February 13, 2004

ENGROSSED
SENATE BILL No. 263

DIGEST OF SB 263 (Updated February 11, 2004 1:04 pm - DI 107)

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: Title 33 recodification. Recodifies Title 33 concerning courts and court officers to reorganize and restate the law without substantive change. Repeals current Title 33 provisions. Makes conforming amendments. (The introduced version of this bill was prepared by the code revision commission.)

Effective: July 1, 2004.

Kenley, Bowser, Landske

(HOUSE SPONSORS — KUZMAN, FOLEY)

January 8, 2004, read first time and referred to Committee on Judiciary.
January 22, 2004, reported favorably — Do Pass.
January 26, 2004, read second time, ordered engrossed. Engrossed.
January 27, 2004, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Judiciary.
February 12, 2004, reported — Do Pass.

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February 13, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 263

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:

SECTION 1. IC 33-22 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 22. EFFECT OF RECODIFICATION OF TITLE 33

Chapter 1. Effect of Recodification by the Act of the 2004 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning courts and court officers that are repealed or amended in the recodification act of the 2004 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2004 regular session of the general assembly.

Sec. 2. The purpose of the recodification act of the 2004 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2004 regular session of the

general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2004 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2003 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2004 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2004 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification

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act of the 2004 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2004 regular session of the general assembly does not:

(1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior law.

(c) The recodification act of the 2004 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2004 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2004 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2004 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2004 regular session of the general assembly to the extent that the recodification act of the 2004 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2004 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

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Sec. 7. A citation reference in the recodification act of the 2004 regular session of the general assembly to another provision of the recodification act of the 2004 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2004 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2004 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2004 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 2004 regular session of the general assembly; or

(2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June 30, 2004, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2004 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2004 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

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(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2004 regular session of the general assembly (July 1, 2004). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2004 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2004 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2004 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2004 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 33-23 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 23. GENERAL PROVISIONS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this title.

Sec. 2. "Chairperson" includes an acting chairperson.

Sec. 3. "Commission on judicial qualifications", except as used in IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 4. "Crime" means a felony or a misdemeanor.

Sec. 5. "Felony" means a violation of a statute for which a person may be imprisoned for more than one (1) year.

Sec. 6. "Infraction" means a violation of a statute for which a person may be fined but not imprisoned.

Sec. 7. "Judicial nominating commission", except as used in IC 33-33-2, IC 33-33-45, and IC 33-33-71, means the commission described in Article 7, Section 9 of the Constitution of the State of Indiana.

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Sec. 8. "Judicial office" means the office held by a judge or justice.

Sec. 9. "Misdemeanor" means a violation of a statute for which a person may be imprisoned for not more than one (1) year.

Sec. 10. "Offense" means a felony, a misdemeanor, an infraction, or a violation of a penal ordinance.

Sec. 11. "Vacancy" means an opening in a judicial office or an opening on the judicial nominating commission that occurs by reason of death, retirement, resignation, or removal.

Chapter 2. Court Terms and Schedules

Sec. 1. The term of court for all courts is the calendar year and the judges of a court may act in all matters and proceedings through the entire calendar year.

Sec. 2. If, at the expiration of the time fixed by law for the continuance of the term of a court, the trial of a case is progressing, the court may:

(1) continue sitting beyond the time;

(2) require the attendance of the jury and witnesses; and

(3) do, transact, and enforce all other matters necessary for the determination of the case.

The term of the court may not be considered to be ended until the case has been fully disposed of by the court.

Sec. 3. If a judicial circuit consists of two (2) or more courts, the judge of the circuit shall divide the judge's time and the attendance in each court as the business of the courts requires.

Sec. 4. All courts retain power and control over their judgments for ninety (90) days after rendering the judgments in the same manner and under the same conditions as they retained power and control during the term of court in which the judgments were rendered.

Sec. 5. If in any statute, rule, or order, a period is described or fixed by a term of court, a period of sixty (60) days for the purposes of time limitation only shall be substituted for the term of court.

Sec. 6. In setting for trial a case at issue and in discharging rules upon which time has run, a judge shall:

(1) fix regular periods for setting cases not exceeding one hundred twenty (120) days between the periods; or

(2) set each case by a docket sheet entry, on a day certain, with notice, either in person or by mail, of the date set to attorneys of record.

Chapter 3. Senior Judges

Sec. 1. (a) A circuit court, a superior court, a county court, a

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probate court, or the court of appeals may apply to the supreme court for the appointment of a senior judge to serve the court.

(b) The application submitted under this section must include the following:

(1) Reasons for the request.

(2) Estimated duration of the need for a senior judge.

Sec. 2. Upon approving the request by a circuit court, a superior court, a county court, a probate court, or the court of appeals for a senior judge, the supreme court may appoint a senior judge to serve that court for the duration specified in the application submitted under section 1 of this chapter.

Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) may serve as a domestic relations mediator, subject to the code of judicial conduct;

(3) serves at the pleasure of the supreme court; and

(4) serves in accordance with rules adopted by the supreme court under IC 33-24-3-7.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under section 5 of this chapter. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-23-6 in accordance with the county domestic relations alternative dispute resolution plan.

Sec. 4. The supreme court may not require a senior judge to accept an assignment to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals. If a senior judge declines an assignment to serve, the supreme court may offer the senior judge subsequent assignments to serve a circuit court, a superior court, a county court, a probate court, or the court of appeals.

Sec. 5. (a) A senior judge is entitled to the following compensation:

(1) For each of the first thirty (30) days of service in a calendar year, a per diem of fifty dollars ($50).

(2) Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars ($100).

(3) Reimbursement for:

(A) mileage; and

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(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge;

for each day served as a senior judge.

(b) Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.

(c) The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) total calendar days during a calendar year.

Chapter 4. Court Administrators

Sec. 1. This chapter does not apply to a county having a court administrator under Indiana law before July 29, 1975.

Sec. 2. The position of court administrator may be created by a majority vote of the judges in section 3 of this chapter in every county having a population according to the last United States decennial census of more than one hundred thousand (100,000) persons.

Sec. 3. The court administrator shall be appointed by and serve at the pleasure of the majority of the judges of the following courts of the county sitting in committee:

(1) Circuit court.

(2) Superior court.

(3) Juvenile court.

(4) Probate court.

(5) Criminal court.

Sec. 4. The court administrator:

(1) shall devote full time to the court administrator's official duties; and

(2) may not engage in any other profession for profit.

Sec. 5. (a) Sitting in committee, the judges of the courts listed in section 3 of this chapter in each county shall determine the duties of the court administrator; and the court administrator shall perform the administrative duties the judges determine.

(b) The salary of the court administrator shall be determined by a majority of the judges listed in section 3 of this chapter in each county, sitting in committee. The court administrator's salary shall

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be paid by the county upon the order of the majority of the committee of judges.

Sec. 6. (a) To implement this chapter, the judges of the courts, sitting in committee, may appoint additional personnel in sufficient number so that the courts are adequately served by the court administrator.

(b) The salaries of the additional personnel shall be paid by the county upon the order of the committee of judges.

Chapter 5. Magistrates

Sec. 1. This chapter applies to a court expressly authorized by statute to appoint a full-time magistrate.

Sec. 2. A magistrate must be admitted to the practice of law in Indiana.

Sec. 3. A magistrate may not engage in the practice of law while holding the office of magistrate.

Sec. 4. The files of applicants for appointment as a magistrate, including the names of applicants, are confidential as provided in IC 5-14-3-4(b)(8).

Sec. 5. A magistrate may do any of the following:

(1) Administer an oath or affirmation required by law.

(2) Solemnize a marriage.

(3) Take and certify an affidavit or deposition.

(4) Order that a subpoena be issued in a matter pending before the court.

(5) Compel the attendance of a witness.

(6) Punish contempt.

(7) Issue a warrant.

(8) Set bail.

(9) Enforce court rules.

(10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.

(11) Conduct an evidentiary hearing or trial.

(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

Sec. 6. A magistrate may serve as a judge pro tempore or as a special judge of the court. A magistrate is not entitled to additional compensation for service under this section.

Sec. 7. The court may assign a magistrate administrative duties

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that are consistent with this chapter.

Sec. 8. Except as provided under section 9(b) of this chapter, a magistrate:

(1) does not have the power of judicial mandate; and

(2) may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.

Sec. 9. (a) Except as provided under subsection (b), a magistrate shall report findings in an evidentiary hearing, a trial, or a jury's verdict to the court. The court shall enter the final order.

(b) If a magistrate presides at a criminal trial, the magistrate may do the following:

(1) Enter a final order.

(2) Conduct a sentencing hearing.

(3) Impose a sentence on a person convicted of a criminal offense.

Sec. 10. A magistrate is entitled to an annual salary equal to eighty percent (80%) of the salary of a judge under IC 33-38-5-6.

Sec. 11. Except as provided in section 12 of this chapter, the state shall pay the salary of a magistrate. A county located in the circuit that the magistrate serves may supplement the magistrate's salary.

Sec. 12. The salary of a magistrate appointed under IC 31-31-3-2 shall be paid in accordance with IC 33-38-5-7.

Sec. 13. A magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

Chapter 6. Circuit Court and Superior Court Domestic Relations Alternative Dispute Resolution

Sec. 1. (a) In addition to the fees required under IC 33-37-4-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars ($20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

Sec. 2. (a) There is established an alternative dispute resolution

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fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund is the alternative dispute resolution fee collected under section 1 of this chapter for the circuit or superior court, respectively.

(b) The funds shall be used to foster domestic relations alternative dispute resolution, including:

(1) mediation;

(2) reconciliation;

(3) nonbinding arbitration; and

(4) parental counseling.

Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit or superior court that exercises jurisdiction over domestic relations and paternity cases in the county. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(c) The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(d) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

Sec. 3. (a) A county desiring to participate in the program under this chapter must:

(1) develop a plan to carry out the purposes of section 2 of this chapter that is approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and

(2) submit the plan to the judicial conference of Indiana.

(b) The plan under subsection (a) must include:

(1) information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this chapter; and

(2) a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that

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primarily benefits those litigants who have the least ability to pay.

The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year summarizing the results of the program.

Chapter 7. Juvenile Court Jurisdiction

Sec. 1. A circuit court has juvenile jurisdiction unless this title provides that another court in the same county has exclusive juvenile jurisdiction.

