 20 words "Tippecanoe Superior Court No. (Insert Court Division
 21 Number), Tippecanoe County, Indiana". Tippecanoe County
 22 comprises the judicial district of each court.**

23 **Sec. 2. (a) Tippecanoe superior court No. 4, No. 5, and No. 6
 24 each has one (1) judge, who shall be elected at the general election
 25 every six (6) years in Tippecanoe County. The judge's term begins
 26 January 1 following the election and ends December 31 following
 27 the election of the judge's successor.**

28 **(b) To be eligible to hold office as judge of the court, a person
 29 must be:**

30 **(1) a resident of Tippecanoe County;**

31 **(2) less than seventy (70) years of age at the time of taking
 32 office; and**

33 **(3) admitted to the bar of Indiana.**

34 **Sec. 3. (a) Except as provided in subsection (b), each court has
 35 the same jurisdiction as the Tippecanoe circuit court.**

36 **(b) Tippecanoe superior court No. 4, No. 5, and No. 6 do not
 37 have probate or juvenile jurisdiction.**

38 **Sec. 4. The judges of Tippecanoe superior court No. 4, No. 5,
 39 and No. 6 have the same powers relating to the conduct of the
 40 business of Tippecanoe superior court No. 4, No. 5, and No. 6 as the
 41 judge of the Tippecanoe circuit court. The judge of each court also
 42 may administer oaths, solemnize marriages, and take and certify**



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1 acknowledgments of deeds.

2 **Sec. 5. The judges of Tippecanoe superior court No. 4, No. 5,**
3 **and No. 6:**

4 (1) shall each appoint a bailiff and an official court reporter
5 for the court; and

6 (2) may each appoint other court personnel necessary to
7 facilitate and transact the business of the court.

8 A person appointed under this section serves at the pleasure of the
9 judge appointing the person. Their salaries shall be fixed in the
10 same manner as the salaries of the bailiff, official court reporter,
11 and other personnel for the Tippecanoe circuit court. Their
12 salaries shall be paid monthly out of the treasury of Tippecanoe
13 County as provided by law.

14 **Sec. 6. The judges of Tippecanoe superior court No. 4, No. 5,**
15 **and No. 6 shall jointly appoint one (1) full-time magistrate under**
16 **IC 33-4-7. The magistrate continues in office until jointly removed**
17 **by the judges of the courts.**

18 **Sec. 7. The clerk of the circuit court, under the direction of the**
19 **judge of a court, shall provide order books, judgment dockets,**
20 **execution dockets, fee books, and other books for the court, which**
21 **shall be kept separately from the books and papers of other courts.**

22 **Sec. 8. Each court shall hold its sessions in the Tippecanoe**
23 **County courthouse in Lafayette, Indiana, or in other places in the**
24 **county that the Tippecanoe county executive may provide. The**
25 **county executive shall provide and maintain a suitable courtroom**
26 **and other rooms and facilities, including furniture and equipment,**
27 **as may be necessary for each court. The Tippecanoe County fiscal**
28 **body shall appropriate sufficient funds for the provision and**
29 **maintenance of these rooms and facilities.**

30 **Sec. 9. The jury commissioners appointed by the judge of the**
31 **Tippecanoe circuit court shall serve as the jury commissioners for**
32 **Tippecanoe superior court No. 4, No. 5, and No. 6. Juries shall be**
33 **selected in the same manner as juries for the Tippecanoe circuit**
34 **court. The grand jury selected for the Tippecanoe circuit court**
35 **shall also serve as the grand jury for a court as may be necessary.**

36 **Sec. 10. The judge of the Tippecanoe circuit court or another**
37 **superior court in the county may, with the consent of the judge of**
38 **Tippecanoe superior court No. 4, No. 5, or No. 6, transfer any**
39 **action or proceeding from the circuit court to Tippecanoe superior**
40 **court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior**
41 **court No. 4, No. 5, or No. 6 may, with consent of the judge of the**
42 **circuit court or the judge of another superior court in the county,**



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1 transfer any action or proceeding from Tippecanoe superior court
2 No. 4, No. 5, or No. 6 to the circuit court or the other superior
3 court in the county.

4 **Sec. 11.** The judge of the Tippecanoe circuit court or another
5 superior court in the county may, with the consent of the judge of
6 Tippecanoe superior court No. 4, No. 5, or No. 6, sit as a judge of
7 the court in any matter as if the judge of the circuit court or the
8 other superior court were an elected judge of Tippecanoe superior
9 court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior
10 court No. 4, No. 5, or No. 6 may, with consent of the judge of the
11 circuit court or the judge of another superior court in the county,
12 sit as a judge of the circuit court or the other superior court in any
13 matter as if the judge of Tippecanoe superior court No. 4, No. 5, or
14 No. 6 were an elected judge of the circuit court or the other
15 superior court.

16 **Sec. 12.** Tippecanoe superior court No. 4, No. 5, and No. 6 each
17 has a standard small claims and misdemeanor division.

18 **Sec. 13. (a)** Except as provided in this section, a judge of
19 Tippecanoe superior court No. 4, No. 5, or No. 6 may adopt rules
20 for conducting business in the court.

21 (b) Rules adopted under this section must be consistent with the
22 laws of Indiana and the rules adopted by the supreme court.

23 (c) When adopting local rules to govern in all the courts of
24 record in the county, the judge of the circuit court and the judges
25 of all superior courts in the county shall act in concert. In the event
26 of a disagreement, the decision of a majority of the judges controls.
27 In the event of a tie, the decision joined by the circuit court judge
28 controls.

29 (d) The judges of Tippecanoe superior court No. 4, No. 5, and
30 No. 6 shall jointly adopt rules to provide for the coordination and
31 conduct of the standard small claims and misdemeanor divisions
32 in the courts.

33 **Sec. 14. (a)** The judges of Tippecanoe superior court No. 4, No.
34 5, and No. 6, by rules jointly adopted by the courts, shall designate
35 one (1) of the judges of the courts as presiding judge for the
36 standard small claims and misdemeanor divisions of the courts.

37 (b) The presiding judge shall insure that the standard small
38 claims divisions operate efficiently.

39 SECTION 44. IC 33-5-43-1.1 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.1. (a) The judges of
41 the Vanderburgh superior court may jointly appoint not more than ~~two~~
42 (2) **four (4)** full-time magistrates under IC 33-4-7.



1 (b) A magistrate continues in office until jointly removed by the
2 judges.

3 SECTION 45. IC 33-5.1-2-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is
5 established a superior court in Marion County, Indiana. The court
6 consists of:

7 (1) thirty-one (31) judges, until ~~January 1, 2001~~; **July 1, 1999**;
8 and

9 (2) ~~thirty-two (32)~~ **thirty-six (36)** judges, after ~~December 31,~~
10 ~~2000~~. **June 30, 1999**.

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

14 (1) a resident of Marion County; and

15 (2) an attorney who has been admitted to the bar of Indiana for at
16 least five (5) years.

