



January 15, 1999

# SENATE BILL No. 15

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-31; IC 33-4; IC 33-5; IC 33-5.1; IC 33-8; IC 33-13; noncode.

**Synopsis:** Juvenile court magistrates. Repeals a provision authorizing the judge of the juvenile court in a county with a population of more than 50,000 to appoint one or more full-time magistrates. Replaces the repealed law with provisions authorizing certain courts in Allen County, Elkhart County, Johnson County, Lake County, Marion County, Porter County, Vanderburgh County, and Vigo County to appoint magistrates. Repeals statutes requiring counties to pay part of the salary of a full-time magistrate. Allows juvenile court magistrates appointed under the repealed provisions to continue as magistrates. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** July 1, 1999.

**Bray, Alexa**

January 6, 1999, read first time and referred to Committee on Judiciary.  
January 14, 1999, amended, recommitted to Committee on Finance.

SB 15—LS 6356/DI 51+



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January 15, 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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## SENATE BILL No. 15

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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 33-4-1-20.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20.1. (a) The judges of  
3 the Elkhart circuit and superior courts may jointly appoint one (1)  
4 full-time magistrate under IC 33-4-7 to serve the circuit and superior  
5 courts.

6 ~~(b)~~ The magistrate **appointed under this subsection** continues in  
7 office until removed by the judges of the circuit and superior courts

8 **(b) In addition to the magistrate appointed under subsection (a),**  
9 **the judge of the Elkhart circuit court may appoint one (1) full-time**  
10 **magistrate under IC 33-4-7 to serve the circuit court. The**  
11 **magistrate appointed under this subsection continues in office until**  
12 **removed by the judge of the circuit court.**

13 SECTION 2. IC 33-4-1-41.1 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 41.1. (a) The judges of  
15 the Johnson circuit and superior courts may jointly appoint one (1)  
16 full-time magistrate to serve both the circuit and superior courts. **The**  
17 **magistrate continues in office until removed by the judges of the**

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1 **Johnson circuit and superior courts.**

2 (b) **In addition to the magistrate appointed under subsection (a),**  
 3 **the judge of the Johnson circuit court may appoint one (1) full-time**  
 4 **magistrate under IC 33-4-7.** The magistrate continues in office until  
 5 removed by the ~~judges~~ **judge** of the Johnson circuit ~~and superior~~  
 6 ~~courts:~~ **court.**

7 SECTION 3. IC 33-4-1-64 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. (a) The county of  
 9 Porter shall constitute the sixty-seventh judicial circuit.

10 (b) **The judge of the Porter circuit court may appoint one (1)**  
 11 **full-time magistrate under IC 33-4-7. The magistrate continues in**  
 12 **office until removed by the judge.**

13 SECTION 4. IC 33-4-1-84.1 IS ADDED TO THE INDIANA CODE  
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 15 1, 1999]: **Sec. 84.1. (a) The judges of the Vigo circuit and superior**  
 16 **courts may jointly appoint one (1) full-time magistrate to serve the**  
 17 **circuit and superior courts.**

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

20 SECTION 5. IC 33-4-7-10 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. ~~Except as provided~~  
 22 ~~in section 11 of this chapter,~~ The state shall pay the salary of a  
 23 magistrate. A county located in the circuit that the magistrate serves  
 24 may supplement the magistrate's salary.

25 SECTION 6. IC 33-5-5.1-8 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The court may  
 27 appoint such number of probate commissioners, juvenile referees,  
 28 bailiffs, court reporters, probation officers, and such other personnel,  
 29 including but not limited to an administrative officer, as shall in the  
 30 opinion of the court be necessary to facilitate and transact the business  
 31 of the court. In addition to the personnel authorized under this  
 32 subsection and IC 31-31-3, the judges of the Allen superior court-civil  
 33 division may jointly appoint not more than two (2) full-time magistrates  
 34 under IC 33-4-7 to serve the Allen superior court-civil division. The  
 35 judges of the Allen superior court-civil division may jointly assign any  
 36 such magistrates the duties and powers of a probate commissioner. In  
 37 addition to the personnel authorized under this subsection and  
 38 IC 31-31-3, the judge of the Allen superior court-criminal division may  
 39 jointly appoint not more than two (2) full-time magistrates under  
 40 IC 33-4-7 to serve the Allen superior court-criminal division. Any such  
 41 magistrate serves at the pleasure of, and continues in office until jointly  
 42 removed by, the judges of the division that appointed the magistrate.