Sec. 2. A court other than a circuit court has juvenile jurisdiction only if:

(1) this title specifically provides that the court has juvenile jurisdiction; or

(2) this title provides that the court has the same jurisdiction as a circuit court having juvenile jurisdiction.

Sec. 3. (a) When in session under this chapter, a court shall be known as the juvenile court.

(b) A juvenile court shall maintain its own docket, order book, and records.

Sec. 4. A juvenile court may adopt rules to:

(1) simplify; and

(2) expedite;

its own proceedings and decisions.

Chapter 8. Notice to Licensing Body of Insurance Fraud Conviction

Sec. 1. As used in this chapter, "governmental body" means an agency, a board, or a commission of the legislative, executive, or judicial branch of state government.

Sec. 2. As used in this chapter, "license" means an occupational or a professional license, registration, permit, or certificate issued by a governmental body.

Sec. 3. As used in this section, "practitioner" means a person who holds a license. The term includes the following:

(1) An attorney.

(2) A person practicing an occupation or a profession that is licensed under IC 27 or by a board referred to in IC 25-1-2-6(b).

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Sec. 4. If a practitioner is convicted under IC 35-43-5-4(10) of:

(1) insurance fraud;

(2) an attempt to commit insurance fraud; or

(3) conspiracy to commit insurance fraud;

the sentencing court shall provide notice of the conviction to each governmental body that has issued a license to the practitioner.

Chapter 9. Protection of Indiana National Guard Members on Active Duty

Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in Section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or a liability of an Indiana national guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

Chapter 10. Commission on Courts

Sec. 1. The commission on courts is established.

Sec. 2. The commission on courts is composed of the following thirteen (13) members:

(1) The chief justice of the supreme court or a representative designated by the chief justice.

(2) Four (4) members from the house of representatives, appointed by the speaker of the house of representatives, not more than two (2) of whom are from the same political party.

(3) Four (4) members from the senate, appointed by the president pro tempore of the senate, not more than two (2) of whom are from the same political party.

(4) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the president pro tempore of the senate as follows:

(A) One (1) member must be a sitting judge.

(B) One (1) member must be a county commissioner.

(5) Two (2) members, not more than one (1) of whom is from the same political party, appointed by the speaker of the house of representatives as follows:

(A) One (1) member must be a member of a county council.

(B) One (1) member must be a circuit court clerk.

Sec. 3. Each appointed member of the commission on courts

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serves for a term of four (4) years.

Sec. 4. The chairman of the legislative council shall appoint the chairperson and vice chairperson of the commission on courts from among the legislative members of the commission. The chairperson and vice chairperson:

(1) may not be members of the same political party;

(2) may not be from the same house of the general assembly; and

(3) must be appointed from a different house of the general assembly each year.

Sec. 5. (a) Each member of the commission on courts who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

Sec. 6. (a) The legislative services agency shall employ necessary staff to carry out the administrative duties and functions of the commission on courts, including the following:

(1) Giving notices of commission meetings and other communication services.

(2) Keeping records related to commission meetings, proceedings, and actions.

(3) Preparing the report required under section 7 of this chapter.

(4) Providing the detailed investigation necessary for the commission to fulfill the duties imposed under section 7 of this chapter.

(5) Preparing draft proposals required under section 7 of this chapter.

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(b) The legislative services agency shall not expend more than forty-eight thousand dollars ($48,000) per year to employ the staff required under subsection (a).

Sec. 7. The commission on courts shall do the following:

(1) Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the commission not later than July 1 of each year. A request received after July 1 may not be considered unless a majority of the commission members agrees to consider the request.

(2) Conduct research concerning requests for new courts or changes in jurisdiction of existing courts. The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.

(3) Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The commission shall hold at least one (1) public hearing on each request presented to the commission.

(4) Review and report on any other matters relating to court administration that the commission determines appropriate, including the following:

(A) Court fees.

(B) Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(C) Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.

(D) Jury selection.

(E) Any other issues relating to the operation of the courts.

(5) Submit a report in an electronic format under IC 5-14-6 before November 1 of each year to the general assembly. The report must include the following:

(A) A recommendation on all requests considered by the commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.

(B) If the commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:

(i) A draft of legislation implementing the changes.

(ii) A fiscal analysis of the cost to the state and local governments of implementing recommended changes.

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(iii) Summaries of any research supporting the recommended changes.

(iv) Summaries of public hearings held concerning the recommended changes.

(C) A recommendation on any issues considered by the commission under subdivision (4).

Sec. 8. This chapter expires June 30, 2007.

Chapter 11. Ethics

Sec. 1. As used in this chapter, "cause" means a trial, a hearing, an arraignment, a controversy, an appeal, a case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

Sec. 2. As used in this chapter, "close relative" means a person related to:

(1) another person filing a statement of economic interest; or

(2) the other person's spouse as a son, a daughter, a grandson, a granddaughter, a great-grandson, a great-granddaughter, a father, a mother, a grandfather, a grandmother, a great-grandfather, a great-grandmother, a brother, a sister, a nephew, a niece, an uncle, or an aunt.

For purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

Sec. 3. As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.

Sec. 4. As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.

Sec. 5. As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or the spouse of the judge, justice, or prosecuting attorney receives any nonstate income.

Sec. 6. As used in this chapter, "information of a confidential nature" means information that:

(1) is obtained by reason of the position or office held; and

(2) has not been or will not be communicated to the general public.

Sec. 7. (a) As used in this chapter, "judge" means a judge of the court of appeals, the tax court, or a circuit, superior, county, small claims, or probate court.

(b) The term includes a judge pro tempore, commissioner, or

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hearing officer if the judge pro tempore, commissioner, or hearing officer sits more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as a judge, commissioner, or hearing officer in any court.

Sec. 8. As used in this chapter, "person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

Sec. 9. A justice, judge, or prosecuting attorney may not participate in a cause that involves a matter in which the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney has an economic interest.

Sec. 10. The actions of a justice, judge, or prosecuting attorney in a cause that involves a legislator or a member of a legislator's family may not be influenced by any matters previously considered or to be considered by the legislator in the general assembly.

Sec. 11. A justice, judge, or prosecuting attorney shall promptly and fully disclose any economic interest or other personal stake the justice, judge, or prosecuting attorney or a member of the family of the justice, judge, or prosecuting attorney may have in a cause in which the justice, judge, or prosecuting attorney is a participant.

Sec. 12. A justice, judge, or prosecuting attorney may not accept any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature.

Sec. 13. A justice, judge, or prosecuting attorney may not accept compensation for the sale or lease of any property or service that exceeds the amount that the justice, judge, or prosecuting attorney would charge in the ordinary course of business from any person or entity whom the justice, judge, or prosecuting attorney knows, or has reason to know, has an economic interest in the outcome of a current or future cause in which the justice, judge, or prosecuting attorney is or may be a participant.

Sec. 14. (a) The following shall file with the commission on judicial qualifications an annual statement of economic interests:

(1) Justices, judges, prosecuting attorneys, and the clerk of the supreme court.

(2) Except as provided in subsection (c), any candidate for one (1) of the offices listed in subdivision (1) who is not the holder of that office.

(b) Justices and judges who are candidates for retention in office

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are subject to IC 3-9.

(c) This section does not apply to a candidate for an appointment pro tempore to fill a vacancy in an office under IC 3-13.

Sec. 15. (a) The statement of economic interests must be filed with the commission on judicial qualifications:

(1) not later than February 1 if the individual is required to file the statement as an officeholder; or

(2) if a candidate for office, before the individual (or a political party officer acting on behalf of the individual) files:

(A) a declaration of candidacy, if required under IC 3-8-2 or IC 3-8-4-11;

(B) a certified petition of nomination with the Indiana election division under IC 3-8-6;

(C) a certificate of nomination under IC 3-8-7-8;

(D) a certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or

(E) a declaration of intent to be a write-in candidate, if required under IC 3-8-2.

(b) In a county where judges are selected by a county commission on judicial qualifications, a candidate must file a statement with the county commission on judicial qualifications and with the commission on judicial qualifications.

Sec. 16. The statement of economic interests must set forth the following information for the preceding calendar year:

(1) The name and address of any person other than a spouse or close relative from whom the justice, judge, prosecuting attorney, or clerk of the supreme court received a gift or gifts having a total fair market value of more than one hundred dollars ($100).

(2) The name of the employer of the justice, judge, prosecuting attorney, or clerk of the supreme court and the employer of the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court.

(3) The nature of the employer's business.

(4) The name of any sole proprietorship owned or professional practice operated by the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court, and the nature of the business.

(5) The name of any partnership of which the justice, judge, prosecuting attorney, clerk of the supreme court, or the

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spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court is a member and the nature of the partnership's business.

(6) The name of any corporation (except a church) of which the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse of the justice, judge, prosecuting attorney, or clerk of the supreme court is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the justice, judge, prosecuting attorney, clerk of the supreme court, or the spouse or unemancipated children less than eighteen (18) years of age of the justice, judge, prosecuting attorney, or clerk of the supreme court own stock or stock options having a fair market value of more than ten thousand dollars ($10,000).

Sec. 17. A justice of the supreme court or judge of the court of appeals may not:

(1) engage in the practice of law;

(2) run for elected office other than a judicial office;

(3) directly or indirectly make any contribution to, or hold any office in, a political party or organization; or

(4) take part in any political campaign;

as provided in Article 7, Section 11 of the Constitution of the State of Indiana.

Chapter 12. Political Activity of Court Employees

Sec. 1. The general assembly finds that:

(1) the right of every citizen to freely participate in political activity is inherent in the guarantee of free speech contained in Article 1, Section 9 of the Constitution of the State of Indiana and in Amendment I to the Constitution of the United States;

(2) the right to freely participate in political activity is guaranteed to state employees under IC 4-15-10-2;

(3) the judiciary is not less subject to constitutional strictures against governmental interference with the free exercise of speech than are the executive and legislative branches of government; and

(4) employees in the judicial branch of state government have the same rights guaranteed to all Indiana citizens.

Sec. 2. (a) As used in this chapter, "court employee" means a person employed by any of the following:

(1) The supreme court.

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(2) The court of appeals.
(3) The tax court.
(4) A circuit court.
(5) A superior court.
(6) A juvenile court.
(7) A probate court.
(8) A county court.
(9) A municipal court.
(10) A city or town court.
(11) A small claims court.