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

19 SECTION 46. IC 33-5.1-2-8 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) Each judge of the
21 court shall be elected for a term of six (6) years that shall commence
22 January 1 after the year of the judge's election and continue through
23 December 31 in the sixth year. The judge shall hold office for the six
24 (6) year term or until the judge's successor is elected and qualified. A
25 candidate for judge shall run at large for the office of judge of the court
26 and not as a candidate for judge of a particular room or division of the
27 court.

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

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

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

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

39 (c) The names of the party candidates nominated and properly
40 certified to the Marion County election board, along with the names of
41 other candidates who have qualified, shall be placed on the ballot at the
42 general election in the form prescribed by IC 3-11-2. All persons



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1 eligible to vote at the general election may vote for candidates for judge
2 of the court as follows:

3 (1) Beginning with the 1996 general election and every six (6)
4 years thereafter, for ~~fifteen (15)~~ **nineteen (19)** candidates for
5 judge of the court.

6 (2) Beginning with the 2000 general election and every six (6)
7 years thereafter, for seventeen (17) candidates for judge of the
8 court.

9 (d) The candidates for judge of the court receiving the highest
10 number of votes shall be elected to the vacancies. The names of the
11 candidates elected as judges of the court shall be certified to the county
12 election board as provided by law.

13 SECTION 47. IC 33-5.1-2-26 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding
15 judge may appoint one (1) full-time magistrate under IC 33-4-7.

16 (b) A magistrate appointed under this section may only hear
17 ~~(1) criminal proceedings brought under IC 35-48; and~~
18 ~~(2) drug related proceedings brought under IC 34-24-1 (or~~
19 ~~IC 34-4-30.1 before its repeal).~~

20 (c) The magistrate continues in office until removed by the
21 presiding judge.

22 SECTION 48. IC 33-5.1-2-27 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. (a) In addition to
24 the magistrate appointed under section 26 of this chapter, the judges of
25 the superior court may, by a vote of a majority of the judges, appoint
26 ~~four (4)~~ **eight (8)** full-time magistrates under IC 33-4-7.

27 (b) ~~Not more than two (2) of~~ The magistrates ~~appointed~~ under this
28 section ~~may be of~~ **shall be appointed, as nearly as possible, so that**
29 **not more than one-half (1/2) of all the magistrates belong to the**
30 same political party.

31 (c) The magistrates continue in office until removed by the vote of
32 a majority of the judges of the court.

33 (d) A party to a superior court proceeding that has been assigned to
34 a magistrate appointed under this section may request that an elected
35 judge of the superior court preside over the proceeding instead of the
36 magistrate to whom the proceeding has been assigned. Upon a request
37 made under this subsection by either party, the magistrate to whom the
38 proceeding has been assigned shall transfer the proceeding back to the
39 superior court judge.

40 SECTION 49. IC 33-8-2-25 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any
42 appointments made by the judge of the St. Joseph probate court under



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1 IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one~~
2 ~~(1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. ~~The A~~
3 ~~magistrate~~ may exercise:

- 4 (1) probate jurisdiction under IC 33-8-2-9; and
- 5 (2) juvenile jurisdiction under IC 33-8-2-10;
- 6 and continues in office until removed by the judge.

7 SECTION 50. IC 33-10.5-1-6 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. (a) The county
9 courts of the following counties each have two (2) judges:

- 10 Madison County.
- 11 ~~Tippecanoe County.~~
- 12 Vigo County.

13 **(b) The judges of the Madison county court and the judges of**
14 **the Madison superior court may jointly appoint one (1) full-time**
15 **magistrate under IC 33-4-7 to serve the county and superior**
16 **courts.**

17 **(c) The magistrate continues in office until removed by the**
18 **judges of the Madison county and superior courts.**

19 SECTION 51. IC 33-10.5-10-2 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) **This section**
21 **applies to the Tippecanoe county court.**

22 **(b) The judges of the county court may jointly appoint one (1)**
23 **full-time magistrate under IC 33-4-7.**

24 ~~(b)~~ **(c) The magistrate appointed under this chapter may also serve**
25 **the Tippecanoe circuit and superior courts.**

26 ~~(c)~~ **(d) The magistrate appointed under this chapter continues in**
27 **office until removed by the judges of the county court.**

28 SECTION 52. IC 33-10.5-10-3 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) **The judges of the Floyd**
31 **circuit court, Floyd superior court, and Floyd county court may**
32 **jointly appoint one (1) full-time magistrate under IC 33-4-7 to**
33 **serve the circuit, superior, and county courts.**

34 **(b) The magistrate continues in office until removed by the**
35 **judges of the Floyd circuit, superior, and county courts.**

36 SECTION 53. IC 33-19-5-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) For each action
38 that results in a felony conviction under IC 35-50-2 or a misdemeanor
39 conviction under IC 35-50-3, the clerk shall collect from the defendant
40 a criminal costs fee of one hundred twenty dollars (\$120).

41 **(b) In addition to the criminal costs fee collected under this section,**
42 **the clerk shall collect from the defendant the following fees if they are**

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- 1 required under IC 33-19-6:
- 2 (1) A document fee.
- 3 (2) A marijuana eradication program fee.
- 4 (3) An alcohol and drug services program user fee.
- 5 (4) A law enforcement continuing education program fee.
- 6 (5) A drug abuse, prosecution, interdiction, and correction fee.
- 7 (6) An alcohol and drug countermeasures fee.
- 8 (7) A child abuse prevention fee.
- 9 (8) A domestic violence prevention and treatment fee.
- 10 (9) A highway work zone fee.
- 11 (10) A deferred prosecution fee (IC 33-19-6-16.2).
- 12 **(11) A general justice fee (IC 33-19-6-18).**
- 13 (c) Instead of the criminal costs fee prescribed by this section, the
- 14 clerk shall collect a pretrial diversion program fee if an agreement
- 15 between the prosecuting attorney and the accused person entered into
- 16 under IC 33-14-1-7 requires payment of those fees by the accused
- 17 person. The pretrial diversion program fee is:
- 18 (1) an initial user's fee of fifty dollars (\$50); and
- 19 (2) a monthly user's fee of ten dollars (\$10) for each month that
- 20 the person remains in the pretrial diversion program.
- 21 (d) The clerk shall transfer to the county auditor or city or town
- 22 fiscal officer the following fees, within thirty (30) days after they are
- 23 collected, for deposit by the auditor or fiscal officer in the appropriate
- 24 user fee fund established under IC 33-19-8:
- 25 (1) The pretrial diversion fee.
- 26 (2) The marijuana eradication program fee.
- 27 (3) The alcohol and drug services program user fee.
- 28 (4) The law enforcement continuing education program fee.
- 29 (e) Unless otherwise directed by a court, if a clerk collects only part
- 30 of a criminal costs fee from a defendant under this section, the clerk
- 31 shall distribute the partial payment of the criminal costs fee as follows:
- 32 (1) First, the clerk shall apply the partial payment to general court
- 33 costs.
- 34 (2) Second, if there is money remaining after the partial payment
- 35 is applied to general court costs under subdivision (1), the clerk
- 36 shall distribute the partial payment for deposit in the appropriate
- 37 county user fee fund.
- 38 (3) Third, if there is money remaining after distribution under
- 39 subdivision (2), the clerk shall distribute the partial payment for
- 40 deposit in the state user fee fund.
- 41 (4) Fourth, if there is money remaining after distribution under
- 42 subdivision (3), the clerk shall distribute the partial payment to



1 any other applicable user fee fund.

