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# HOUSE BILL No. 1401

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-31-3-2; IC 33-4; IC 33-5; IC 33-5.1-2-28; IC 33-8-2-25; IC 33-13-12-8.2.

**Synopsis:** Conversion of juvenile referees to 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 Replaces the repealed law with provisions authorizing courts in Allen County, Elkhart County, Johnson County, Lake County, Marion County, Porter County, St. Joseph County, Vanderburgh County, and Vigo County to appoint full-time 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 Allows juvenile court magistrates appointed under the repealed provisions to continue as magistrates. Makes a correction in the statute governing the Elkhart circuit court to conform the number of magistrates appointed jointly with the Elkhart superior court to the law governing the Elkhart superior court. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** July 1, 2000.

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## Ayres, Villalpando

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January 11, 2000, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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# HOUSE BILL No. 1401



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, 2000]: Sec. 20.1. (a) The judges of  
3 the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~  
4 **three (3) full-time magistrate magistrates** under IC 33-4-7 to serve the  
5 circuit and superior courts.

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

8 SECTION 2. IC 33-4-1-41.1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 41.1. (a) The judges of  
10 the Johnson circuit and superior courts may jointly appoint one (1)  
11 full-time magistrate to serve both the circuit and superior courts. **The**  
12 **magistrate continues in office until removed by the judges of the**  
13 **Johnson circuit and superior courts.**

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



1 ~~courts: court.~~

2 SECTION 3. IC 33-4-1-64 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 64. (a) The county of  
4 Porter shall constitute the sixty-seventh judicial circuit.

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

8 SECTION 4. IC 33-4-1-84 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 84. (a) The county of  
10 Vigo shall constitute the Forty-third Judicial Circuit.

11 **(b) The judges of the Vigo circuit and superior courts may**  
12 **jointly appoint one (1) full-time magistrate under IC 33-4-7 to**  
13 **serve the circuit and superior courts. A magistrate appointed**  
14 **under this section continues in office until removed by the judges**  
15 **of the circuit and superior courts.**

16 SECTION 5. IC 33-4-7-10 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. ~~Except as provided~~  
18 ~~in section 11 of this chapter,~~ The state shall pay the salary of a  
19 magistrate. A county located in the circuit that the magistrate serves  
20 may supplement the magistrate's salary.

21 SECTION 6. IC 33-5-5.1-8, AS AMENDED BY P.L.196-1999,  
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2000]: Sec. 8. (a) The court may appoint such number of  
24 probate commissioners, juvenile referees, bailiffs, court reporters,  
25 probation officers, and such other personnel, including but not limited  
26 to an administrative officer, as shall in the opinion of the court be  
27 necessary to facilitate and transact the business of the court. In addition  
28 to the personnel authorized under this subsection and IC 31-31-3, the  
29 judges of the Allen superior court-civil division may jointly appoint not  
30 more than four (4) full-time magistrates under IC 33-4-7 to serve the  
31 Allen superior court-civil division. The judges of the Allen superior  
32 court-civil division may jointly assign any such magistrates the duties  
33 and powers of a probate commissioner. ~~In addition to the personnel~~  
34 ~~authorized under this subsection and IC 31-31-3,~~ **The judges of the**  
35 **Allen superior court-family relations division may jointly appoint**  
36 **three (3) full-time magistrates under IC 33-4-7.** The judge of the  
37 Allen superior court-criminal division may jointly appoint not more  
38 than three (3) full-time magistrates under IC 33-4-7 to serve the Allen  
39 superior court-criminal division. Any such magistrate serves at the  
40 pleasure of, and continues in office until jointly removed by, the judges  
41 of the division that appointed the magistrate. All appointments made  
42 under this subsection shall be made without regard to the political



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1 affiliation of the appointees. The salaries of the above personnel shall  
2 be fixed and paid as provided by law. If the salaries of any of the above  
3 personnel are not provided by law, the amount and time of payment of  
4 such salaries shall be fixed by the court, to be paid out of the county  
5 treasury by the county auditor, upon the order of the court, and be  
6 entered of record. The officers and persons so appointed shall perform  
7 such duties as are prescribed by the court. Any such administrative  
8 officer appointed by the court shall operate under the jurisdiction of the  
9 chief judge and shall serve at the pleasure of the chief judge. Any such  
10 probate commissioners, magistrates, juvenile referees, bailiffs, court  
11 reporters, probation officers, and other personnel appointed by the  
12 court shall serve at the pleasure of the court.