(b) The term does not include a judge of any of the courts listed in subsection (a)(1) through (a)(11).

Sec. 3. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a court employee may not be:

(1) discouraged from engaging in political activity; or
(2) denied the right to choose to refrain from engaging in political activity.

Chapter 13. Defense of Judges and Prosecutors

Sec. 1. As used in this chapter, "judge" has the meaning set forth in IC 33-38-12-3.

Sec. 2. As used in this chapter, "prosecuting attorney" includes a senior prosecuting attorney appointed under IC 33-39-1.

Sec. 3. If a judge or prosecuting attorney is sued for civil damages or equitable relief and the suit would be construed, under notice pleading, as arising out of an act performed within the scope of the duties of the judge or prosecuting attorney, the attorney general shall:

(1) defend the judge or prosecuting attorney in the suit; or
(2) authorize the executive director of the division of state court administration to hire private counsel to provide the defense.

Sec. 4. This chapter does not permit the appointment of counsel for the defense of a judge or prosecuting attorney in criminal or disciplinary proceedings.

Sec. 5. This chapter does not:

(1) deprive a judge or prosecuting attorney of the judge's or prosecuting attorney's right to select defense counsel of the judge's or prosecuting attorney's own choice at the judge's or prosecuting attorney's own expense; or
(2) relieve a prosecuting attorney from responsibility for civil damages.

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Sec. 6. The attorney general may employ legal and other professional services necessary to adequately and fully perform the duties required by this chapter.

SECTION 3. IC 33-24 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 24. SUPREME COURT

Chapter 1. Justices and Jurisdiction

Sec. 1. (a) The supreme court consists of five (5) justices.

(b) Three (3) members of the supreme court constitute a quorum.

Sec. 2. (a) The supreme court has jurisdiction in appeals coextensive with the state and has jurisdiction as provided by the Constitution of the State of Indiana.

(b) The supreme court has exclusive jurisdiction to:

(1) admit attorneys to practice law in all courts of the state; and

(2) issue restraining orders and injunctions in all cases involving the unauthorized practice of the law;

under rules and regulations as the supreme court may prescribe.

Sec. 3. Except as provided in IC 34-56-1, an appeal may not be taken to the supreme court in any civil case where the amount in controversy, exclusive of interest and costs, does not exceed fifty dollars ($50).

Sec. 4. The justices of the supreme court, in their respective districts, may preside at the trial of any case pending in any county in a district in which the circuit judge is incompetent to preside.

Chapter 2. Retention of Justices

Sec. 1. Justices of the supreme court shall be approved or rejected by the electorate of the state under Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. A justice who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the justice is to be placed on the general election ballot, indicating that the justice wishes to have the question of the justice's retention placed on the ballot. The justice's statement must include a statement of the justice's name as:

(1) the justice wants the justice's name to appear on the ballot; and

(2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

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Sec. 3. This section applies to a justice:

(1) who does not file a statement under section 2 of this chapter; and

(2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the justice would have been placed on the general election ballot.

The term of a justice expires December 31 of the year in which the question of the justice's retention would have been placed on the ballot.

Sec. 4. This section applies to a justice:

(1) who files a statement under section 2 of this chapter; and

(2) whose retention is rejected by the electorate.

The term of a justice ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the justice has been removed. However, if the justice has filed a petition for a recount under IC 3-12-11, the term of the justice does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the justice.

Sec. 5. The question of approval or rejection of a justice shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall Justice (insert name (as permitted under IC 3-5-7) here) be retained in office?".

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the justice requests the name on the justice's voter registration record be the same as the name the justice uses on the statement. If there is a difference between the name on the justice's statement and the name on the justice's voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the justice's voter registration record to be the same as the name on the justice's statement.

Chapter 3. Duties and Powers

Sec. 1. The supreme court shall adopt and publish rules in conformity with IC 33-24-1-2(b) specifying the terms and conditions under which the supreme court and the court of appeals exercise jurisdiction.

Sec. 2. The judicial opinion or decision in each case determined by the supreme court shall be reduced to writing. Reports of these

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opinions and decisions may be published and distributed in the manner prescribed by the supreme court.

Sec. 3. (a) The supreme court shall have a seal that is devised by the justices of the supreme court.

(b) A description of the seal shall be recorded in the office of the secretary of state.

Sec. 4. The supreme court may do the following:

(1) Frame, direct, and cause to be used all process, establish modes of practice that may be necessary in the exercise of the supreme court's authority, and make and publish regulations concerning all process and modes of practice.

(2) Establish regulations concerning bonds required in appeals to the supreme court, the amount of the penalties related to the bonds, and for approving sureties executing bonds.

(3) Establish regulations concerning giving notice to officers of inferior courts of the granting of stay of execution, or of supersedeas.

(4) Establish regulations concerning proceedings that are requisite in the supreme court in the exercise of the supreme court's authority that are not specially provided for by law.

Sec. 5. The supreme court may:

(1) impose and administer all necessary oaths;

(2) punish by fine and imprisonment for contempt of the supreme court's authority; and

(3) process and compel the attendance of witnesses by attachment and fine.

Sec. 6. The supreme court may, by rule of court, provide that if:

(1) the Supreme Court of the United States, a circuit court of appeals of the United States, or the court of appeals of the District of Columbia determines that there are involved in any proceeding before the federal appellate court questions or propositions of the laws of Indiana that are determinative of the proceeding; and

(2) there are no clear controlling precedents in the decisions of the supreme court;

the federal appellate court may certify the questions or propositions of the laws of Indiana to the supreme court for instructions concerning the questions or propositions of state law, and the supreme court, by written opinion, may answer.

Sec. 7. (a) The supreme court may appoint a judge who is certified as a senior judge by the judicial nominating commission

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to serve a circuit court or a superior court if the court requests the services of a senior judge.

(b) The supreme court may adopt rules concerning:

(1) certification by the judicial nominating commission; and

(2) appointment by the supreme court;

of senior judges.

Chapter 4. Supreme Court Clerk

Sec. 1. (a) A clerk of the supreme court shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.

(b) The clerk shall execute a bond in the sum of two thousand dollars ($2,000).

Sec. 2. The clerk of the supreme court shall do the following:

(1) Reside, and keep the clerk's office open, in a building provided for that purpose by the state, at the seat of government, from 9 a.m. until 4 p.m. of every day in the year except Sundays and Independence Day.

(2) Procure and preserve in the office all records and other books and stationery required by the court.

(3) Attend, in person or by deputy, the terms of the court.

(4) Administer all oaths authorized by law.

(5) Sign and seal, with the seal, and issue all process required to be issued from the court, under the clerk's hand.

(6) Endorse the time of filing books, records, or writings required to be filed or deposited in the clerk's office.

(7) Make a complete record of all causes finally determined in the court, except the transcript of the court below.

Sec. 3. The supreme court shall allow the clerk of the supreme court a reasonable compensation for the record books and stationery furnished by the clerk for the use of the court if the clerk presents to the court an account specifying each item to be furnished to the court. The account presented by the clerk must be verified by an oath taken and subscribed by the clerk, to be administered by a justice of the court.

Sec. 4. An allowance made under section 3 of this chapter shall be entered on the order book of the supreme court. Upon receipt of a certified transcript of the allowance that is signed by a justice of the supreme court and attested by the seal of the court, the auditor of state shall issue a warrant for the allowance to the treasurer of state.

Sec. 5. (a) The clerk of the supreme court shall certify any

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opinion, decision, and judgment of the supreme court and of the court of appeals to the lower court from which the cause was appealed, in the manner provided by statute and by the rules of the supreme court.

(b) The clerk of the court from which the cause was appealed, upon receipt of the certification, shall file the certification with the papers in the cause, and that court shall order the opinion, decision, and judgment, including its certification, spread of record in the order book of the court.

Sec. 6. The supreme court shall annually appoint one (1) of its justices to inspect the office of the clerk of the supreme court and to report, at the next term, the condition of the records and books of that office. The report shall be entered on the order book of the court.

Sec. 7. At the expiration of the term of office of the clerk of the supreme court, the clerk shall deliver to the clerk's successor all the books and papers of the clerk's office.

Sec. 8. The clerk of the supreme court shall post a table of fees in a conspicuous place in the clerk's office. If the clerk fails to post a table of fees, the clerk may not demand or receive fees for services that the clerk renders.

Chapter 5. Supreme Court Sheriff

Sec. 1. (a) On the second Monday of January in each odd-numbered year, the supreme court shall appoint a sheriff.

(b) The sheriff of the supreme court must give bond in the sum of five thousand dollars ($5,000), with sureties to be approved by the court.

(c) The term of the sheriff's office is two (2) years.

(d) When a vacancy in the sheriff's office occurs in vacation, any two (2) of the justices of the court may appoint a sheriff to serve until the next term of the court, when the vacancy shall be filled by a vote of a majority of the court's justices.

Sec. 2. The sheriff of the supreme court or a county police officer shall:

(1) attend the court in term time;

(2) execute the orders of the court;

(3) preserve order within the court; and

(4) execute all process issued out of the court.

Sec. 3. (a) When any process, rule, or order, is received by the sheriff of the supreme court, the sheriff may transmit it by mail to the sheriff of the county where the process, rule, or order is to be served.

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(b) The sheriffs of each county are the deputies of the sheriff of the supreme court. However, each county sheriff is liable on the county sheriff's own bond for all acts done by the county sheriff as a deputy of the sheriff of the supreme court.

Sec. 4. (a) A county sheriff acting as a deputy of the sheriff of the supreme court may:

(1) enclose any process, rule, or order of the court that the county sheriff receives;

(2) direct the process, rule, or order to the sheriff of the supreme court; and

(3) deposit the process, rule, or order in a post office in the county sheriff's county ten (10) days before the return day of the process, rule, or order.

A county sheriff that complies with this subsection is not liable for failing to return the process, rule, or order.

(b) If money must be returned with a process, rule, or order described in subsection (a), the county sheriff may transmit the money by mail, enclosed with the process, rule, or order, addressed to the sheriff of the supreme court. However, the testimony of the postmaster that the payment was mailed is necessary to exempt the county sheriff from liability.

