
HOUSE BILL No. 2032

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13-6-1; IC 5-8-1-19; IC 33-4-1-75.1; IC 33-5-40; IC 33-8-2-25; IC 34-46-2-30.4.

Synopsis: St. Joseph County courts. Requires the election of judges for the St. Joseph superior court. Eliminates the St. Joseph County judicial nominating commission and the St. Joseph County judicial qualifications commission. Adds one judge to the St. Joseph superior court to: (1) be elected at the November 5, 2000, general election; and (2) take office January 1, 2001. Divides the St. Joseph superior court into divisions that each have one judge. Specifies the jurisdiction of the divisions. Adds: (1) one full-time magistrate to the St. Joseph circuit court; and (2) one full-time magistrate to the St. Joseph probate court. Requires the judges of the St. Joseph superior court to designate by rule one of the judges as chief judge before September 1, 1999. Makes the
(Continued next page)

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

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January 27, 1999, read first time and referred to Committee on Courts and Criminal Code.

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chief judge responsible for the efficient operation and conduct of the court. Repeals a provision that requires the judges of the St. Joseph superior court to designate a presiding judge.

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Introduced

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. 2032



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 3-13-6-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A vacancy that occurs, other
3 than by resignation, in the office of judge of a circuit, superior, probate,
4 or county court shall be certified to the governor by the circuit court
5 clerk of the county in which the judge resided.
6 (b) A vacancy in the office of judge of a circuit court shall be filled
7 by the governor as provided by Article 5, Section 18 of the Constitution
8 of the State of Indiana. The person who is appointed holds the office
9 until:
10 (1) the end of the unexpired term; or
11 (2) a successor is elected at the next general election and
12 qualified;
13 whichever occurs first. The person elected at the general election
14 following an appointment to fill the vacancy, upon being qualified,
15 holds office for the six (6) year term prescribed by Article 7, Section 7



1 of the Constitution of the State of Indiana and until a successor is
2 elected and qualified.

3 (c) A vacancy in the office of judge of a superior, probate, or county
4 court shall be filled by the governor subject to the following:

5 (1) IC 33-5-5.1-37.1.

6 (2) IC 33-5-5.1-41.1.

7 (3) IC 33-5-29.5-39.

8 ~~(4) IC 33-5-40-44.~~

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

11 SECTION 2. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Under Article 7, Section 13
13 of the Constitution of the State of Indiana, whenever a circuit, superior,
14 probate, or county court judge or prosecuting attorney has been
15 convicted of corruption or any other high crime, the attorney general
16 shall bring proceedings in the supreme court, on information, in the
17 name of the state, for the removal from office of the judge or
18 prosecuting attorney.

19 (b) If the judgment is against the defendant, the defendant is
20 removed from office. The governor, the officer, or the entity required
21 to fill a vacancy under IC 3-13-6-2 shall, subject to:

22 (1) IC 33-5-5.1-37.1;

23 (2) IC 33-5-5.1-41.1; **and**

24 (3) IC 33-5-29.5-39; **and**

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

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

27 SECTION 3. IC 33-4-1-75.1 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 75.1. The judge of the
29 St. Joseph circuit court may appoint ~~one (1)~~ **two (2)** full-time
30 ~~magistrate~~ **magistrates** under IC 33-4-7 ~~The to serve the circuit~~
31 **court. A magistrate continues in office until removed by the judge.**

32 SECTION 4. IC 33-5-40-1 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is
34 established a superior court in St. Joseph County, Indiana ~~which~~
35 **(referred to as "the court" in this chapter).**

36 (b) **The court: shall consist**

37 **(1) consists of:**

38 **(A) eight (8) judges until January 1, 2001; and**

39 **(B) nine (9) judges after December 31, 2000;**

40 **who shall be elected at the general election every six (6) years**
41 **in St. Joseph County; and**

42 **(2) consists of:**

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1 (A) eight (8) divisions until January 1, 2001, each of which
 2 has one (1) judge, to be known as divisions No. 1, No. 2, No.
 3 3, No. 4, No. 5, No. 6, No. 7, and No. 8; and

4 (B) nine (9) divisions after December 31, 2000, each of
 5 which has one (1) judge, to be known as divisions No. 1, No.
 6 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, and No. 9.

7 A judge's term begins January 1 following the election and ends
 8 December 31 following the election of the judge's successor.