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

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

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

41 (e) The powers of a magistrate appointed under this section include  
42 the powers provided in IC 33-4-7 and the power to enter a final order

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1 or judgment in any proceeding involving matters specified in  
 2 IC 33-5-2-4 (jurisdiction of small claims docket) or IC 34-26-2  
 3 (protective orders to prevent abuse).

4 SECTION 7. IC 33-5-13.1-16, AS AMENDED BY P.L.196-1999,  
 5 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2000]: Sec. 16. (a) The judges of the Elkhart circuit and  
 7 superior courts may jointly appoint ~~two (2)~~ **three (3)** full-time  
 8 magistrates under IC 33-4-7.

9 (b) The magistrate continues in office until removed by the judges  
 10 of the circuit and superior courts.

11 SECTION 8. IC 33-5-29.5-7.1, AS AMENDED BY P.L.196-1999,  
 12 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2000]: Sec. 7.1. (a) The judges of the criminal division may  
 14 appoint two (2) full-time magistrates under IC 33-4-7 to serve the  
 15 criminal division. A magistrate appointed under this subsection  
 16 continues in office until removed by the judges of the criminal division.

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

21 **(c) The judge of the juvenile division may appoint three (3)**  
 22 **full-time magistrates under IC 33-4-7. A magistrate appointed**  
 23 **under this subsection continues in office until removed by the judge**  
 24 **of the juvenile division.**

25 **(d) The chief judge of the superior court may appoint one (1)**  
 26 **full-time magistrate under IC 33-4-7. A magistrate appointed**  
 27 **under this subsection continues in office until removed by the chief**  
 28 **judge.**

29 SECTION 9. IC 33-5-29.5-8, AS AMENDED BY P.L.1-1997,  
 30 SECTION 125, IS AMENDED TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The senior judge of each  
 32 division may appoint the number of bailiffs, court reporters, probation  
 33 officers, and other personnel as in the opinion of the senior judge is  
 34 necessary to judicially and efficiently facilitate and transact the  
 35 business of the division. All appointments shall be made without regard  
 36 to the political affiliation of the appointees. The salaries of the court  
 37 personnel shall be fixed and paid as provided by law. The officers and  
 38 persons appointed shall:

39 (1) perform the duties prescribed by the senior judge of each  
 40 respective division; and

41 (2) serve at the pleasure of the senior judge.

42 (b) The court shall appoint an administrative officer who shall have



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1 the duties as the court shall determine necessary to ensure the efficient  
 2 operation of the court. The court may appoint the number of deputy  
 3 administrative officers as the court considers necessary to facilitate and  
 4 transact the business of the court. Any appointment of an  
 5 administrative officer or deputy administrative officer shall be made  
 6 without regard to the political affiliation of the appointees. The salaries  
 7 of the administrative officer and any deputy administrative officer shall  
 8 be fixed by the court, to be paid out of the county treasury by the  
 9 county auditor, upon the order of the court, and entered of record. Any  
 10 administrative officer or deputy administrative officer appointed by the  
 11 court shall:

12 (1) operate under the jurisdiction of the chief judge; and

13 (2) serve at the pleasure of the chief judge.

14 (c) The court may appoint part-time juvenile referees ~~and~~  
 15 ~~magistrates~~ as provided by IC 31-31-3.

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

19 SECTION 10. IC 33-5-43-1.1, AS AMENDED BY P.L.196-1999,  
 20 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2000]: Sec. 1.1. (a) The judges of the Vanderburgh superior  
 22 court may jointly appoint not more than ~~four (4)~~ **five (5)** full-time  
 23 magistrates under IC 33-4-7.

24 (b) A magistrate continues in office until jointly removed by the  
 25 judges.

26 SECTION 11. IC 33-5-44.1-8 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The court may  
 28 appoint such number of commissioners, probate commissioners,  
 29 referees, juvenile referees, bailiffs, court reporters, probation officers,  
 30 and such other personnel, including but not limited to an administrative  
 31 officer, as shall in the opinion of the court be necessary to facilitate and  
 32 transact the business of the court. The salaries of the personnel shall be  
 33 fixed and paid as provided by law. However, if the salaries of any of  
 34 the personnel are not provided by law, the amount and time of payment  
 35 of such salaries shall be fixed by the court, to be paid out of the county  
 36 treasury by the county auditor upon the order of the court, and be  
 37 entered on record. The officers and persons so appointed shall perform  
 38 such duties as are prescribed by the court. Any such commissioners,  
 39 probate commissioners, referees, juvenile referees, probation officers,  
 40 and other personnel appointed by the court shall serve at the pleasure  
 41 of the court.