(c) In case of the return of any process, rule, or order of the court described in subsection (a) by any county sheriff, unserved or unsatisfied, the sheriff of the supreme court may visit any county and personally serve the process, rule, or order in the same manner provided by law for the service by county sheriffs. For this service, the sheriff of the supreme court is entitled to receive, for the distance actually traveled in going to and returning from the county seat of the county where the process, rule, or order is to be served, and from the county seat to the place where the process, rule, or order is served, a sum for mileage for each instance equal to the sum per mile paid to state employees and officers plus those other fees allowed by law to county sheriffs, with the rate for mileage to change each time the state government changes its rate per mile. The sum for mileage and fees shall be imposed as costs in the case in which the process, rule, or order is issued, and shall be collected as other costs.

Sec. 5. (a) The mileage and fees for service of any process, rule, or order issued out of the supreme court is the same as in case of similar process from the circuit court.

(b) When any process, rule, or order issued out of the supreme court is served by the county sheriff, the county sheriff is allowed

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the fees for mileage and one half (1/2) of the fees for service. The remaining half of the fees for service shall be paid the sheriff of the supreme court.

(c) Fees for mileage may be charged only from the county seat of the county in which the process is to be served to the place of service.

(d) When money is collected on any process, rule, or order issued out of the supreme court by the county sheriff, two-thirds (2/3) of the sheriff's allowance is retained by the county sheriff and the remaining one-third (1/3) must be delivered to the sheriff of the supreme court.

Sec. 6. The sheriff of the supreme court must pay both the outgoing and return postage on process, rules, or orders issued by the court and recover the funds expended on postage as part of the costs of the proceeding.

Sec. 7. The sheriff of the supreme court may require the coroner of any county to act as the sheriff of the supreme court's deputy where the sheriff of that county is an interested party.

Sec. 8. The sheriff of the supreme court is subject to all the penalties and liabilities of sheriffs of the circuit courts.

Sec. 9. (a) The supreme court must allow the sheriff of the supreme court reasonable compensation for fuel, stationery, and extra services. The sheriff of the supreme court may file a statement verified by an oath administered by the clerk of the court specifying each expenditure eligible for compensation.

(b) The compensation allowed to the sheriff of the supreme court by the court shall be entered on the order book of the court. On the presentation of a certified copy of an order for compensation, attested with the seal of the court, to the auditor of state, the auditor of state shall issue a warrant for the payment of compensation to the sheriff to the treasurer of state.

Chapter 6. Office of Judicial Administration

Sec. 1. (a) There is created within the office of chief justice the office of judicial administration.

(b) The office consists of two (2) divisions, entitled:

(1) supreme court administration; and

(2) state court administration.

(c) The division of supreme court administration shall be headed by a supreme court administrator. The division of state court administration shall be headed by an executive director.

Sec. 2. (a) The personnel of the office of judicial administration shall be appointed by and serve at the pleasure of the chief justice.

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(b) The personnel shall devote full time to their official duties and may not engage in any other profession for profit.

(c) Personnel salaries shall be fixed by the supreme court subject to approval by the budget agency.

Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

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Sec. 4. (a) The division of state court administration shall establish and administer an office of guardian ad litem and court appointed special advocate services. The division shall use money it receives from the state general fund to administer the office. If funds for guardian ad litem and court appointed special advocate programs are appropriated by the general assembly, the division shall provide matching funds to counties that are required to implement and administer, in courts with juvenile jurisdiction, a guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33. Matching funds must be distributed in accordance with the provisions of section 5 of this chapter. A county may use these matching funds to supplement amounts that are collected as fees under IC 31-40-3-1 and used for the operation of guardian ad litem and court appointed special advocate programs. The division may use its administrative fund to provide training services and communication services for local officials and local guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for matching funds under this section.

(b) Matching funds provided to a county under this section shall be used for guardian ad litem and court appointed special advocate programs and may be deposited in the county's guardian ad litem or court appointed special advocate fund described in IC 31-40-3.

(c) Any matching funds appropriated to the division of state court administration that are not used before July 1 of each fiscal year do not revert but shall be redistributed under this section on July 1. The division shall redistribute the funds among counties providing guardian ad litem and court appointed special advocate programs that are entitled to receive matching funds.

(d) Money appropriated to the division of state court administration does not revert at the end of a state fiscal year to the state general fund.

Sec. 5. (a) If appropriated by the general assembly, the division of state court administration shall grant to each county with a guardian ad litem or court appointed special advocate program an annual appropriation calculated under the following formula:

STEP ONE: Deduct the annual appropriation to the division of state court administration for administrative expenses.

STEP TWO: Ascertain the number of children in need of services in each county, as determined by the office of family and children, during the preceding state fiscal year.

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STEP THREE: Divide the result under STEP TWO by the total number of children in need of services in Indiana, as determined by the office of family and children, during the preceding fiscal year.

STEP FOUR: Multiply the result under STEP THREE by the remaining state match appropriation.

(b) If, under subsection (a), a county's grant would result in a grant of two thousand dollars ($2,000) or less, the county is entitled to receive a grant of two thousand dollars ($2,000). After subtracting the state match appropriation distributed to these counties from the total remaining state appropriation, the division of state court administration shall distribute the remaining state appropriation under the following formula:

STEP ONE: Subtract the total number of children in need of services in the counties covered under subsection (a) from the total number of children in need of services in Indiana as determined by the office of family and children during the preceding state fiscal year.

STEP TWO: Divide the number of children in need of services in each of the counties not covered under subsection (a) by the result under STEP ONE.

STEP THREE: Multiply the result under STEP TWO by the total remaining state match appropriation.

STEP FOUR: Distribute the result under STEP THREE to each county not covered under subsection (a).

Sec. 6. The division of supreme court administration shall perform legal and administrative duties for the justices as are determined by the justices.

Sec. 7. The reports required by section 3(a)(3) of this chapter shall be:

(1) directed to:

(A) the commission on judicial qualifications;

(B) the chief justice;

(C) the clerk of the supreme court; and

(D) the legislative council;

(2) accessible to the judicial officers of the various courts and to the general public; and

(3) titled "The Indiana Judicial Report".

Reports to the legislative council under subdivision (1)(D) must be in an electronic format under IC 5-14-6.

Sec. 8. The supreme court shall provide by rule of the court for the enforcement of this chapter.

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Sec. 9. The authority of the courts to appoint administrative or clerical personnel is not limited by this chapter.

Sec. 10. (a) The executive director shall, with the approval of the supreme court, divide the state geographically into at least eight (8) trial court districts.

(b) On the basis of relevant information compiled by the executive director concerning the volume and nature of judicial workload, the executive director shall recommend to the supreme court the temporary transfer of any judge or judges. The supreme court shall consider the recommendation and temporarily transfer any judge of a trial court of general or special jurisdiction to another court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, a judge may not be temporarily transferred to a court in another county within the district the judge normally serves that, at its nearest point, is more than forty (40) miles from the seat of the county the judge normally serves unless the judge consents to the transfer.

Sec. 11. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which the judge is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county. The certificate of allowance is prima facie evidence of the correctness of the claims. An item of expenses certified to be correct must be allowed by the board of commissioners of that county.

Sec. 12. (a) The judicial technology and automation project fund is established to fund the judicial technology and automation project. The division of state court administration shall administer the fund. The fund consists of the following:

(1) Deposits made under IC 33-37-9-4.

(2) Other appropriations made by the general assembly.

(3) Grants and gifts designated for the fund or the judicial technology and automation project.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) There is annually appropriated to the division of state court administration the money in the fund for the judicial technology

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and automation project.

Chapter 7. Supreme Court Records

Sec. 1. When the supreme court or a majority of the justices of the supreme court consider it necessary to have all or part of the records of the court transcribed to protect those records from mutilation or decay arising from any cause, the court or justices shall order the clerk of the supreme court to transcribe the records in suitable books to be procured by the clerk for that purpose. The court shall make a reasonable allowance for the transcription to the clerk in an amount that the court considers just and proper. The allowance, when certified by a justice of the court, shall be audited by the auditor of state and paid as similar allowances in other cases.

Sec. 2. (a) When the supreme court makes an order under section 1 of this chapter, the clerk of the supreme court shall procure the books ordered by the court and transcribe in them the records or parts of records as ordered by the court.

(b) Records or parts of records transcribed under this chapter have the force and effect of the original records. Transcripts of records or parts of records transcribed under this chapter, certified by the clerk, under the seal of the court, have the same force and effect as transcripts of the original records.

Sec. 3. (a) The clerk of the supreme court shall prepare for public use, under the direction of the supreme court, a systematic index to the court's records and papers on file in the clerk's office. The index must include the following:

(1) The title and number of every cause appealed to the supreme court.

(2) The county and court from which appealed.

(3) The date of filing the appeal in the clerk's office.

(4) The date of every decision and how decided.

(5) The number of the box or drawer in which the papers in every case can readily be found.

The clerk shall also properly clean, arrange, and securely tie the papers in each cause and place them in boxes and drawers when they are provided by the proper authorities for that purpose.

(b) The clerk of the supreme court shall also index other papers and records on file in the clerk's office as may be directed by the supreme court.

Chapter 8. Supreme Court Fees

Sec. 1. (a) The clerk of the supreme court, for the clerk's services, shall, upon proper books to be kept in the clerk's office for

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that purpose, tax the fees and charge the amounts specified in this chapter. The fees and amounts belong to and are the property of the state.

(b) On March 31, June 30, September 30, and December 31 of each year, the clerk shall:

(1) make and file with the auditor of state a verified account of all fees and amounts collected during the preceding three (3) months;

(2) pay the amount shown to be due the state to the treasurer of state; and

(3) file with the treasurer of state a verified report of uncollected fees and amounts due the state of Indiana accruing in cases disposed of during that quarter.

Sec. 2. The clerk of the supreme court shall tax and charge a fee of two hundred fifty dollars ($250) in each cause filed in either the supreme court or the court of appeals.

Sec. 3. The clerk of the supreme court may, at any time after the services are rendered, issue fee bills under IC 33-37-4-10 for services rendered by the clerk or by another person in the court.

Sec. 4. (a) The clerk of the supreme court shall charge the following fees:

(1) For making record and certificate of admission of attorneys to practice before the supreme court, a fee of two dollars ($2).

(2) For making and furnishing to any person, firm, limited liability company, or corporation unauthenticated copies of the opinions of the supreme court and the court of appeals for the purpose of publication by the person, firm, limited liability company, or corporation obtaining the copies, if a contract has been made by the clerk with the person, firm, limited liability company, or corporation to furnish the copies for at least one (1) year, a fee of two thousand eight hundred twenty-five dollars ($2,825) per year, to be paid quarterly in advance.

