



Printer's Reprint  
February 16, 1999

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## HOUSE BILL No. 1440

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DIGEST OF HB 1440 (Updated February 15, 1999 8:44 pm - DI 51)

**Citations Affected:** IC 3-8; IC 33-11.6; noncode.

**Synopsis:** Township small claims courts in Marion County. Makes various changes to convert Marion small claims courts to township small claims courts. Exempts judges serving on December 31, 2000, from the requirements that small claims court judges: (1) reside in the township where they serve; and (2) be attorneys.

**Effective:** January 1, 2001.

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### Crawford, Mahern

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January 19, 1999, read first time and referred to Committee on Courts and Criminal Code.  
February 10, 1999, amended, reported — Do Pass.  
February 15, 1999, read second time, amended, ordered engrossed.

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HB 1440—LS 7728/DI 51+



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.

## HOUSE BILL No. 1440

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JANUARY 1, 2001]: Sec. 30. A candidate for the office  
3 of judge of a small claims court must:  
4 (1) be a United States citizen upon taking office;  
5 (2) **either:**  
6 (A) have resided in the ~~county~~ **township from which the**  
7 **candidate is elected** for at least one (1) year upon taking  
8 office; **or**  
9 (B) **have been elected as a small claims court judge in the**  
10 **township before 1999;**  
11 (3) be of high moral character and reputation; and  
12 (4) **either:**  
13 (A) be admitted to the practice of law in Indiana upon filing a  
14 declaration of candidacy or petition of nomination or upon the  
15 filing of a certificate of candidate selection under IC 3-13-1-15  
16 or IC 3-13-2-8. ~~or~~  
17 (B) **have at least one (1) year of experience as a justice of the**

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peace before January 1, 1976, and have served as a justice of the peace on December 31, 1975.

SECTION 2. IC 33-11.6-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. ~~Creation:~~ There ~~is are~~ hereby created and established a **township** small claims ~~court~~ **courts** in each county containing a consolidated city of the first class. The name of ~~the each~~ court shall be the " \_\_\_\_\_ **County Township of Marion County** Small Claims Court" (insert the name of the ~~county township~~ in the blank). ~~Such court shall become operational on January 1, 1976.~~

SECTION 3. IC 33-11.6-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. ~~Circuit Court Judge:~~ The judge of the circuit court shall extend aid and assistance to the judges in the conduct of ~~their divisions of the township small claims court:~~ **courts.**

SECTION 4. IC 33-11.6-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. ~~Hours of Service:~~ The circuit court judge may establish a regular hourly schedule for the performance of duties by full-time or part-time ~~divisions of township~~ small claims courts, and each small claims court judge shall maintain that schedule. If the circuit court judge does not establish a regular hourly schedule, each small claims court judge shall perform ~~his the judge's~~ duties at regular, reasonable hours. Whether or not a regular hourly schedule has been established by the circuit court judge, a small claims court judge shall hold sessions in addition to ~~his the judge's~~ regular schedule whenever the business of ~~his division the judge's court~~ requires such sessions.

SECTION 5. IC 33-11.6-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. ~~Seal:~~ Each judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal shall contain the words " \_\_\_\_\_ **County Township of Marion County** Small Claims Court" \_\_\_\_\_ **Division**" (insert the name of the ~~county and the name of the township~~ in the ~~appropriate blanks~~: **blank**). Deeds, mortgages, powers of attorney, state warrants and all other instruments of writing pertaining to his official duty, duly attested by the seal and signature of the judge, shall be presumptive evidence of the official character of said court or judge in all courts in the state without further authentication.

SECTION 6. IC 33-11.6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~County-wide:~~ **The (a) Except for a claim between landlord and tenant, any case**

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1 **within the jurisdiction of the any small claims court and each of its**  
 2 **divisions, shall extend throughout the county. may be venued,**  
 3 **commenced, and decided in any township small claims court within**  
 4 **the county. However, upon a motion for change of venue filed by**  
 5 **the defendant within ten (10) days of service of the summons, the**  
 6 **township small claims court shall determine in accordance with**  
 7 **subsection (b) whether required venue lies with the court or with**  
 8 **another small claims court in the county in which the small claims**  
 9 **court in which the action was filed sits.**

10 **(b) The venue determination to be made under subsection (a)**  
 11 **must be made in the following order:**

12 **(1) In an action upon a debt or account, venue is in the**  
 13 **township where any defendant has consented to venue in a**  
 14 **writing signed by the defendant.**

15 **(2) Venue is in the township where a transaction or**  
 16 **occurrence giving rise to any part of the claim took place.**

17 **(3) Venue is in the township (in a county of the small claims**  
 18 **court) where the greater percentage of individual defendants**  
 19 **included in the complaint resides, or, if there is no such**  
 20 **greater percentage, the place where any individual defendant**  
 21 **so named resides, owns real estate, or rents an apartment or**  
 22 **real estate or where the principal office or place of business of**  
 23 **any defendant is located.**

24 **(4) Venue is in the township where the claim was filed if there**  
 25 **is no other township in the county in which the small claims**  
 26 **court sits in which required venue lies.**

27 **(c) Venue of any claim between landlord and tenant shall be in**  
 28 **the township where the real estate is located.**

29 **(d) If a written motion challenging venue is received by the**  
 30 **township small claims court, the court shall rule whether required**  
 31 **venue lies in the township of filing.**

32 **SECTION 7. IC 33-11.6-7-1 IS AMENDED TO READ AS**  
 33 **FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~Transfer of~~**  
 34 **~~Cases between Divisions.~~ The circuit court judge may transfer cases**  
 35 **from one (1) ~~division~~ **township small claims court** to another as the**  
 36 **needs of the small claims court may require.**

37 **SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE**  
 38 **JANUARY 1, 2001]: IC 33-11.6-1-5; IC 33-11.6-2-1.**

39 **SECTION 9. [EFFECTIVE JULY 1, 1999] A **judge of a small****  
 40 ****claims court serving July 1, 1999, who is not an attorney may****  
 41 ****continue in office until the judge's term expires. However, each****  
 42 ****candidate for judge of a small claims court in an election held after****



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1 **June 30, 1999, must be admitted to the practice of law in Indiana**  
2 **upon filing a declaration of candidacy or petition of nomination or**  
3 **upon the filing of a certificate of candidate selection under**  
4 **IC 3-13-1-15 or IC 3-13-2-8.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1440, 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 everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1440 as introduced.)

DVORAK, Chair

Committee Vote: yeas 11, nays 1.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1440 be amended to read as follows:

Page 1, line 12, strike "either:".

Page 1, line 13, strike "(A)".

Page 1, line 16, delete "; or" and insert ".or"

Page 1, strike line 17.

Page 2, strike lines 1 through 2.

Page 3, after line 38, begin a new paragraph and insert:

**"SECTION 9. [EFFECTIVE JULY 1, 1999] A judge of a small claims court serving July 1, 1999, who is not an attorney may continue in office until the judge's term expires. However, each candidate for judge of a small claims court in an election held after June 30, 1999, must be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8."**

(Reference is to HB 1440 as printed February 11, 1999.)

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