2 (5) Fifth, if there is money remaining after distribution under
3 subdivision (4), the clerk shall apply the partial payment to any
4 outstanding fines owed by the defendant.

5 SECTION 54. IC 33-19-5-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) For each civil
7 action except:

8 (1) proceedings to enforce a statute defining an infraction under
9 IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

10 (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or
11 IC 34-4-32-4 before its repeal);

12 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;

13 (4) proceedings in paternity under IC 31-14;

14 (5) proceedings in small claims court under IC 33-11.6; and

15 (6) proceedings in actions under section 6 of this chapter;

16 the clerk shall collect from the party filing the action a civil costs fee
17 of one hundred dollars (\$100), except as provided in subsection (b).

18 (b) For each proceeding for the issuance of a protective order under
19 IC 34-26-2:

20 (1) the clerk shall initially collect thirty-five dollars (\$35) of the
21 civil costs fee from the party that filed the action or the court may
22 waive the initial thirty-five dollars (\$35) of the civil costs fee for
23 the party that filed the action; and

24 (2) upon disposition of the protective order petition under
25 IC 34-26-2, the court may order that:

26 (A) the remainder of the civil costs fee, in the amount of
27 sixty-five dollars (\$65), be assessed against the respondent in
28 the action as provided in IC 34-26-2-4 or against the party that
29 filed the action; and

30 (B) the initial thirty-five dollar (\$35) civil costs fee be
31 reimbursed by the respondent in the action to the party that
32 filed the action or assessed against the respondent in the action
33 as provided in IC 34-26-2-4.

34 (c) In addition to the civil costs fee collected under this section, the
35 clerk shall collect the following fees if they are required under
36 IC 33-19-6:

37 (1) A document fee.

38 (2) A support and maintenance fee.

39 (3) **A general justice fee (IC 33-19-6-18).**

40 SECTION 55. IC 33-19-5-5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) For each small
42 claims action the clerk shall collect from the party filing the action a

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1 small claims costs fee of thirty-five dollars (\$35).

2 (b) In addition to a small claims costs fee collected under this
3 section, the clerk shall collect a ~~document fee~~ if it is the following fees
4 if they are required under IC 33-19-6:

5 (1) A document fee.

6 (2) A general justice fee (IC 33-19-6-18).

7 SECTION 56. IC 33-19-6-18 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 1999]: **Sec. 18. (a) The clerk shall collect**
10 **from:**

11 (1) the defendant in each action that results in a:

12 (A) felony conviction under IC 35-50-2; or

13 (B) misdemeanor conviction under IC 35-50-3;

14 (2) the party filing a civil action except for a civil action
15 described in IC 33-19-5-4; and

16 (3) the party filing a small claims action;

17 a general justice fee of five dollars (\$5).

18 (b) The clerk shall collect from the defendant in each action that
19 results in a judgment for a violation constituting an infraction that
20 involves a moving traffic offense (as defined in IC 9-30-3-14(a)) a
21 general justice fee of four dollars (\$4).

22 SECTION 57. IC 33-19-7-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1. (a) The clerk of a**
24 **circuit court shall semiannually distribute to the auditor of state as the**
25 **state share for deposit in the state general fund seventy percent (70%)**
26 **of the amount of fees collected under the following:**

27 (1) IC 33-19-5-1(a) (criminal costs fees).

28 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

29 (3) IC 33-19-5-3(a) (juvenile costs fees).

30 (4) IC 33-19-5-4(a) (civil costs fees).

31 (5) IC 33-19-5-5(a) (small claims costs fees).

32 (6) IC 33-19-5-6(a) (probate costs fees).

33 (7) IC 33-19-6-16.2 (deferred prosecution fees).

34 (b) The clerk of a circuit court shall semiannually distribute to the
35 auditor of state for deposit in the state user fee fund established under
36 IC 33-19-9-2 the following:

37 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
38 interdiction, and correction fees collected under
39 IC 33-19-5-1(b)(5).

40 (2) Twenty-five percent (25%) of the alcohol and drug
41 countermeasures fees collected under IC 33-19-5-1(b)(6),
42 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).



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- 1 (3) Fifty percent (50%) of the child abuse prevention fees
 2 collected under IC 33-19-5-1(b)(7).
 3 (4) One hundred percent (100%) of the domestic violence
 4 prevention and treatment fees collected under IC 33-19-5-1(b)(8).
 5 (5) One hundred percent (100%) of the highway work zone fees
 6 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
 7 (6) One hundred percent (100%) of the safe schools fee collected
 8 under IC 33-19-6-16.3.
- 9 (c) The clerk of a circuit court shall monthly distribute to the county
 10 auditor the following:
 11 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 12 interdiction, and correction fees collected under
 13 IC 33-19-5-1(b)(5).
 14 (2) Seventy-five percent (75%) of the alcohol and drug
 15 countermeasures fees collected under IC 33-19-5-1(b)(6),
 16 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
 17 The county auditor shall deposit fees distributed by a clerk under this
 18 subsection into the county drug free community fund established under
 19 IC 5-2-11.
- 20 (d) The clerk of a circuit court shall monthly distribute to the county
 21 auditor fifty percent (50%) of the child abuse prevention fees collected
 22 under IC 33-19-5-1(b)(8). The county auditor shall deposit fees
 23 distributed by a clerk under this subsection into the county child
 24 advocacy fund established under IC 12-17-17.
- 25 **(e) The clerk of a circuit court shall semiannually distribute to**
 26 **the auditor of state for deposit in the state general fund one**
 27 **hundred percent (100%) of the general justice fee collected under**
 28 **IC 33-19-6-18.**
- 29 SECTION 58. IC 33-19-7-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The clerk of a
 31 city or town court shall semiannually distribute to the auditor of state
 32 as the state share for deposit in the state general fund fifty-five percent
 33 (55%) of the amount of fees collected under the following:
 34 (1) IC 33-19-5-1(a) (criminal costs fees).
 35 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
 36 (3) IC 33-19-5-4(a) (civil costs fees).
 37 (4) IC 33-19-5-5 (small claims costs fees).
 38 (5) IC 33-19-6-16.2 (deferred prosecution fees).
 39 (b) Once each month the city or town fiscal officer shall distribute
 40 to the county auditor as the county share twenty percent (20%) of the
 41 amount of fees collected under the following:
 42 (1) IC 33-19-5-1(a) (criminal costs fees).

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- 1 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 2 (3) IC 33-19-5-4(a) (civil costs fees).
- 3 (4) IC 33-19-5-5 (small claims costs fees).
- 4 (5) IC 33-19-6-16.2 (deferred prosecution fees).