(b) The clerk of the supreme court may make a contract described in subsection (a).

(c) This section does not prohibit proprietors of newspapers from copying opinions of the supreme court and the court of appeals or from making abstracts of these opinions for publication in the newspapers.

(d) For all other unauthenticated copies of the opinions of the supreme court and the court of appeals furnished by the clerk of

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the supreme court to any person, firm, limited liability company, or corporation, the clerk shall charge one dollar ($1) per page.

(e) The fees and amounts charged under this section shall be deposited by the clerk of the supreme court into the state general fund in the manner and at the time provided for the making of the quarterly reports of other collected fees due the state.

Sec. 5. The quarterly report required to be made by the clerk of the supreme court under section 1 of this chapter must show the number and title of the cause and the amount due the state. The clerk is not required to make any other or different reports, except special reports on the order of the supreme court or the court of appeals, or the written request of the governor or auditor of state.

Sec. 6. (a) The clerk of the supreme court shall tax and charge in favor of the sheriff of the supreme court, or in favor of county sheriffs for their services as the deputies of the sheriff of the supreme court, the fees and amounts provided by law. The fees and amounts described in this subsection do not belong to the state but are the property of the sheriff of the supreme court and the sheriff's agents. When the fees are collected, the fees shall be paid over to the sheriff or the sheriff's agents.

(b) The clerk of the supreme court at the expiration of the clerk's term shall hand over to the clerk's successor in office all of the books, papers, fees, costs, charges, and amounts, together with all money and other property received by the clerk by virtue of the clerk's office or under color of that office.

(c) The attorney general shall enforce the collection, for the use and benefit of the party entitled to them, all fees and amounts collected and retained by the person, including penalties, against any persons liable for the fees and amounts. All unclaimed fees collected under this chapter from former clerks that have been paid in for two (2) years and remain in the office of the clerk of the supreme court for six (6) months uncollected by the person to whom the fees are due, and all other unclaimed fees in the hands of the clerk of the supreme court, after the expiration of two (2) years from the date when the fees are paid to the clerk, shall be paid into the state treasury, to be held as other funds that escheat to the state. The clerk of the supreme court, when fees are paid into the office of the clerk for the benefit of any other officer or person, shall immediately notify that officer or person by mail that the fees have been paid, the date of payment, and the amount of the payment.

Chapter 9. Appeal Bonds

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Sec. 1. In all cases brought to the supreme court by appeal, in which an appeal bond is executed by the plaintiff in the appeal, the clerk of the supreme court shall:

(1) tax all fees and costs for which the plaintiff is liable in the court, against the principal and sureties on the bonds, as though they were co-plaintiffs or co-defendants;

(2) issue fee bills or executions for the collection of the fees or costs and executions; and

(3) collect all judgments that are rendered by the court against the plaintiffs, against the principals and sureties jointly.

Sec. 2. (a) Before delivering a writ for the collection of fees, costs, or execution to the proper officer, the clerk of the supreme court shall endorse on the writ which of the parties is the principal and which is the surety in the writ.

(b) The officer responsible for enforcement of the writ shall first levy upon the property of the principal in the writ. To the extent that sufficient property of the principal cannot be found, the officer shall, without delay, levy the writ upon the property of the surety or sureties, and proceed to sell that property as in other cases.

Sec. 3. A writ may not be issued under this chapter for the collection of fees or costs more than five (5) years after the date the cause was decided in the supreme court.

Chapter 10. Disciplinary Proceedings Against Attorneys

Sec. 1. As used in this chapter, "admission and discipline rule" refers to the Rules for Admission to the Bar and the "Discipline of Attorneys" adopted by the supreme court.

Sec. 2. As used in this chapter, "commission" refers to the disciplinary commission created by Admission and Discipline Rule 23.

Sec. 3. As used in this chapter, "commissioner" means a member of the disciplinary commission appointed under Admission and Discipline Rule 23.

Sec. 4. As used in this chapter, "executive secretary" refers to the executive secretary of the disciplinary commission.

Sec. 5. A person is immune from civil liability for damages for any sworn or written statements made:

(1) without malice and transmitted to the commission, the executive secretary, or the executive secretary's staff; or

(2) in the course of investigatory, hearing, or review proceedings under Admission and Discipline Rule 23.

Sec. 6. The executive secretary, the executive secretary's staff,

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counsel, investigators, hearing officers, and the commissioners are immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties.

Chapter 11. Indiana Child Custody and Support Advisory Committee

Sec. 1. (a) The Indiana child custody and support advisory committee is established. The committee consists of twelve (12) members as follows:

(1) One (1) judge or magistrate whose jurisdiction and caseload includes domestic relations.

(2) One (1) attorney admitted to the practice of law in Indiana who conducts at least fifty percent (50%) of the attorney's practice in the area of domestic relations.

(3) Eight (8) members of the general assembly, with the members chosen from the standing committees that consider child custody and support matters.

(4) A custodial parent.

(5) A noncustodial parent.

(b) The appointments under subsection (a)(3) must include the following:

(1) Four (4) members from the senate, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(2) Four (4) members from the house of representatives, with not more than two (2) from the same political party and not more than two (2) of the same gender.

(c) Appointments of the committee members shall be made as follows:

(1) The speaker of the house of representatives shall appoint the members under subsection (a)(1) and (a)(4) and the four (4) members from the house of representatives under subsection (a)(3).

(2) The president pro tempore of the senate shall appoint the members under subsection (a)(2) and (a)(5) and the four (4) members from the senate under subsection (a)(3).

(d) The members appointed under subsection (a)(1) and (a)(2) must be of opposite gender.

(e) The members appointed under subsection (a)(4) and (a)(5) must be of opposite gender.

Sec. 2. (a) An appointment under section 1 of this chapter is for a two (2) year term. A term begins August 1 of a year and an appointment required to be made that year shall be made before

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August 2.

(b) If a vacancy occurs, the vacancy shall be filled from the same group that was represented by the outgoing member. The new member serves for the remainder of the unexpired term.

Sec. 3. The chairman of the legislative council shall designate a member to serve as chairperson of the committee.

Sec. 4. (a) A member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member of the committee who is a state employee but is not a member of the general assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) A member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on an interim study committee established by the legislative council.

Sec. 5. The committee shall meet at the call of the chairperson. The committee may meet any number of times during the year. However, the committee may not be compensated for more than four (4) meetings during a year.

Sec. 6. (a) The committee shall review the child support guidelines adopted by the supreme court. The committee shall make recommendations, if appropriate, concerning any amendments to the guidelines. In reviewing the guidelines and formulating recommendations, the committee shall consider all relevant matters, including the following:

(1) The mathematics pertaining to the child support guideline chart.

(2) The actual costs of supporting a child.

(3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.

(4) Equality of child support awards for the children of the parties, regardless of birth order.

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(5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.

(6) The age of a child to the extent that the child may require different amounts of support at different ages.

(7) Clarification regarding under what circumstances, if any, support may be abated.

(8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.

(9) The application of the guidelines to a split custody situation.

(10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed if the family remained intact.

(b) In addition to the duties set forth in subsection (a), the committee shall review custody and educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

Sec. 7. The committee shall submit a report to the supreme court administrator and to the legislative services agency not later than August 1 of each year. The report to the legislative services agency must be in an electronic format under IC 5-14-6.

Sec. 8. The supreme court administrator shall distribute the report to the members of the supreme court.

Sec. 9. The supreme court shall review the committee's report. The supreme court may amend the child support guidelines adopted by the supreme court based upon the committee's recommendations.

Chapter 12. Civil Legal Aid Fund

Sec. 1. As used in this chapter, "fund" refers to the civil legal aid fund established by section 5 of this chapter.

Sec. 2. As used in this chapter, "indigent" means an individual whose income is not more than one hundred twenty-five percent (125%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

Sec. 3. As used in this chapter, "legal services provider" means a private, nonprofit organization incorporated and operated exclusively in Indiana, the primary function and purpose of which is to provide civil legal services without charge to the indigent.

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Sec. 4. To be eligible for the receipt of funds under this chapter, a legal services provider must meet the following requirements:

(1) The legal services provider must have been:

(A) incorporated before July 2, 1997; or

(B) incorporated and providing civil legal aid to the indigent for three (3) years immediately preceding the application for funds from the civil legal aid fund.

(2) The legal services provider must submit an opt-in form to the executive director of the division of state court administration before May 2 of each year. The form must include the following information:

(A) The name, address, and telephone number of the legal services provider.

(B) The Internal Revenue Code 501(c)(3) form of the legal services provider.

(C) The name and address of the executive director and board president of the legal services provider.

(D) A list of all counties within the incorporated service area of the legal services provider.

(E) Certification that the legal services provider has provided legal services to indigent individuals within its service area for the preceding three (3) years and that the legal services provider will continue to provide legal services to the indigent for the year following receipt of funds from the civil legal aid fund.

(3) The legal services provider may not do any of the following:

(A) Make available funds, personnel, or equipment for use in advocating or opposing a plan or proposal, represent a party, or participate in litigation that is intended to or has the effect of altering, revising, or reapportioning a legislative, a judicial, or an elective district at any level of government, including influencing the timing or manner of the taking of a census.

(B) Attempt to influence the issuance, amendment, or revocation of an executive order, regulation, or other statement of general applicability and future effect by a federal, state, or local agency.

(C) Attempt to influence an adjudicatory proceeding of a federal, state, or local agency if such part of the proceeding is designed for the formulation or modification of an agency policy of general applicability and future effect.

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(D) Attempt to influence the passage or defeat of legislation, a constitutional amendment, a referendum, an initiative, or similar procedure of the Congress, a state, or a local legislative body.

(E) Attempt to influence the conduct of oversight proceedings of the Legal Services Corporation or a person or an entity receiving financial assistance provided by the Legal Services Corporation.

(F) Pay for a personal service, an advertisement, a telegram, a telephone communication, a letter, printed or written matter, an administrative expense, or a related expense, associated with an activity prohibited in this subdivision.

(G) Initiate or participate in a class action suit.

(H) Support or conduct a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or an antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity. However, this clause may not be construed to prohibit the training of an attorney or a paralegal in the provision of:

(i) adequate legal assistance to eligible clients; or

(ii) advice to an eligible client as to the legal rights of the client.