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

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

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

13 SECTION 5. IC 33-5-40-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. **Divisions No.**
 15 **1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, and No. 8** of the court for
 16 the county ~~has~~ have the following jurisdiction:

17 (1) Original, appellate, concurrent, and coextensive jurisdiction
 18 with the circuit court in all civil cases, criminal cases, and probate
 19 matters.

20 (2) Concurrent and coextensive jurisdiction with the circuit court
 21 in all cases of appeal from boards of county commissioners, and
 22 all other appellate jurisdiction vested in the circuit court.

23 (3) Concurrent and coextensive jurisdiction in all matters of
 24 probate and the settlement of decedents' estates, trusts, and
 25 guardianships.

26 (4) Jurisdiction in all other subject matters actionable in the
 27 circuit court.

28 (5) Original exclusive jurisdiction of all violations of ordinances
 29 of cities located in the county.

30 (6) Original exclusive jurisdiction in the trial of offenses
 31 constituting violation of traffic ordinances of the cities and
 32 violations of traffic laws of the state that occur in any city of St.
 33 Joseph County.

34 (7) Original jurisdiction of violations of traffic laws of the state
 35 that occur outside a city in St. Joseph County.

36 SECTION 6. IC 33-5-40-4.5 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4.5. **Only**
 38 **division No. 9** of the St. Joseph superior court has:

39 (1) a standard small claims and misdemeanor division;

40 (2) original exclusive jurisdiction in the trial of offenses
 41 constituting violation of traffic ordinances of the cities and
 42 violations of traffic laws of the state that occur in any city of

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1 **St. Joseph County; and**

2 **(3) original jurisdiction of violations of traffic laws of the state**
 3 **that occur outside a city in St. Joseph County.**

4 SECTION 7. IC 33-5-40-23.5 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 1999]: **Sec. 23.5. (a) The judges of the court**
 7 **shall designate by rule one (1) of the judges as chief judge and fix**
 8 **the time the chief judge shall preside.**

9 **(b) The chief judge is responsible for the efficient operation and**
 10 **conduct of the court, including assignment and allocation of**
 11 **courtrooms, other rooms, and other facilities necessary for the**
 12 **efficient operation and conduct of the court.**

13 **(c) The chief judge may reassign cases from one (1) judge of the**
 14 **court to another judge of the court if the chief judge determines**
 15 **that the change is necessary for the efficient operation of the court.**

16 SECTION 8. IC 33-5-40-24 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Whenever any
 18 action of the entire court is required, then the judges of the court will
 19 act in concert. ~~In the event of disagreement, then the decision of the~~
 20 ~~majority of the judges shall control. However, if the judges are evenly~~
 21 ~~divided, the decision joined by the chief judge controls.~~

22 SECTION 9. IC 33-5-40-25 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The court shall,
 24 when in its opinion it shall be necessary, appoint such additional
 25 personnel for the proper administration of the court, including but not
 26 limited to an administrative officer who shall operate under the
 27 jurisdiction of the ~~presiding chief~~ judge.

28 SECTION 10. IC 33-5-40-26 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. The judge of the
 30 circuit court may, with the consent of ~~this court~~ **the chief judge**,
 31 transfer any action, cause, or proceeding filed and docketed in the
 32 circuit court to this court by transferring all original papers and
 33 instruments filed in such action, cause, or proceeding without further
 34 transcript thereof to be redocketed and disposed of as if originally filed
 35 with this court.

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



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1 with the circuit court.

2 SECTION 12. IC 33-5-40-28 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. The judge of the St.
 4 Joseph Circuit Court shall be, at ~~his~~ **the judge's** discretion, authorized
 5 to sit as a judge of this court, with the ~~court's~~ **chief judge's** permission,
 6 in all matters pending before this court, without limitation and without
 7 any further order, in the same manner and stead as if ~~he~~ **the judge of**
 8 **the circuit court** were a judge of this court with all the rights and
 9 powers as if ~~he~~ **the judge of the circuit court** were a duly elected
 10 judge of this court.

11 SECTION 13. IC 33-8-2-25 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. In addition to any
 13 appointments made by the judge of the St. Joseph probate court under
 14 IC 31-31-3, the judge of the St. Joseph probate court may appoint ~~one~~
 15 **(+) two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-4-7. ~~The A~~
 16 ~~magistrate~~ may exercise:

17 (1) probate jurisdiction under IC 33-8-2-9; and

18 (2) juvenile jurisdiction under IC 33-8-2-10;

19 and continues in office until removed by the judge.