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1 All appointments made under this subsection shall be made without  
2 regard to the political affiliation of the appointees. **In addition to the**  
3 **personnel authorized under this subsection and IC 31-31-3, the**  
4 **judges of Allen superior court-family relations division may jointly**  
5 **appoint three (3) full-time magistrates under IC 33-4-7.** The salaries  
6 of the above personnel shall be fixed and paid as provided by law. If  
7 the salaries of any of the above personnel are not provided by law, the  
8 amount and time of payment of such salaries shall be fixed by the  
9 court, to be paid out of the county treasury by the county auditor, upon  
10 the order of the court, and be entered of record. The officers and  
11 persons so appointed shall perform such duties as are prescribed by the  
12 court. Any such administrative officer appointed by the court shall  
13 operate under the jurisdiction of the chief judge and shall serve at the  
14 pleasure of the chief judge. Any such probate commissioners,  
15 magistrates, juvenile referees, bailiffs, court reporters, probation  
16 officers, and other personnel appointed by the court shall serve at the  
17 pleasure of the court.

18 (b) Any probate commissioner so appointed by the court may be  
19 vested by said court with all suitable powers for the handling and  
20 management of the probate and guardianship matters of the court,  
21 including the fixing of all bonds, the auditing of accounts of estates and  
22 guardianships and trusts, acceptance of reports, accounts, and  
23 settlements filed in said court, the appointment of personal  
24 representatives, guardians, and trustees, the probating of wills, the  
25 taking and hearing of evidence on or concerning such matters, or any  
26 other probate, guardianship, or trust matters in litigation before such  
27 court, the enforcement of court rules and regulations, the making of  
28 reports to the court concerning his doings in the above premises,  
29 including the taking and hearing of evidence together with such  
30 commissioner's findings and conclusions regarding the same, all of  
31 such matters, nevertheless, to be under the final jurisdiction and  
32 decision of the judges of said court.

33 (c) Any juvenile referee so appointed by the court may be vested by  
34 said court with all suitable powers for the handling and management of  
35 the juvenile matters of the court, including the fixing of bonds, the  
36 taking and hearing of evidence on or concerning any juvenile matters  
37 in litigation before the court, the enforcement of court rules and  
38 regulations, the making of reports to the court concerning his doings in  
39 the above premises, all of such matters, nevertheless, to be under final  
40 jurisdiction and decision of the judges of said court.

41 (d) For any and all the foregoing purposes, any probate  
42 commissioner and juvenile referee shall have the power to summon

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1 witnesses to testify before the said commissioner and juvenile referee,  
 2 to administer oaths and take acknowledgments in connection with and  
 3 in furtherance of said duties and powers.

4 SECTION 7. IC 33-5-29.5-7.3 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 1999]: **Sec. 7.3. The judge of the juvenile**  
 7 **division may appoint three (3) full-time magistrates under**  
 8 **IC 33-4-7. The magistrates continue in office until removed by the**  
 9 **judge of the juvenile division.**

10 SECTION 8. IC 33-5-29.5-7.4 IS ADDED TO THE INDIANA  
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 1999]: **Sec. 7.4. The chief judge of the**  
 13 **superior court may appoint one (1) full-time magistrate under**  
 14 **IC 33-4-7. The magistrate continues in office until removed by the**  
 15 **chief judge.**

16 SECTION 9. IC 33-5-29.5-8 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The senior judge  
 18 of each division may appoint the number of bailiffs, court reporters,  
 19 probation officers, and other personnel as in the opinion of the senior  
 20 judge is necessary to judicially and efficiently facilitate and transact the  
 21 business of the division. All appointments shall be made without regard  
 22 to the political affiliation of the appointees. The salaries of the court  
 23 personnel shall be fixed and paid as provided by law. The officers and  
 24 persons appointed shall:

- 25 (1) perform the duties prescribed by the senior judge of each
- 26 respective division; and
- 27 (2) serve at the pleasure of the senior judge.