(I) Participate in litigation:

(i) on behalf of a person incarcerated in a federal, state, or local prison; or

(ii) arising out of the incarceration of a person described in item (i).

Sec. 5. (a) The civil legal aid fund is established to provide additional revenue for legal services providers.

(b) The fund is administered by the division of state court administration.

Sec. 6. (a) The division of state court administration shall annually determine the amount to be distributed from the fund to each county's legal services provider under the following formula:

STEP ONE: Determine the number of civil cases filed in the county during the year as reported by the most recent Indiana Judicial Report.

STEP TWO: Determine the number of civil cases filed in Indiana during the year as reported by the most recent

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Indiana Judicial Report.

STEP THREE: Divide the amount determined in STEP ONE by the amount determined in STEP TWO.

STEP FOUR: Multiply the quotient determined in STEP THREE by the annual amount appropriated under section 7 of this chapter or by the annual amount of the appropriation from the state general fund as provided in the state budget act, whichever is greater.

Except as provided in subsection (b), the product determined in STEP FOUR is the amount to be distributed to the legal services provider or providers having the county in its service area.

(b) In a county where there is more than one (1) legal services provider, the amount distributed from the fund for that county shall be distributed among the legal services providers in direct proportion to the number of legal services providers in that county.

(c) Distributions from the fund shall be made on January 1 and July 1 of each year. Money in the fund is annually appropriated to carry out the purposes of the fund.

Sec. 7. There is appropriated on June 30 and December 31 of each year five hundred thousand dollars ($500,000) from the state general fund for deposit into the fund.

Chapter 13. Indiana Conference for Legal Education Opportunity

Sec. 1. As used in this chapter, "program" refers to the Indiana conference for legal education opportunity established by section 2 of this chapter.

Sec. 2. The Indiana conference for legal education opportunity is established to assist Indiana minority, low income, or educationally disadvantaged college graduates in pursuing a law degree and a career in the Indiana legal and professional community.

Sec. 3. (a) The program shall be organized and administered by the chief justice of the supreme court. The chief justice shall appoint an advisory committee composed of eight (8) members as follows:

(1) Two (2) practicing attorneys.

(2) Two (2) judges.

(3) Two (2) Indiana law school professors or administrators.

(4) Two (2) members representing community groups.

(b) The chief justice shall serve as chair of the advisory committee.

(c) Appointed members of the committee serve for three (3) year

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terms and may be reappointed.

(d) The committee shall solicit applications and select persons for the program who:

(1) have earned a bachelor's degree;

(2) have applied to an Indiana law school;

(3) have demonstrated the interest, motivation, and capacity to earn a law degree; and

(4) would benefit from the special training offered by the program.

(e) The committee shall award annual stipends to certified graduates of the program.

Sec. 4. (a) The program must provide for an intensive course of study to prepare the students selected for the demands of a law school education through classroom discussion and instruction in legal research, writing, and analysis.

(b) The program shall be taught by law professors and others from the legal profession and shall be held at an Indiana law school during the summer months.

Sec. 5. (a) The program must provide financial assistance in the form of an annual stipend for those students who successfully complete the course of study and become certified graduates of the program.

(b) To be eligible for the annual stipend, certified graduates must be admitted to an Indiana law school, enroll on a full-time basis, and maintain good academic standing. However, for good cause and to advance the purposes of the program, the advisory committee may waive the requirement that a certified graduate must enroll on a full-time basis.

(c) The stipend may be awarded for up to three (3) successive academic years, if the student remains eligible. However, for good cause, the advisory committee may approve the award of a stipend to a student for more than three (3) successive academic years if:

(1) the student requires more than three (3) successive academic years to earn a law degree; and

(2) the total amount of the stipend that is awarded to the student does not exceed the amount the student would have been awarded if the student had been enrolled:

(A) on a full-time basis; and

(B) for up to three (3) successive academic years.

Sec. 6. The courts of the state are encouraged and requested to develop programs and opportunities to further the purposes of the program.

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Sec. 7. During every state fiscal year, there is appropriated from the state general fund to the office of judicial administration, division of state court administration, six hundred twenty-five thousand dollars ($625,000) to be used for the Indiana conference for legal education opportunity established by this chapter.

SECTION 4. IC 33-25 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 25. COURT OF APPEALS

Chapter 1. Judges; Geographic Districts

Sec. 1. The court of appeals consists of fifteen (15) judges, who serve for the hearing and decision of causes in five (5) geographic districts described in section 2 of this chapter under Article 7, Section 5 of the Constitution of the State of Indiana.

Sec. 2. Indiana is divided into five (5) geographic districts, which shall be designated as the "court of appeals - First District; Second District; Third District; Fourth District; and Fifth District" as follows:

(1) First District: Bartholomew, Boone, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Fayette, Floyd, Fountain, Franklin, Gibson, Greene, Hancock, Harrison, Hendricks, Henry, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Randolph, Ripley, Rush, Scott, Shelby, Spencer, Sullivan, Switzerland, Union, Vanderburgh, Vermillion, Vigo, Warrick, Washington, and Wayne.

(2) Second District: Adams, Blackford, Carroll, Cass, Clinton, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Marion, Miami, Tippecanoe, Tipton, Wabash, Wells, and White.

(3) Third District: Allen, Benton, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Warren, and Whitley.

(4) The entire state constitutes the Fourth District.

(5) The entire state constitutes the Fifth District.

Sec. 3. (a) Judges of the First, Second, and Third Districts of the court of appeals must have resided in their respective districts before appointment to the court. However, judges of the court of appeals appointed before July 1, 1993, must reside in the district from which they are appointed.

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(b) The following requirements apply to judges of the Fourth and Fifth Districts of the court of appeals:

(1) One (1) judge must have resided in the First District before appointment to the court.

(2) One (1) judge must have resided in the Second District before appointment to the court.

(3) One (1) judge must have resided in the Third District before appointment to the court.

(c) When a vacancy is created in the court of appeals, the individual who is appointed by the governor to fill the vacancy must be a resident of the district in which the vacancy occurred.

Sec. 4. All districts of the court of appeals shall sit for the hearing and decision of causes in:

(1) Indianapolis; or

(2) any other place that the chief judge of the court of appeals may designate.

Sec. 5. A case appealed to the court of appeals shall be placed upon the docket of the district from which the appeal is taken. If, at any time, the court of appeals believes there is an undue disparity in the number of cases pending on the dockets of the districts, the court of appeals may order the transfer of cases as it considers advisable from one (1) district to another.

Sec. 6. The judges of the court of appeals are competent to sit as judges of the circuit, superior, and criminal courts.

Chapter 2. Retention of Judges

Sec. 1. Judges of the court of appeals shall be approved or rejected by the electorate of Indiana under Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. A judge who wishes to be retained in office shall file a statement with the secretary of state, not later than noon July 15 of the year in which the question of retention of the judge is to be placed on the general election ballot, indicating that the judge wishes to have the question of the judge's retention placed on the ballot. The judge's statement must include a statement of the judge's name as:

(1) the judge wants the judge's name to appear on the ballot; and

(2) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

Sec. 3. This section applies to a judge:

(1) who does not file a statement under section 2 of this chapter; and

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(2) whose term expires under Article 7, Section 11 of the Constitution of the State of Indiana during the year in which the question of the retention of the judge would have been placed on the general election ballot.

The term of a judge expires December 31 of the year in which the question of the judge's retention would have been placed on the ballot.

Sec. 4. This section applies to a judge:

(1) who files a statement under section 2 of this chapter; and

(2) whose retention is rejected by the electorate.

The term of a judge ends when the secretary of state issues a certificate under IC 3-12-5-1 stating that the judge has been removed. However, if the judge has filed a petition for a recount under IC 3-12-11, the term of the judge does not end until the state recount commission has issued a certificate under IC 3-12-11-18 stating that the electorate has rejected the retention of the judge.

Sec. 5. The question of approval or rejection of a judge shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name (as permitted under IC 3-5-7) here) be retained in office?".

Sec. 6. The statement filed under section 2 of this chapter must include a statement that the judge requests the name on the judge's voter registration record be the same as the name the judge uses on the statement. If there is a difference between the name on the judge's statement and the name on the judge's voter registration record, the officer with whom the statement is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the judge's voter registration record to be the same as the name on the judge's statement.

Chapter 3. Rules and Procedures

Sec. 1. (a) The judges of the court of appeals shall select one (1) of their members as chief judge of the court. The member selected retains that office for three (3) years after the effective date of the member's appointment, subject to reappointment in the same manner. However, a member of the court may resign the office of chief judge without resigning from the court. When a vacancy in the office of chief judge occurs due to absence, illness, incapacity, or resignation, the powers and duties of the chief judge devolve upon the judge of the court of appeals who is senior in length of service. However, if two (2) or more judges are equal in length of

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service and senior in length of service, the determination of chief judge shall be by lot until the cause of vacancy is terminated or the vacancy is filled.

(b) The members of each district, other than the district from which the chief judge was chosen, shall select one (1) of their members as presiding judge of the district.

Sec. 2. If a judge of the court of appeals:

(1) is related to a party;

(2) is interested in a case;

(3) was a counsel in a case; or

(4) was the judge who rendered the decision in a lower court that has been appealed to the court of appeals;

the judge shall disqualify himself or herself and not sit to hear the case.

Sec. 3. When a judge disqualifies himself or herself or is otherwise unable to sit for the hearing or decision of a case in the judge's district, the chief judge shall assign a court of appeals judge to the disqualified or absent judge's district for the hearing and decision of the case.

Sec. 4. Except as provided in IC 34-56-1, an appeal may not be taken to the court of appeals in any civil case where the amount in controversy, exclusive of interest and costs, does not exceed fifty dollars ($50).

Sec. 5. The hearing and argument of cases in the court of appeals shall be in accordance with:

(1) the rules of the supreme court as to hearing and argument; or

(2) any rules the court of appeals adopts.

Sec. 6. The judicial opinion or decision in each case determined by the court of appeals shall be reduced to writing. Reports of these opinions and decisions may be published and distributed in the manner prescribed by the supreme court.

Sec. 7. (a) In every case reversed by a division of the court of appeals:

(1) an opinion shall be given on the material questions in the case in writing; and

(2) the appropriate judgment shall be entered, with directions to the lower court.