5 (c) The city or town fiscal officer shall retain twenty-five percent
 6 (25%) as the city or town share of the fees collected under the
 7 following:

- 8 (1) IC 33-19-5-1(a) (criminal costs fees).
- 9 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 10 (3) IC 33-19-5-4(a) (civil costs fees).
- 11 (4) IC 33-19-5-5 (small claims costs fees).
- 12 (5) IC 33-19-6-16.2 (deferred prosecution fees).

13 (d) The clerk of a city or town court shall semiannually distribute to
 14 the auditor of state for deposit in the state user fee fund established
 15 under IC 33-19-9 the following:

- 16 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 17 interdiction, and corrections fees collected under
 18 IC 33-19-5-1(b)(5).
- 19 (2) Twenty-five percent (25%) of the alcohol and drug
 20 countermeasures fees collected under IC 33-19-5-1(b)(6),
 21 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- 22 (3) One hundred percent (100%) of the highway work zone fees
 23 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- 24 (4) One hundred percent (100%) of the safe schools fee collected
 25 under IC 33-19-6-16.3.

26 (e) The clerk of a city or town court shall monthly distribute to the
 27 county auditor the following:

- 28 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
 29 interdiction, and corrections fees collected under
 30 IC 33-19-5-1(b)(5).
- 31 (2) Seventy-five percent (75%) of the alcohol and drug
 32 countermeasures fees collected under IC 33-19-5-1(b)(6),
 33 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

34 The county auditor shall deposit fees distributed by a clerk under this
 35 subsection into the county drug free community fund established under
 36 IC 5-2-11.

37 **(f) The clerk of a city or town court shall semiannually**
 38 **distribute to the auditor of state for deposit in the state general**
 39 **fund one hundred percent (100%) of the general justice fee**
 40 **collected under IC 33-19-6-18.**

41 SECTION 59. THE FOLLOWING ARE REPEALED [EFFECTIVE
 42 JULY 1, 1999]: IC 33-5-40-35; IC 33-5-40-36; IC 33-5-40-37;



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1 IC 33-5-40-38; IC 33-5-40-39.

2 SECTION 60. IC 33-10.5-10 IS REPEALED [EFFECTIVE
3 JANUARY 1, 2001].

4 SECTION 61. [EFFECTIVE JULY 1, 1999] (a) **At midnight on
5 December 31, 2000, Tippecanoe county court No. 1 is abolished.**

6 (b) **Any case pending in Tippecanoe county court No. 1 after the
7 close of business on December 31, 2000, is transferred on January
8 1, 2001, to Tippecanoe superior court No. 4 established by
9 IC 33-5-42.2-1, as added by this act. All cases transferred under
10 this SECTION that are eligible to be heard by the standard small
11 claims and misdemeanor division shall be transferred to the
12 standard small claims and misdemeanor division of the court in
13 accordance with the venue requirements prescribed in Rule 75 of
14 the Indiana rules of trial procedure. A case transferred under this
15 SECTION shall be treated as if the case were filed in Tippecanoe
16 superior court No. 4.**

17 (c) **On January 1, 2001, all property and obligations of
18 Tippecanoe county court No. 1 become the property and
19 obligations of Tippecanoe superior court No. 4.**

20 (d) **The initial judge of Tippecanoe superior court No. 4,
21 established by IC 33-5-42.2-1, as added by this act, shall be the
22 person who is the Tippecanoe county court No. 1 judge on
23 December 31, 2000. The term of the initial judge begins January 1,
24 2001, and ends December 31, 2002. The initial election of a judge
25 for Tippecanoe superior court No. 4, established by IC 33-5-42.2-1,
26 as added by this act, shall be the general election conducted on
27 November 5, 2002. The term of the initial elected judge begins
28 January 1, 2003.**

29 (e) **This SECTION expires January 2, 2003.**

30 SECTION 62. [EFFECTIVE JULY 1, 1999] (a) **At midnight on
31 December 31, 2000, Tippecanoe county court No. 2 is abolished.**

32 (b) **Any case pending in Tippecanoe county court No. 2 after the
33 close of business on December 31, 2000, is transferred on January
34 1, 2001, to Tippecanoe superior court No. 5, established by
35 IC 33-5-42.2-1, as added by this act. All cases transferred under
36 this SECTION that are eligible to be heard by the standard small
37 claims and misdemeanor division shall be transferred to the
38 standard small claims and misdemeanor division of the court in
39 accordance with the venue requirements prescribed in Rule 75 of
40 the Indiana Rules of Trial Procedure. A case transferred under this
41 SECTION shall be treated as if the case were filed in Tippecanoe
42 superior court No. 5.**



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1 (c) On January 1, 2001, all property and obligations of
 2 Tippecanoe county court No. 2 become the property and
 3 obligations of Tippecanoe superior court No. 5.

4 (d) The initial judge of Tippecanoe superior court No. 5,
 5 established by IC 33-5-42.2-1, as added by this act, shall be the
 6 person who is the Tippecanoe county court No. 2 judge on
 7 December 31, 2000. The term of the initial judge begins January 1,
 8 2001, and ends December 31, 2002. The initial election of a judge
 9 for Tippecanoe superior court No. 5, established by IC 33-5-42.2-1,
 10 as added by this act, shall be the general election conducted on
 11 November 5, 2002. The term of the initial elected judge begins
 12 January 1, 2003.

13 (e) This SECTION expires January 2, 2003.

14 SECTION 63. [EFFECTIVE JULY 1, 1999] (a) The initial election
 15 of a judge for Tippecanoe superior court No. 6, established by
 16 IC 33-5-42.2-1, as added by this act, shall be the general election
 17 conducted on November 7, 2000. The term of the initial elected
 18 judge begins January 1, 2001.

19 (b) This SECTION expires January 2, 2003.

20 SECTION 64. [EFFECTIVE JULY 1, 1999] At midnight
 21 December 31, 2000, the office of magistrate of the Tippecanoe
 22 county court established by IC 33-10.5-10-2 is abolished. The
 23 magistrate serving as magistrate of the Tippecanoe county court on
 24 December 31, 2000, shall serve as the initial full-time magistrate
 25 for Tippecanoe superior court No. 4, Tippecanoe superior court
 26 No. 5, and Tippecanoe superior court No. 6 as if appointed for the
 27 superior courts under IC 33-4-7. The magistrate continues to serve
 28 until jointly removed by the judges of Tippecanoe superior court
 29 No. 4, Tippecanoe superior court No. 5, and Tippecanoe superior
 30 court No. 6.

31 SECTION 65. [EFFECTIVE JULY 1, 1999] (a) The initial election
 32 of a chief judge for St. Joseph superior court, established by
 33 IC 33-5-40-1(c), as added by this act, shall be the general election
 34 conducted on November 7, 2000. The term of the initial elected
 35 judge begins January 1, 2001.

36 (b) This SECTION expires January 2, 2003.

37 SECTION 66. [EFFECTIVE JULY 1, 1999] (a) On July 1, 1999,
 38 the Noble county court is abolished.

39 (b) Any case pending in the Noble county court after the close
 40 of business on June 30, 1999, is transferred on July 1, 1999, to the
 41 Noble superior court established by this act. All cases transferred
 42 under this SECTION that are eligible to be heard by the standard

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1 small claims and misdemeanor division shall be transferred to the
 2 standard small claims and misdemeanor division of the court. A
 3 case transferred under this SECTION shall be treated as if the case
 4 were filed in the Noble superior court.