28 (b) The court shall appoint an administrative officer who shall have  
 29 the duties as the court shall determine necessary to ensure the efficient  
 30 operation of the court. The court may appoint the number of deputy  
 31 administrative officers as the court considers necessary to facilitate and  
 32 transact the business of the court. Any appointment of an  
 33 administrative officer or deputy administrative officer shall be made  
 34 without regard to the political affiliation of the appointees. The salaries  
 35 of the administrative officer and any deputy administrative officer shall  
 36 be fixed by the court, to be paid out of the county treasury by the  
 37 county auditor, upon the order of the court, and entered of record. Any  
 38 administrative officer or deputy administrative officer appointed by the  
 39 court shall:

- 40 (1) operate under the jurisdiction of the chief judge; and
- 41 (2) serve at the pleasure of the chief judge.

42 (c) The court may appoint part-time juvenile referees ~~and~~



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1 ~~magistrates~~ as provided by IC 31-31-3.

2 (d) The court may appoint the number of probate commissioners  
3 provided for by IC 29-2-2. The probate commissioners shall be vested  
4 with the powers and duties provided by IC 29.

5 SECTION 10. IC 33-5-43-1.2 IS ADDED TO THE INDIANA  
6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 1999]: **Sec. 1.2. (a) In addition to the**  
8 **magistrates appointed under section 1.1 of this chapter, the judge**  
9 **of the juvenile division of the superior court may appoint one (1)**  
10 **full-time magistrate under IC 33-4-7.**

11 (b) **The magistrate continues in office until removed by the**  
12 **judge of the juvenile division.**

13 SECTION 11. IC 33-5-44.1-8.1 IS ADDED TO THE INDIANA  
14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 1999]: **Sec. 8.1. (a) The judges of the Vigo**  
16 **circuit and superior courts may jointly appoint one (1) full-time**  
17 **magistrate to serve the circuit and superior courts.**

18 (b) **The magistrate continues in office until removed by the**  
19 **judges of the Vigo circuit and superior courts.**

20 SECTION 12. IC 33-5.1-2-28 IS ADDED TO THE INDIANA  
21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 1999]: **Sec. 28. (a) In addition to the**  
23 **magistrates appointed under sections 26 and 27 of this chapter, the**  
24 **judge of the juvenile division of the superior court may appoint**  
25 **four (4) full-time magistrates under IC 33-4-7.**

26 (b) **The magistrates continue in office until removed by the**  
27 **judge of the juvenile division.**

28 SECTION 13. IC 33-8-2-25 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 25. In addition to any**  
30 **appointments made by the judge of the St. Joseph probate court under**  
31 **~~IC 31-31-3~~; The judge of the St. Joseph probate court may appoint one**  
32 **(1) full-time magistrate under IC 33-4-7. The magistrate may exercise:**

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

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

35 and continues in office until removed by the judge.

36 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE  
37 JULY 1, 1999]: IC 31-31-3-2; IC 33-4-7-11; IC 33-5-5.1-8.5;  
38 IC 33-13-12-8.2.

39 SECTION 15. [EFFECTIVE JULY 1, 1999] **The following**  
40 **juvenile magistrates appointed under IC 31-31-3-2 (before its**  
41 **repeal by this act) who are serving on June 30, 1999, continue to**  
42 **serve as a magistrate until removed by the judge of the court**

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served:

- (1) Three (3) magistrates appointed by the Allen superior court, family relations division, continue to serve under the authority of IC 33-5-5.1-8.1, as added by this act.**
- (2) One (1) magistrate appointed by the Elkhart circuit court continues to serve under the authority of IC 33-4-1-20, as amended by this act.**
- (3) One (1) magistrate appointed by the Johnson circuit court continues to serve under the authority of IC 33-4-1-41.1(b), as amended by this act.**
- (4) Three (3) magistrates appointed by the Lake superior court, juvenile division, continue to serve under the authority of IC 33-5-29.5-7.3, as added by this act.**
- (5) One (1) magistrate appointed by the Lake superior court continues to serve under the authority of IC 33-5-29.5-7.4, as added by this act.**
- (6) Four (4) magistrates appointed by the Marion superior court, juvenile division, continue to serve under the authority of IC 33-5.1-2-28, as added by this act.**
- (7) One (1) magistrate appointed by the Porter circuit court continues to serve under the authority of IC 33-4-1-64, as amended by this act.**
- (8) One (1) magistrate appointed by the Vanderburgh superior court, juvenile division, continues to serve under the authority of IC 33-5-43-1.2, as added by this act.**
- (9) One (1) magistrate appointed by the Vigo circuit and superior courts continues to serve under the authority of IC 33-5-44.1-8.1, as added by this act.**

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 15, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-4-1-20.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20.1. (a) The judges of the Elkhart circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(b) The magistrate **appointed under this subsection** continues in office until removed by the judges of the circuit and superior courts

**(b) In addition to the magistrate appointed under subsection (a), the judge of the Elkhart circuit court may appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit court. The magistrate appointed under this subsection continues in office until removed by the judge of the circuit court."**

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 64. (a) The county of Porter shall constitute the sixty-seventh judicial circuit.

**(b) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge."**

Page 2, delete lines 7 through 14, begin a new paragraph and insert:

"SECTION 5. IC 33-5-5.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The court may appoint such number of probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and such other personnel, including but not limited to an administrative officer, as shall in the opinion of the court be necessary to facilitate and transact the business of the court. In addition to the personnel authorized under this subsection and IC 31-31-3, the judges of the Allen superior court-civil division may jointly appoint not more than two (2) full-time magistrates under IC 33-4-7 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division may jointly assign any such magistrates the duties and powers of a probate commissioner. In addition to the personnel authorized under this subsection and IC 31-31-3, the judge of the Allen superior court-criminal division may jointly appoint not more than two (2) full-time magistrates under

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IC 33-4-7 to serve the Allen superior court-criminal division. Any such magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate. All appointments made under this subsection shall be made without regard to the political affiliation of the appointees. **In addition to the personnel authorized under this subsection and IC 31-31-3, the judges of Allen superior court-family relations division may jointly appoint three (3) full-time magistrates under IC 33-4-7.** The salaries of the above personnel shall be fixed and paid as provided by law. If the salaries of any of the above personnel are not provided by law, the amount and time of payment of such salaries shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and be entered of record. The officers and persons so appointed shall perform such duties as are prescribed by the court. Any such administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and shall serve at the pleasure of the chief judge. Any such probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court shall serve at the pleasure of the court.

(b) Any probate commissioner so appointed by the court may be vested by said court with all suitable powers for the handling and management of the probate and guardianship matters of the court, including the fixing of all bonds, the auditing of accounts of estates and guardianships and trusts, acceptance of reports, accounts, and settlements filed in said court, the appointment of personal representatives, guardians, and trustees, the probating of wills, the taking and hearing of evidence on or concerning such matters, or any other probate, guardianship, or trust matters in litigation before such court, the enforcement of court rules and regulations, the making of reports to the court concerning his doings in the above premises, including the taking and hearing of evidence together with such commissioner's findings and conclusions regarding the same, all of such matters, nevertheless, to be under the final jurisdiction and decision of the judges of said court.

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

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jurisdiction and decision of the judges of said court.

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

Page 2, delete lines 15 through 20.

Page 3, delete lines 22 through 26.

Page 4, line 27, delete "superior" and insert "**circuit**".

Page 4, line 29, delete "IC 33-5-13.1-4.1, as added" and insert "**IC 33-4-1-20, as amended**".

Page 4, line 42, delete "superior" and insert "**circuit**".

Page 5, line 1, delete "IC 33-5-38-33," and insert "**IC 33-4-1-64,**".

Renumber all SECTIONS consecutively.

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

(Reference is to Senate Bill 15 as introduced.)

ZAKAS, Acting Chairperson

Committee Vote: Yeas 10, Nays 0.

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