(b) In all cases, the opinion and judgment shall be certified to the lower court thirty (30) days after the date allowed by law for the filing of a petition for a rehearing, unless:

(1) an earlier date has been ordered by the division;

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(2) a petition for a rehearing is filed; or

(3) the case is transferred or appealed to the supreme court.

If a case is transferred or appealed to the supreme court, or a rehearing is granted, the judgment of the division of the court of appeals is vacated. If a rehearing is denied, the opinion and judgment shall, thirty (30) days after the date of the ruling, be certified to the lower court, unless the case is transferred or appealed to the supreme court.

(c) If the losing party files a waiver of the party's right to file a petition for a rehearing, the opinion shall be immediately certified to the lower court.

Sec. 8. All process, rules, and orders of the court of appeals shall be executed and served by the sheriff of the county in which a process, a rule, or an order has been directed. The sheriff is entitled to collect the fees allowed by law for similar service of process, rules, or orders issued by the supreme court.

Sec. 9. The court of appeals shall have a seal:

(1) designed and provided by the secretary of state at the expense of the state; and

(2) that contains the title of the court on the face of the seal.

Chapter 4. Personnel and Facilities

Sec. 1. The clerk and sheriff of the supreme court shall be clerk and sheriff of the court of appeals.

Sec. 2. (a) The court of appeals may appoint personnel as the court determines necessary.

(b) The judges of each geographic district may appoint law clerks, secretaries, and other personnel necessary for the holding of court and the administration of the court's duties.

Sec. 3. The commissioner of the Indiana department of administration shall provide rooms for the use of the judges and the court of appeals in Indianapolis. The court of appeals:

(1) may:

(A) provide the necessary furniture and stationery and other things necessary for the transaction of the court's business, at the expense of the state; and

(B) make allowances for the items described in clause (A) to be audited and paid out of the state treasury upon presentation of the order of allowance; and

(2) is entitled to access and use the law library of the supreme court equally with the justices of the supreme court.

SECTION 5. IC 33-26 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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2004]:

ARTICLE 26. TAX COURT

Chapter 1. Establishment of the Indiana Tax Court

Sec. 1. The Indiana tax court is established.

Sec. 2. The tax court is a court of record.

Chapter 2. Tax Court Judge

Sec. 1. The tax court consists of one (1) judge.

Sec. 2. The judge of the tax court must:

(1) be a citizen of Indiana; and

(2) have been admitted to the practice of law in Indiana for a period of at least five (5) years.

Sec. 3. (a) The initial term of office of a person appointed to serve as the judge of the tax court begins on the effective date of that appointment and ends on the date of the next general election that follows the expiration of two (2) years from the effective date of that appointment.

(b) The tax court judge may be approved or rejected for an additional term or terms in the same manner as are the justices of the supreme court under IC 33-24-2.

Sec. 4. (a) Except as otherwise provided in this section, a vacancy on the tax court shall be filled as provided in IC 33-27.

(b) Before the expiration of the sixty (60) day period prescribed by IC 33-27-3-4, the governor shall:

(1) appoint to the tax court one (1) of the three (3) persons initially nominated by the judicial nominating commission; or

(2) reject all the persons initially nominated by the commission.

If the governor does reject all the nominees, the governor shall notify the chairman of the judicial nominating commission of that action. The commission shall then submit the nominations of three (3) new candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy on the tax court by appointing one (1) of the new candidates within sixty (60) days from the date the names of the new candidates are submitted by the commission.

Sec. 5. (a) The judge of the tax court is entitled to an annual salary equal to the annual salary provided in IC 33-38-5-8 to a judge of the court of appeals. In addition, the judge of the tax court is entitled to the following:

(1) Reimbursement for traveling expenses and other expenses actually incurred in connection with the judge's duties, as provided in the state travel policies and procedures

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established by the Indiana department of administration and approved by the budget agency.

(2) A subsistence allowance equal to the amount provided under IC 33-38-5-8 to a judge of the court of appeals who is not the chief judge of the court of appeals.

(b) The judge of the tax court:

(1) shall devote full time to judicial duties; and

(2) may not engage in the practice of law.

(c) The state shall pay the annual salary prescribed in subsection (a) from the state general fund.

(d) The state shall furnish an automobile to the judge of the state tax court.

Sec. 6. If the judge of the tax court is disqualified from hearing a case or is incapable of exercising judicial duties with respect to the case, the chief justice of the supreme court shall appoint a judge pro tempore to sit in place of the disqualified or absent judge.

Chapter 3. Jurisdiction and Venue

Sec. 1. The tax court is a court of limited jurisdiction. The tax court has exclusive jurisdiction over any case that arises under the tax laws of Indiana and that is an initial appeal of a final determination made by:

(1) the department of state revenue with respect to a listed tax (as defined in IC 6-8.1-1-1); or

(2) the Indiana board of tax review.

Sec. 2. In addition to the jurisdiction described in section 1 of this chapter, the tax court has:

(1) any other jurisdiction conferred by statute; and

(2) exclusive jurisdiction over any case that was an initial appeal of a final determination made by the state board of tax commissioners before January 1, 2002.

Sec. 3. The cases over which the tax court has exclusive original jurisdiction are referred to as original tax appeals in this article. The tax court does not have jurisdiction over a case unless:

(1) the case is an original tax appeal; or

(2) the tax court has otherwise been specifically assigned jurisdiction by statute.

Sec. 4. A taxpayer that appeals to the tax court shall, at the time the appeal is filed, elect to have all evidentiary hearings in the appeal conducted in one (1) of the following counties:

(1) Allen County.

(2) Jefferson County.

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(3) Lake County.
(4) Marion County.
(5) St. Joseph County.
(6) Vanderburgh County.
(7) Vigo County.

Sec. 5. A taxpayer that is an appellee in an appeal to the tax court shall, within thirty (30) days after it receives notice of the appeal, elect to have all evidentiary hearings in the appeal conducted in a county listed in section 4 of this chapter.

Sec. 6. The tax court does not have jurisdiction over a case that is an appeal from a final determination made by the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

Chapter 4. Offices and Personnel

Sec. 1. (a) The tax court shall maintain its principal office in Indianapolis.

(b) The Indiana department of administration shall provide suitable facilities for the court in Indianapolis.

(c) If the court hears a case at a location outside Marion County, the executive of the county in which the court sits shall provide the court with suitable facilities.

Sec. 2. (a) The tax court may employ:
(1) a bailiff;
(2) a clerk;
(3) a reporter;
(4) a clerical assistant; or
(5) any other personnel that the court needs to perform its duties.

(b) The clerk of the supreme court shall serve as the clerk of the tax court.

Chapter 5. Small Claims Docket

Sec. 1. The tax court shall establish a small claims docket for processing:
(1) claims for refunds from the department of state revenue that do not exceed five thousand dollars ($5,000) for any year; and
(2) appeals of final determinations of assessed value made by the Indiana board of tax review that do not exceed forty-five thousand dollars ($45,000).

Sec. 2. The tax court shall adopt rules and procedures under which cases on the small claims docket are heard and decided.

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Chapter 6. Appellate Review; Rules and Procedures

Sec. 1. (a) The tax court shall try each original tax appeal without the intervention of a jury.

(b) The tax court shall adopt rules and procedures under which original tax appeals are heard and decided.

Sec. 2. (a) A taxpayer who wishes to initiate an original tax appeal must file a petition in the tax court to set aside the final determination of the department of state revenue or the Indiana board of tax review. If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal.

(b) A taxpayer who wishes to enjoin the collection of a tax pending the original tax appeal must file a petition with the tax court to enjoin the collection of the tax. The petition must set forth a summary of:

(1) the issues that the petitioner will raise in the original tax appeal; and

(2) the equitable considerations for which the tax court should order the collection of the tax to be enjoined.

(c) After a hearing on the petition filed under subsection (b), the tax court may enjoin the collection of the tax pending the original tax appeal, if the tax court finds that:

(1) the issues raised by the original tax appeal are substantial;

(2) the petitioner has a reasonable opportunity to prevail in the original tax appeal; and

(3) the equitable considerations favoring the enjoining of the collection of the tax outweigh the state's interests in collecting the tax pending the original tax appeal.

(d) This section does not apply to a final determination of the department of state revenue under IC 4-32 other than a final determination concerning the gaming card excise tax established under IC 4-32-15.

Sec. 3. (a) Subject to subsection (b), with respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue and the state board of tax commissioners.

(b) Judicial review of disputed issues of fact must be confined to:

(1) the record of the proceeding before the Indiana board of

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tax review; and

(2) any additional evidence taken under section 5 of this chapter.

The tax court may not try the case de novo or substitute its judgment for that of the Indiana board of tax review. Judicial review is limited to only those issues raised before the Indiana board of tax review, or otherwise described by the Indiana board of tax review, in its final determination.

(c) A person may obtain judicial review of an issue that was not raised before the Indiana board of tax review only to the extent that the:

(1) issue concerns whether a person who was required to be notified of the commencement of a proceeding under this chapter was notified in substantial compliance with the applicable law; or

(2) interests of justice would be served by judicial resolution of an issue arising from a change in controlling law occurring after the Indiana board of tax review's action.

Sec. 4. (a) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners is on the party to the judicial review proceeding asserting the invalidity.

(b) The validity of an action taken by the state board of tax commissioners shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(c) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(d) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the state board of tax commissioners that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(e) Subsection (d) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

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Sec. 5. (a) This section applies instead of IC 4-21.5-5-12 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the Indiana board of tax review only if the evidence relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.

(2) Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

(c) The tax court may remand a matter to the Indiana board of tax review before final disposition of a petition for review with directions that the Indiana board of tax review conduct further factfinding or that the Indiana board of tax review prepare an adequate record, if:

(1) the Indiana board of tax review failed to prepare or preserve an adequate record;

(2) the Indiana board of tax review improperly excluded or omitted evidence from the record; or

(3) a relevant law changed after the action of the Indiana board of tax review and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the Indiana board of tax review. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

Sec. 6. (a) This section applies instead of IC 4-21.5-5-14 with respect to judicial review of final determinations of the Indiana board of tax review.

(b) The burden of demonstrating the invalidity of an action taken by the Indiana board of tax review is on the party to the

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judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the Indiana board of tax review shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section 7 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action of the Indiana board of tax review that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;

(4) without observance of procedure required by law; or

(5) unsupported by substantial or reliable evidence.

(f) Subsection (e) may not be construed to change the substantive precedential law embodied in judicial decisions that are final as of January 1, 2002.