5 (c) On July 1, 1999, all property and obligations of the Noble
 6 county court become the property and obligations of the Noble
 7 superior court.

8 (d) The initial judge of the Noble superior court added by
 9 IC 33-5-37.5-2, as amended by this act, shall be the person who is
 10 the Noble county court judge on June 30, 1999. The term of the
 11 initial judge begins July 1, 1999, and ends December 31, 2002. The
 12 initial election of a judge for the Noble superior court added by
 13 IC 33-5-37.5-2, as amended by this act, shall be the general election
 14 conducted on November 5, 2002. The term of the initial elected
 15 judge begins January 1, 2003.

16 (e) This SECTION expires January 2, 2003.

17 SECTION 67. [EFFECTIVE JULY 1, 1999] (a) The initial judge
 18 of the Elkhart superior court added by IC 33-5-13.1-2, as amended
 19 by this act, shall be elected at the general election to be held on
 20 November 7, 2000. The initial term of a judge described in this
 21 subsection begins January 1, 2001.

22 (b) The initial judges of the Lake superior court, civil division,
 23 added by IC 33-5-29.5-21 and IC 33-5-29.5-27, both as amended by
 24 this act, shall be appointed under IC 33-5-29.5 before January 1,
 25 2001. The initial term of a judge described in this subsection begins
 26 January 1, 2001.

27 (c) The initial judge of each court added to the Marion superior
 28 court by IC 33-5.1-2-1 and IC 33-5.1-2-8, both as amended by this
 29 act, shall be appointed by July 1, 1999. The initial election of a
 30 judge of each court added to the Marion superior court by
 31 IC 33-5.1-2-1 and IC 33-5.1-2-8, both as amended by this act, shall
 32 occur at the general election held on November 7, 2000. The initial
 33 term of a judge described in this subsection begins January 1, 2003.

34 (d) The initial judge of Lake superior court, county division No.
 35 4, added to the Lake superior court by IC 33-5-29.5-21 and
 36 IC 33-5-29.5-27, both as amended by this act, shall be elected at the
 37 general election held on November 7, 2000. The initial term of a
 38 judge described in this subsection begins January 1, 2001.

39 (e) This SECTION expires January 2, 2001.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1149, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 5. IC 33-4-1-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 47. (a) The county of Lawrence shall be and constitute the eighty-first judicial circuit of the State of Indiana.

(b) The judge of the Lawrence circuit court and the judges of the Lawrence superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Lawrence circuit and superior courts."

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 7. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. (a) The County of Sullivan shall be and constitute the fourteenth judicial circuit.

(b) The judge of the Sullivan circuit court and the judge of the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court."

Page 6, between lines 28 and 29, begin a new paragraph and insert:

"(c) The judge of the juvenile division may appoint one (1) full-time magistrate under IC 33-4-7 to serve the juvenile division. A magistrate appointed under this subsection continues in office until removed by the judge of the juvenile division."

Page 7, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 17. IC 33-5-33.1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8.5. (a) The judges of the Madison superior court and the judges of the Madison county court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the superior and county courts.

(b) The magistrate continues in office until removed by the judges of the Madison superior and county courts."

Page 9, line 27, delete "two (2)" and insert "**one (1)**".

Page 9, line 27, delete "magistrates" and insert "**magistrate**".

Page 9, line 41, strike "January 1, 2001;" and insert "**July 1, 1999;**".

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- Page 9, line 42, strike "December 31,".
- Page 10, line 1, strike "2000." and insert "**June 30, 1999.**".
- Page 10, line 23, strike "eight (8)" and insert "**ten (10)**".
- Page 10, line 26, reset in roman "nine (9)".
- Page 10, line 26, delete "eleven (11)".
- Page 10, line 37, strike "fifteen (15)" and insert "**nineteen (19)**".
- Page 10, line 39, reset in roman "seventeen (17)".
- Page 10, line 39, delete "twenty-one (21)".
- Page 11, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 34. IC 33-5.1-2-26 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding
judge may appoint one (1) full-time magistrate under IC 33-4-7.
- (b) A magistrate appointed under this section may only hear
(~~1~~) criminal proceedings. ~~brought under IC 35-48; and~~
(~~2~~) ~~drug related proceedings brought under IC 34-24-1 (or~~
~~IC 34-4-30.1 before its repeal).~~
- (c) The magistrate continues in office until removed by the
presiding judge."
- Page 11, line 7, delete "fourteen (14)" and insert "**ten (10)**".
- Page 11, line 8, strike "Not more than two (2) of".
- Page 11, line 8, delete "the" and insert "The".
- Page 11, line 8, strike "appointed".
- Page 11, line 9, strike "may be of" and insert "**shall be appointed,**
as nearly as possible, so that not more than one-half (1/2) of all the
magistrates belong to".
- Page 11, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 37. IC 33-10.5-1-6 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) The county
courts of the following counties each have two (2) judges:
- Madison County.
Tippecanoe County.
Vigo County.
- (b) **The judges of the Madison county court and the judges of
the Madison superior court may jointly appoint one (1) full-time
magistrate under IC 33-4-7 to serve the county and superior
courts.**
- (c) **The magistrate continues in office until removed by the
judges of the Madison county and superior courts.**"
- Page 13, line 19, delete "elected" and insert "**appointed by July 1,
1999. The initial election of a judge of each court added to the
Marion superior court by IC 33-5.1-2-1 and IC 33-5.1-2-8, both as
amended by this act, shall occur**".

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Page 13, line 19, delete "7" and insert "**5, 2002.**".

Page 13, line 20, delete "2000."

Page 13, line 21, delete "2001." and insert "**2003.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1149 as introduced.)

DVORAKA, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1149, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the committee report of the Committee on Courts and Criminal Code adopted February 16, 1999.

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 5. IC 33-4-1-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 47. (a) The county of Lawrence shall be and constitute the eighty-first judicial circuit of the State of Indiana.

(b) The judge of the Lawrence circuit court and the judges of the Lawrence superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Lawrence circuit and superior courts."

Page 2, line 22, reset in roman "one (1)".

Page 2, line 22, delete "two (2)".

Page 2, line 23, reset in roman "magistrate".

Page 2, line 23, delete "magistrates".

Page 2, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 7. IC 33-4-1-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 77. (a) The County of Sullivan shall be and constitute the fourteenth judicial circuit.

(b) The judge of the Sullivan circuit court and the judge of the Sullivan superior court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judge of the Sullivan circuit court and the judge of the Sullivan superior court."

Page 2, line 33, delete "four (4)" and insert "**three (3)**".

Page 4, delete lines 8 through 42.

Page 5, delete lines 1 through 28.

Page 7, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 17. IC 33-5-33.1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 8.5. (a) The judges of the Madison superior court and the judges of the Madison county court may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the superior and county courts.**

(b) The magistrate continues in office until removed by the

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judges of the Madison superior and county courts."