20 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
 21 JULY 1, 1999]: IC 33-5-40-23; IC 33-5-40-33 ; IC 33-5-40-34;
 22 IC 33-5-40-35; IC 33-5-40-36; IC 33-5-40-37; IC 33-5-40-38;
 23 IC 33-5-40-39; IC 33-5-40-40; IC 33-5-40-41; IC 33-5-40-42;
 24 IC 33-5-40-43; IC 33-5-40-44; IC 33-5-40-45; IC 33-5-40-46;
 25 IC 33-5-40-47; IC 33-5-40-48; IC 33-5-40-49; IC 33-5-40-50;
 26 IC 33-5-40-51; IC 33-5-40-52; IC 33-5-40-53; IC 33-5-40-54;
 27 IC 33-5-40-55; IC 33-5-40-56; IC 33-5-40-57; IC 33-5-40-58;
 28 IC 33-5-40-59; IC 33-5-40-60; IC 33-5-40-61; IC 33-5-40-62;
 29 IC 33-5-40-63; IC 33-5-40-64; IC 33-5-40-65; IC 33-5-40-66;
 30 IC 33-5-40-67; IC 33-5-40-68; IC 33-5-40-69; IC 33-5-40-70;
 31 IC 33-5-40-71; IC 33-5-40-72; IC 34-46-2-30.4.

32 SECTION 15. [EFFECTIVE JULY 1, 1999] (a) **Except as**
 33 **provided in subsection (b) and notwithstanding the amendment**
 34 **and repeal by this act of provisions in IC 33-5-40, the term of a**
 35 **judge in office in the St. Joseph superior court does not terminate**
 36 **until the date that the term would have terminated under the law**
 37 **in effect on June 30, 1999.**

38 (b) **Notwithstanding subsection (a), the terms of the two (2)**
 39 **judges of the St. Joseph superior court:**

40 (1) **whose terms are scheduled to expire December 31, 2000,**
 41 **under the law in effect on June 30, 1999; and**

42 (2) **who have served on the St. Joseph superior court as of**

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1 **June 30, 1999, for a longer period than any of the other judges**
 2 **whose terms are scheduled to expire December 31, 2000,**
 3 **under the law in effect on June 30, 1999;**
 4 **expire December 31, 2002.**

5 **(c) The election for the initial judge to be elected under**
 6 **IC 33-5-40, as amended by this act, to a superior court that exists**
 7 **in St. Joseph County on June 30, 1999, is the general election**
 8 **immediately preceding the date that the term of the judge in office**
 9 **on June 30, 1999, would have terminated under the law in effect on**
 10 **June 30, 1999.**

11 **(d) This SECTION expires January 1, 2008.**

12 **SECTION 16. [EFFECTIVE JULY 1, 1999] (a) The ninth judge of**
 13 **the St. Joseph superior court added under IC 33-5-40-1(b)(1)(B),**
 14 **as added by this act:**

15 **(1) shall be elected at the general election held November 5,**
 16 **2000; and**

17 **(2) takes office January 1, 2001.**

18 **(b) For purposes of IC 3-10-1-19(b)(3)(B) and**
 19 **IC 3-11-2-12(3)(B), the election of a judge under this SECTION**
 20 **shall be designated as an election of a judge to division No. 9 of the**
 21 **St. Joseph superior court on the election ballot.**

22 **(c) The judge elected under this SECTION shall serve in**
 23 **division No. 9 of the St. Joseph superior court:**

24 **(1) established in IC 33-5-40-1(b)(2)(B), as added by this act;**
 25 **and**

26 **(2) that has the jurisdiction specified in IC 33-5-40-4.5, as**
 27 **amended by this act.**

28 **(d) This SECTION expires January 1, 2007.**

29 **SECTION 17. [EFFECTIVE JULY 1, 1999] (a) The judges of the**
 30 **St. Joseph superior court shall designate by rule one (1) of the**
 31 **judges as chief judge under IC 33-5-40-23.5, as added by this act,**
 32 **before September 1, 1999.**

33 **(b) The chief judge designated under subsection (a) shall assign**
 34 **each of the eight (8) judges of the St. Joseph superior court serving**
 35 **on September 1, 1999, to one (1) of the eight (8) divisions of the St.**
 36 **Joseph superior court established in IC 33-5-40-1(b)(2)(A), as**
 37 **added by this act, before October 1, 1999.**

38 **(c) This SECTION expires October 2, 1999.**

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