42 (b) Any probate commissioner so appointed by the court may be



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1 vested by said court with all suitable powers for the handling and  
 2 management of the probate and guardianship matters of the court,  
 3 including the fixing of all bonds, the auditing of accounts of estates and  
 4 guardianships and trusts, acceptance of reports, accounts and  
 5 settlements filed in said court, the appointment of personal  
 6 representatives, guardians and trustees, the probating of wills, the  
 7 taking and hearing of evidence on or concerning such matters, or any  
 8 other probate, guardianship or trust matters in litigation before such  
 9 court, the enforcement of court rules and regulations, and making of  
 10 reports to the court including the taking and hearing of evidence  
 11 together with such commissioner's findings and conclusions regarding  
 12 the same, all of such matters, nevertheless, to be under the final  
 13 jurisdiction and decision of the judges of said court.

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

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

27 (e) **The judges of the Vigo circuit and superior courts may**  
 28 **jointly appoint one (1) full-time magistrate to serve the circuit and**  
 29 **superior courts. The magistrate continues in office until removed**  
 30 **by the judges of the Vigo circuit and superior courts.**

31 SECTION 12. IC 33-5.1-2-28 IS ADDED TO THE INDIANA  
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2000]: **Sec. 28. (a) In addition to the**  
 34 **magistrates appointed under sections 26 and 27 of this chapter, the**  
 35 **judge of the juvenile division of the superior court may appoint**  
 36 **four (4) full-time magistrates under IC 33-4-7.**

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

39 SECTION 13. IC 33-8-2-25 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 25. In addition to any**  
 41 **appointments made by the judge of the St. Joseph probate court under**  
 42 **~~IC 31-31-3~~; The judge of the St. Joseph probate court may appoint one**



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1       (†) **two (2) full-time magistrate magistrates** under IC 33-4-7. ~~The A~~  
 2       magistrate **appointed under this section** may exercise:

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

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

5       and continues in office until removed by the judge.

6       SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 7       JULY 1, 2000]: IC 31-31-3-2; IC 33-4-7-11; IC 33-5-5.1-8.5;  
 8       IC 33-13-12-8.2.

9       SECTION 15. [EFFECTIVE JULY 1, 2000] **The following**  
 10       **juvenile magistrates appointed under IC 31-31-3-2 (before its**  
 11       **repeal by this act), compensated under IC 33-4-7-11 (before its**  
 12       **repeal by this act), and serving on June 30, 2000, continue to serve**  
 13       **as magistrates until removed by the judge or judges that the**  
 14       **magistrates will serve after the enactment of this act:**

15            (1) **Three (3) magistrates serving the Allen superior court,**  
 16            **family relations division, continue to serve under the**  
 17            **authority of IC 33-5-5.1-8, as amended by this act.**

18            (2) **One (1) magistrate serving the Elkhart circuit court**  
 19            **continues to serve under the authority of IC 33-4-1-20.1 and**  
 20            **IC 33-5-13.1-16, both as amended by this act.**

21            (3) **One (1) magistrate serving the Johnson circuit court**  
 22            **continues to serve under the authority of IC 33-4-1-41.1, as**  
 23            **amended by this act.**

24            (4) **Four (4) magistrates serving the Lake superior court,**  
 25            **juvenile division, continue to serve under the authority of**  
 26            **IC 33-5-29.5-7.1, as amended by this act.**

27            (5) **Four (4) magistrates serving the Marion superior court,**  
 28            **juvenile division, continue to serve under the authority of**  
 29            **IC 33-5.1-2-28, as added by this act.**

30            (6) **One (1) magistrate serving the Porter circuit court**  
 31            **continues to serve under the authority of IC 33-4-1-64, as**  
 32            **amended by this act.**

33            (7) **One (1) magistrate serving the St. Joseph probate court**  
 34            **continues to serve under the authority of IC 33-8-2-25, as**  
 35            **amended by this act.**

36            (8) **One (1) magistrate serving the Vanderburgh superior**  
 37            **court, juvenile division, continues to serve under the authority**  
 38            **of IC 33-5-43-1.1, as amended by this act.**

39            (9) **One (1) magistrate serving the Vigo circuit court continues**  
 40            **to serve under the authority of IC 33-4-1-84 and**  
 41            **IC 33-5-44.1-8, both as amended by this act.**



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