Page 9, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 27. IC 33-5-40-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. **(a)** There is established a superior court in St. Joseph County, Indiana ~~which~~ **(referred to as "the court" in this chapter).**

(b) Before January 1, 2001, the court ~~shall consist~~ consists of eight (8) judges.

(c) After December 31, 2000, the court consists of nine (9) judges.

SECTION 28. IC 33-5-40-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. **(a) Before January 1, 2001,** the court, by rules duly adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time he shall preside. ~~and said~~

(b) After December 31, 2000, the additional judge added under section 1(c) of this chapter shall serve as the chief judge of the court. The chief judge shall be elected at the general election every six (6) years in St. Joseph County. The chief judge's term begins January 1 following the election and ends December 31 following the election of the chief judge's successor.

(c) To be eligible to hold office as chief judge of the court, a person must:

- (1) be a resident of St. Joseph County; and**
- (2) be admitted to the practice of law in Indiana.**

(d) The chief judge shall be responsible for the operation and conduct of the court and to seeing that ~~said~~ the court shall efficiently and judicially operate.

(e) The chief judge shall do the following:

- (1) Assign cases to a judge of the court or reassign cases from one (1) judge of the court to another judge of the court to ensure the efficient operation and conduct of the court.**
- (2) Assign and allocate courtrooms, other rooms, and other facilities to ensure the efficient operation and conduct of the court.**
- (3) Annually submit to the fiscal body of St. Joseph County a budget for the court.**
- (4) Make appointments or selections on behalf of the court that are required of a superior court judge under any statute.**
- (5) Direct the employment and management of court personnel.**
- (6) Conduct cooperative efforts with other courts for**



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establishing and administering shared programs and facilities.

(f) The provisions of sections 33 through 47 do not apply to the chief judge of the court.

SECTION 29. IC 33-5-40-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Whenever any action of the entire court is required, then the judges of the court will act in concert. In the event of disagreement, then the decision of the majority of the judges shall control. **However, if the judges are evenly divided, the decision joined by the chief judge controls.**

SECTION 30. IC 33-5-40-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The court shall, when in its opinion it shall be necessary, appoint such additional personnel for the proper administration of the court, including but not limited to an administrative officer who shall operate under the jurisdiction of the **presiding chief** judge.

SECTION 31. IC 33-5-40-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. The judge of the circuit court may, with the consent of **this court the chief judge**, transfer any action, cause, or proceeding filed and docketed in the circuit court to this court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with this court.

SECTION 32. IC 33-5-40-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. ~~Any~~ **The chief** judge of this court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in this court to the circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the circuit court.

SECTION 33. IC 33-5-40-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. The judge of the St. Joseph Circuit Court shall be, at ~~his~~ **the circuit court judge's** discretion, authorized to sit as a judge of this court, with the ~~court's~~ **chief judge's** permission, in all matters pending before this court, without limitation and without any further order, in the same manner and stead as if ~~he~~ **the judge of the circuit court** were a judge of this court with all the rights and powers as if ~~he~~ **the judge of the circuit court** were a duly elected judge of this court.

SECTION 34. IC 33-5-40-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 34. (a) The judicial

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nominating commission, hereafter called the commission, shall consist of ~~seven (7)~~ **five (5)** members, the majority of whom shall form a quorum. ~~The chief justice of Indiana shall appoint a justice of the Indiana supreme court or a judge of the Indiana court of appeals to serve as a member and chairman of the commission until a successor is appointed. Those admitted to the practice of law in the state of Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, pursuant to sections 36 and 37 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates his residence in St. Joseph county or discontinues the maintenance of his principal law office in St. Joseph county, he shall be considered to have resigned from the commission. The three (3) remaining members of the commission shall be persons not admitted to the practice of law, herein after referred to as "non-attorney members", and residents of St. Joseph County. However, no more than two (2) of the non-attorney members shall be from the same political party and that the appointment of the non-attorney members of the commission shall be made under section 35 of this chapter. No more than four (4) commission members shall be from the same political party.~~

No member of the commission shall hold any other salaried public office, and no member shall hold an office in a political party organization. Nor shall any member of the commission be eligible for appointment to a judicial office in St. Joseph County who has, within a period of four (4) years immediately preceding such an appointment, served on the commission. If any non-attorney member of the commission terminates his residence in St. Joseph County, he shall be considered to have resigned from the commission.

(b) The commission has the following membership:

(1) Two (2) members of the general assembly who:

(A) reside in St. Joseph County; and

(B) are appointed by the governor.

(2) The mayor of South Bend or the mayor's designee.

(3) The mayor of Mishawaka or the mayor's designee.

(4) One (1) member of the county council of St. Joseph County selected by a majority of the members of the county council.

(c) The commission shall select one (1) member of the commission as its chairman.

SECTION 35. IC 33-5-40-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 40. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall



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promptly notify the chairman of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following this notice. The commission shall submit its nominations of five (5) candidates for each vacancy and certify them to the governor as promptly as possible, and in any event not later than sixty (60) days from the time the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving, but the vacancy has not yet occurred, the clerk shall notify the commission immediately, and the commission may within fifty (50) days of the notice of vacancy make its nominations and submit to the governor the names of five (5) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman, or in the event of his failure to call a necessary meeting, upon the call of any ~~four (4)~~ **three (3)** members of the commission. The chairman, whenever he deems a meeting necessary, or upon the request by any ~~four (4)~~ **three (3)** members of the commission for a meeting, shall give each member of the commission at least five (5) days written notice by mail of the time and place of every meeting unless the commission at its previous meeting designated the time and place of its next meeting.

(c) Meetings of the commission are to be held at such a place in the St. Joseph County courthouse in South Bend, Indiana, as the clerk of the St. Joseph superior court may arrange.

(d) The commission shall act only at a meeting, and may act only by the concurrence of a majority of its members attending a meeting. ~~Four (4)~~ **Three (3)** members are required to constitute a quorum at a meeting. The commission shall have power to adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

SECTION 36. IC 33-5-40-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 44. A vacancy occurring in the St. Joseph superior court shall be filled by appointment of the governor from a list of nominees presented to him by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days from the day it is presented to him, the appointment shall be made by the chief justice, or the acting chief justice, of the supreme court of Indiana from the same list presented to the governor.

The governor shall make all appointments to the St. Joseph superior court without regard to the political affiliation of any of the nominees submitted to him. Further in the interest of justice, the governor shall consider only those qualifications of the nominees included in section



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41 of this chapter.

If the St. Joseph County judicial nominating commission shall by a vote of any ~~five (5)~~ **four (4)** of its members determine that, of the persons considered for any existing or expected vacancy in the St. Joseph superior court, less than five (5) are qualified for judicial office, within the scope of this chapter, it shall certify that determination to the governor together with the name or names of the person or persons whom it has found to be qualified as under this chapter; and in that event, the governor, chief justice or acting chief justice shall make the selection or, if but one name is submitted, make the appointment forthwith.

SECTION 37. IC 33-5-40-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 48. **(a) This subsection does not apply to the chief judge of the court.** During his term of office, no judge of the St. Joseph superior court shall engage in the practice of law, run for an elective office other than a judicial office, directly or indirectly make any contributions to, or hold any office in, a political party or organization; nor shall he take part in any political campaign except if he be a candidate for retention in judicial office and, in that event, his campaign participation shall be absolutely devoid of partisan association and shall be limited to activities designed to acquaint the electorate with his judicial record.

(b) This subsection applies to the chief judge of the court. During the chief judge's term of office, the chief judge of the St. Joseph superior court may not:

- (1) engage in the practice of law;**
- (2) run for an elective office;**
- (3) directly or indirectly make any contributions to, or hold any office in, a political party or organization; or**
- (4) take part in any political campaign other than for a judicial office.**

(c) Failure to comply with this section shall be sufficient cause for the commission on judicial qualifications created by this chapter to recommend to the supreme court of Indiana that such judge be censured or removed from office.

SECTION 38. IC 33-5-40-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 51. (a) The judicial qualifications commission shall meet from time to time as may be necessary to discharge its statutory responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business shall be ~~four (4)~~ **three (3)** members of the commission.



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(b) The clerk of the St. Joseph circuit court shall make such arrangements for a meeting place in St. Joseph County as the commission may request.

(c) The commission shall act only at a meeting. The commission shall have the power to adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

SECTION 39. IC 33-5-40-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. If the commission finds good cause, it shall recommend to the supreme court the censure, retirement or removal of the judge. The affirmative vote of ~~four (4)~~ **three (3)** members of the commission, including a majority of those who were present at the hearing or hearings when the evidence was produced, is required for a recommendation of discipline, retirement or removal of a judge."

Page 9, line 27, delete "two (2)" and insert "**one (1)**".

Page 9, line 27, delete "magistrates" and insert "**magistrate**".

Page 9, between lines 30 and 31, begin a new paragraph and insert: "SECTION 28. IC 33-5-42.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]:

Chapter 42.2. Tippecanoe Superior Court No. 4, No. 5, and No. 6

Sec. 1. There are established three (3) courts of record in Tippecanoe County to be known as:

- (1) Tippecanoe superior court No. 4;
- (2) Tippecanoe superior court No. 5; and
- (3) Tippecanoe superior court No. 6;

(referred to as "the court" in this chapter). Tippecanoe superior court No. 4, No. 5, and No. 6 may each have a seal containing the words "Tippecanoe Superior Court No. (Insert Court Division Number), Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of each court.

Sec. 2. (a) Tippecanoe superior court No. 4, No. 5, and No. 6 each has one (1) judge, who shall be elected at the general election every six (6) years in Tippecanoe County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must be:

- (1) a resident of Tippecanoe County;
- (2) less than seventy (70) years of age at the time of taking office; and



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(3) admitted to the bar of Indiana.

Sec. 3. (a) Except as provided in subsection (b), each court has the same jurisdiction as the Tippecanoe circuit court.

(b) Tippecanoe superior court No. 4, No. 5, and No. 6 do not have probate or juvenile jurisdiction.

Sec. 4. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 have the same powers relating to the conduct of the business of Tippecanoe superior court No. 4, No. 5, and No. 6 as the judge of the Tippecanoe circuit court. The judge of each court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6:

(1) shall each appoint a bailiff and an official court reporter for the court; and

(2) may each appoint other court personnel necessary to facilitate and transact the business of the court.

A person appointed under this section serves at the pleasure of the judge appointing the person. Their salaries shall be fixed in the same manner as the salaries of the bailiff, official court reporter, and other personnel for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

Sec. 6. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until jointly removed by the judges of the courts.

Sec. 7. The clerk of the circuit court, under the direction of the judge of a court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 8. Each court shall hold its sessions in the Tippecanoe County courthouse in Lafayette, Indiana, or in other places in the county that the Tippecanoe county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary for each court. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 9. The jury commissioners appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for Tippecanoe superior court No. 4, No. 5, and No. 6. Juries shall be



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selected in the same manner as juries for the Tippecanoe circuit court. The grand jury selected for the Tippecanoe circuit court shall also serve as the grand jury for a court as may be necessary.

Sec. 10. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, transfer any action or proceeding from the circuit court to Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with consent of the judge of the circuit court or the judge of another superior court in the county, transfer any action or proceeding from Tippecanoe superior court No. 4, No. 5, or No. 6 to the circuit court or the other superior court in the county.

Sec. 11. The judge of the Tippecanoe circuit court or another superior court in the county may, with the consent of the judge of Tippecanoe superior court No. 4, No. 5, or No. 6, sit as a judge of the court in any matter as if the judge of the circuit court or the other superior court were an elected judge of Tippecanoe superior court No. 4, No. 5, or No. 6. The judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may, with consent of the judge of the circuit court or the judge of another superior court in the county, sit as a judge of the circuit court or the other superior court in any matter as if the judge of Tippecanoe superior court No. 4, No. 5, or No. 6 were an elected judge of the circuit court or the other superior court.

Sec. 12. Tippecanoe superior court No. 4, No. 5, and No. 6 each has a standard small claims and misdemeanor division.

Sec. 13. (a) Except as provided in this section, a judge of Tippecanoe superior court No. 4, No. 5, or No. 6 may adopt rules for conducting business in the court.

(b) Rules adopted under this section must be consistent with the laws of Indiana and the rules adopted by the supreme court.

(c) When adopting local rules to govern in all the courts of record in the county, the judge of the circuit court and the judges of all superior courts in the county shall act in concert. In the event of a disagreement, the decision of a majority of the judges controls. In the event of a tie, the decision joined by the circuit court judge controls.

(d) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly adopt rules to provide for the coordination and conduct of the standard small claims and misdemeanor divisions in the courts.



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Sec. 14. (a) The judges of Tippecanoe superior court No. 4, No. 5, and No. 6, by rules jointly adopted by the courts, shall designate one (1) of the judges of the courts as presiding judge for the standard small claims and misdemeanor divisions of the courts.

(b) The presiding judge shall insure that the standard small claims divisions operate efficiently."

Page 9, line 34, delete "five (5)" and insert "**four (4)**".

Page 9, line 41, strike "January 1, 2001;" and insert "**July 1, 1999;**".

Page 9, line 42, strike "December 31,".

Page 10, line 1, strike "2000." and insert "**June 30, 1999.**".

Page 10, line 23, strike "eight (8)" and insert "**ten (10)**".

Page 10, line 26, reset in roman "nine (9)".

Page 10, line 26, delete "eleven (11)".

Page 10, line 37, strike "fifteen (15)" and insert "**nineteen (19)**".

Page 10, line 39, reset in roman "seventeen (17)".

Page 10, line 39, delete "twenty-one (21)".

Page 11, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 34. IC 33-5.1-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-4-7.

(b) A magistrate appointed under this section may only hear

(1) criminal proceedings. ~~brought under IC 35-48; and~~

(2) ~~drug related proceedings brought under IC 34-24-1 (or IC 34-4-30.1 before its repeal).~~

(c) The magistrate continues in office until removed by the presiding judge."

Page 11, line 7, delete "fourteen (14)" and insert "**eight (8)**".

Page 11, line 8, strike "Not more than two (2) of".

Page 11, line 8, delete "the" and insert "The".

Page 11, line 8, strike "appointed".

Page 11, line 9, strike "may be of" and insert "**shall be appointed, as nearly as possible, so that not more than one-half (1/2) of all the magistrates belong to**".

Page 11, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 33. IC 33-10.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. (a) The county courts of the following counties each have two (2) judges:

Madison County.

Tippecanoe County.

Vigo County.

(b) The judges of the Madison county court and the judges of the Madison superior court may jointly appoint one (1) full-time



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magistrate under IC 33-4-7 to serve the county and superior courts.

(c) The magistrate continues in office until removed by the judges of the Madison county and superior courts."

Page 12, delete lines 3 through 4, begin a new paragraph and insert:
"SECTION 35. IC 33-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) A drug abuse, prosecution, interdiction, and correction fee.
- (6) An alcohol and drug countermeasures fee.
- (7) A child abuse prevention fee.
- (8) A domestic violence prevention and treatment fee.
- (9) A highway work zone fee.
- (10) A deferred prosecution fee (IC 33-19-6-16.2).

(11) A general justice fee (IC 33-19-6-18).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk

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shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 36. IC 33-19-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100), except as provided in subsection (b).

(b) For each proceeding for the issuance of a protective order under IC 34-26-2:

- (1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and
- (2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:
 - (A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and
 - (B) the initial thirty-five dollar (\$35) civil costs fee be



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reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-26-2-4.

(c) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A general justice fee (IC 33-19-6-18).**

SECTION 37. IC 33-19-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35).

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect a ~~document fee~~ if it is **the following fees if they are** required under IC 33-19-6:

- (1) A document fee.**
- (2) A general justice fee (IC 33-19-6-18).**

SECTION 38. IC 33-19-6-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) **The clerk shall collect from:**

- (1) the defendant in each action that results in a:**
 - (A) felony conviction under IC 35-50-2; or**
 - (B) misdemeanor conviction under IC 35-50-3;**
 - (2) the party filing a civil action except for a civil action described in IC 33-19-5-4; and**
 - (3) the party filing a small claims action;**
- a general justice fee of five dollars (\$5).**

(b) The clerk shall collect from the defendant in each action that results in a judgment for a violation constituting an infraction that involves a moving traffic offense (as defined in IC 9-30-3-14(a)) a general justice fee of four dollars (\$4).

SECTION 39. IC 33-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).



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- (5) IC 33-19-5-5(a) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the general justice fee collected under IC 33-19-6-18.

SECTION 40. IC 33-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The clerk of a

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city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).



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- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the general justice fee collected under IC 33-19-6-18.

SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 33-5-40-35; IC 33-5-40-36; IC 33-5-40-37; IC 33-5-40-38; IC 33-5-40-39.

SECTION 42. IC 33-10.5-10 IS REPEALED [EFFECTIVE JANUARY 1, 2001].

SECTION 43. [EFFECTIVE JULY 1, 1999] (a) **At midnight on December 31, 2000, Tippecanoe county court No. 1 is abolished.**

(b) **Any case pending in Tippecanoe county court No. 1 after the close of business on December 31, 2000, is transferred on January 1, 2001, to Tippecanoe superior court No. 4 established by IC 33-5-42.2-1, as added by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana rules of trial procedure. A case transferred under this SECTION shall be treated as if the case were filed in Tippecanoe superior court No. 4.**

(c) **On January 1, 2001, all property and obligations of Tippecanoe county court No. 1 become the property and obligations of Tippecanoe superior court No. 4.**

(d) **The initial judge of Tippecanoe superior court No. 4, established by IC 33-5-42.2-1, as added by this act, shall be the person who is the Tippecanoe county court No. 1 judge on December 31, 2000. The term of the initial judge begins January 1, 2001, and ends December 31, 2002. The initial election of a judge for Tippecanoe superior court No. 4, established by IC 33-5-42.2-1, as added by this act, shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.**

(e) **This SECTION expires January 2, 2003.**

SECTION 44. [EFFECTIVE JULY 1, 1999] (a) **At midnight on**

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December 31, 2000, Tippecanoe county court No. 2 is abolished.

(b) Any case pending in Tippecanoe county court No. 2 after the close of business on December 31, 2000, is transferred on January 1, 2001, to Tippecanoe superior court No. 5, established by IC 33-5-42.2-1, as added by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in Tippecanoe superior court No. 5.

(c) On January 1, 2001, all property and obligations of Tippecanoe county court No. 2 become the property and obligations of Tippecanoe superior court No. 5.

(d) The initial judge of Tippecanoe superior court No. 5, established by IC 33-5-42.2-1, as added by this act, shall be the person who is the Tippecanoe county court No. 2 judge on December 31, 2000. The term of the initial judge begins January 1, 2001, and ends December 31, 2002. The initial election of a judge for Tippecanoe superior court No. 5, established by IC 33-5-42.2-1, as added by this act, shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.

(e) This SECTION expires January 2, 2003.

SECTION 45. [EFFECTIVE JULY 1, 1999] (a) The initial election of a judge for Tippecanoe superior court No. 6, established by IC 33-5-42.2-1, as added by this act, shall be the general election conducted on November 7, 2000. The term of the initial elected judge begins January 1, 2001.

(b) This SECTION expires January 2, 2003.

SECTION 46. [EFFECTIVE JULY 1, 1999] At midnight December 31, 2000, the office of magistrate of the Tippecanoe county court established by IC 33-10.5-10-2 is abolished. The magistrate serving as magistrate of the Tippecanoe county court on December 31, 2000, shall serve as the initial full-time magistrate for Tippecanoe superior court No. 4, Tippecanoe superior court No. 5, and Tippecanoe superior court No. 6 as if appointed for the superior courts under IC 33-4-7. The magistrate continues to serve until jointly removed by the judges of Tippecanoe superior court No. 4, Tippecanoe superior court No. 5, and Tippecanoe superior court No. 6.



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SECTION 47. [EFFECTIVE JULY 1, 1999] (a) **The initial election of a chief judge for St. Joseph superior court, established by IC 33-5-40-1(c), as added by this act, shall be the general election conducted on November 7, 2000. The term of the initial elected judge begins January 1, 2001.**

(b) **This SECTION expires January 2, 2003."**

Page 12, delete lines 27 through 42.

Page 13, delete lines 1 through 6.

Page 13, line 19, delete "elected" and insert "**appointed by July 1, 1999. The initial election of a judge of each court added to the Marion superior court by IC 33-5.1-2-1 and IC 33-5.1-2-8, both as amended by this act, shall occur**".

Page 13, line 19, delete "7" and insert "**5, 2002.**".

Page 13, line 20, delete "2000."

Page 13, line 21, delete "2001." and insert "**2003.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1149 as introduced and as amended by the committee report of the Committee on Courts and Criminal Code adopted February 16, 1999.)

BAUER, Chair

Committee Vote: yeas 19, nays 1.

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