Sec. 7. (a) The tax court shall render its decisions in writing.

(b) Written decisions of the tax court may be published and distributed in the manner prescribed by the supreme court.

(c) A decision of the tax court remanding the matter of assessment of property under IC 6-1.1-15-8 to the Indiana board of tax review shall specify the issues on remand on which the Indiana board of tax review is to act.

(d) The decisions of the tax court may be appealed directly to the supreme court.

Chapter 7. Representation by Attorney General

Sec. 1. The office of the attorney general shall represent a township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

(1) made an original determination that is the subject of a judicial proceeding in the tax court; and

(2) is a defendant in a judicial proceeding in the tax court.

Sec. 2. Notwithstanding representation by the office of the attorney general, the duty of discovery is on the parties to the judicial proceeding.

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Sec. 3. Discovery conducted under section 2 of this chapter is limited to production of documents from the administrative law judge presiding over the review under IC 6-1.1-15-3. The administrative law judge may not be summoned to testify before the tax court unless verified proof is offered to the tax court that the impartiality of the administrative law judge was compromised concerning the review.

Sec. 4. A township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals:

(1) may seek relief from the tax court to establish that the Indiana board of tax review rendered a decision that was:

(A) an abuse of discretion;

(B) arbitrary and capricious;

(C) contrary to substantial or reliable evidence; or

(D) contrary to law; and

(2) may not be represented by the office of the attorney general in an action initiated under subdivision (1).

Chapter 8. Order to Produce Information

Sec. 1. As used in this chapter, "contractor" means a general reassessment, general reassessment review, or special reassessment contractor of the department of local government finance under IC 6-1.1-4-32.

Sec. 2. As used in this chapter, "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

Sec. 3. As used in this chapter, "qualifying official" refers to any of the following:

(1) A county assessor of a qualifying county.

(2) A township assessor of a qualifying county.

(3) The county auditor of a qualifying county.

(4) The treasurer of a qualifying county.

(5) The county surveyor of a qualifying county.

(6) A member of the land valuation committee in a qualifying county.

(7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which IC 6-1.1-4-32 applies, including information in the possession or control of an employee or a contractor of the official.

(8) Any county official in a qualifying county who has control,

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review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32.

Sec. 4. Upon petition from the department of local government finance or a contractor, the tax court may order a qualifying official to produce information requested in writing from the qualifying official by the department of local government finance or the contractor.

Sec. 5. If the tax court orders a qualifying official to provide requested information as described in section 4 of this chapter, the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.

Sec. 6. The tax court may find that any willful violation of this chapter by a qualifying official constitutes a direct contempt of the tax court.

Chapter 9. Fees

Sec. 1. When a complaint is filed, a taxpayer who initiates an original tax appeal shall pay to the clerk of the tax court the same fee as provided in IC 33-37-4-7 for actions in probate court.

Sec. 2. A witness who testifies before the tax court is entitled to receive the same fee and mileage allowance provided to witnesses who testify in a circuit court. The person who calls the witness to testify shall pay the witness fee and mileage allowance.

Sec. 3. The tax court may fix and charge a fee for preparing, comparing, or certifying a transcript. However, the tax court's fee may not exceed the fee charged by circuit courts for the same service.

Sec. 4. The clerk of the tax court shall collect the fees imposed under sections 1 and 3 of this chapter. The clerk shall transmit the fees to the treasurer of state. The treasurer shall deposit the fees in the state general fund.

Sec. 5. If a taxpayer prevails in a complaint that is placed on the small claims docket under IC 33-26-5, the tax court shall order the refund of the taxpayer's filing fee under section 1 of this chapter from the state general fund. The auditor of state shall pay a warrant that is ordered under this section.

SECTION 6. IC 33-27 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 27. JUDICIAL NOMINATING COMMISSION

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

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Sec. 2. "Attorney commissoners" means the three (3) individuals admitted to the practice of law who are elected to the judicial nominating commission by the electors.

Sec 3. "Electors" means individuals who are attorneys in good standing admitted to the practice of law in Indiana.

Sec. 4. "Mail" includes ordinary mail or personal delivery.

Sec. 5. "Nonattorney commissioners" means the three (3) individuals not admitted to the practice of law who are appointed to the judicial nominating commission by the governor.

Chapter 2. Commissioners, Employees, and Staff

Sec. 1. (a) The governor shall appoint three (3) nonattorney citizens of Indiana, one (1) each from the First District, the Second District, and the Third District of the court of appeals, as commissioners of the judicial nominating commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner as provided in section 5 of this chapter or appoint a new nonattorney commissioner. All appointments made by the governor to the judicial nominating commission shall be certified to the secretary of state and to the clerk of the supreme court not later than ten (10) days after the appointment.

(c) Except as provided in subsection (e), the governor shall appoint each nonattorney commissioner for a term of three (3) years.

(d) An appointed nonattorney commissioner must reside in the court of appeals district for which the nonattorney commissioner was appointed. A nonattorney commissioner is considered to have resigned the position if the residency of the nonattorney commissioner changes from the court of appeals district for which the nonattorney commissioner was appointed.

(e) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing. Vacancies in the office of nonattorney commissioners shall be filled by appointment by the governor not later than sixty (60) days after the governor receives notice of the vacancy. The term of the nonattorney commissioner appointed to fill the vacancy is for the unexpired term of the member whose vacancy the new nonattorney commissioner has filled.

Sec. 2. (a) For purposes of electing attorney members to the judicial nominating commission, the state shall be divided into three (3) districts, corresponding to the First District, the Second

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District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their district who is admitted to the practice of law in Indiana to the judicial nominating commission. The term of office of each elected member is three (3) years, beginning on the first day of January following the election. During the month before the expiration of an elected member's term of office, an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission must reside for the term of their office in the district from which they were elected. An attorney commissioner is considered to have resigned the position if the residency of the attorney commissioner changes from the court of appeals district for which the attorney commissioner was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence the attorney commissioner's duties immediately upon the certification of the new attorney commissioner's election to the secretary of state.

Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days before the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing the electors that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days before the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, by mail or otherwise, by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, in the office of the clerk of the supreme court at least sixty (60) days before the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots must contain the names and residence addresses of all

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nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(4) The ballot must read as follows:

Indiana Judicial Nominating Commission

BALLOT FOR DISTRICT ( )

To be cast by individuals residing in District ( ) and registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ( )

(Name) (Address)

(Name) (Address)

(Name) (Address)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

DESTROY BALLOT IF NOT USED

(5) In each district, the nominee receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed a certificate, to be completed and signed and returned by the elector voting the ballot, certifying that the voter is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that the voter voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot may be placed. This envelope shall not be opened until the counting of the ballots.

(8) The clerk of the supreme court shall mail a ballot and the accompanying material to all electors at least two (2) weeks before the date of the election.

(9) The ballot and the accompanying certificate must be received by the clerk of the supreme court by 4 p.m. on the last day of the election period.

(10) Upon receiving the completed ballots and the

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accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(11) The clerk of the supreme court, with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court. A ballot received after 4 p.m. may not be counted unless the chief justice orders an extension of time because of unusual circumstances. Upon canvassing the ballots, the clerk of the supreme court shall place all ballots back in their packages. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the supreme court.

(12) Not later than ten (10) days after the election, the clerk shall certify the results to the secretary of state.

(13) In an election held for selection of attorney commissioners of the judicial nominating commission, if two (2) or more nominees are tied, the canvassers shall resolve the tie by lot in a manner that they shall determine, and the winner of the lot is considered elected.

Sec. 4. After the attorney commissioners have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state as provided in this chapter, the clerk shall notify, by regular mail, the members of the commission of their election or appointment.

Sec. 5. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for successive reelection or reappointment. However, an attorney commissioner or a nonattorney commissioner who has been appointed or elected to fill a vacancy on the commission for less than one (1) year is eligible upon the expiration of that term, if otherwise qualified, for a succeeding term.

Sec. 6. A member of the judicial nominating commission shall serve without compensation for the member's services, except for per diem and travel expenses and other necessary and reasonable expenses.

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Sec. 7. (a) The judicial nominating commission may employ investigators and other experts that the commission determines are necessary to carry out its functions and purposes. The commission may employ special counsel in a proceeding if the commission determines the employment is advisable.

(b) The division of state court administration shall serve the judicial nominating commission in performing the commission's statutory and constitutional functions.

(c) The general assembly may appropriate the sums it considers necessary for expenses that may be incurred in the administration of this article.

Sec. 8. (a) The staff of the judicial nominating commission shall make the findings of fact concerning individuals eligible to fill a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. The information compiled shall be submitted to the clerk of the supreme court for mailing, along with the ballots, to qualified electors. The biographical sketches prepared under this subsection must include the following information for each nominee:

(1) Name and address.

(2) Legal background, including:

(A) type of practice;

(B) law firm; and

(C) law school year of graduation, honors, other pertinent information.

(3) General educational background.

(4) A short statement by the nominee stating the nominee's efforts and achievements in bringing about improvement and betterment of the administration of justice.

(5) Public offices or positions, including:

(A) all public salaried positions; and

(B) all services contributed to a public or charitable organization.

(6) Business and civic affairs.

(7) Any other pertinent information that the commission considers important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial nominating commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

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Sec. 9. The commissioners, employees, and staff of the judicial nominating commission are immune from civil liability for any act or proceeding taken, or communication or statement made, relevant to the evaluation of a candidate under IC 33-27-3-2.

Sec. 10. An agency, an organization, a person, or an association described in IC 33-27-3-2(c) is immune from civil liability for providing information or assistance in an investigation under IC 33-27-3-2 or for testifying before the judicial nominating commission if:

(1) the information or testimony is relevant to the evaluation of a candidate under IC 33-27-3-2(a); and

(2) the information or testimony is:

(A) an expression of opinion; or

(B) a statement of fact made without:

(i) knowledge that the statement is false; or

(ii) reckless disregard for the truth.

Chapter 3. Duties of the Commission; Appointments to Judicial Office

Sec. 1. (a) When a vacancy occurs in the supreme court, the court of appeals, or the tax court, the clerk of the court shall promptly notify the chairman of the commission of the vacancy.

(b) The chairman shall call a meeting of the commission not later than twenty (20) days after receiving the notice.

(c) The commission shall submit the nominations of three (3) candidates for the vacancy and certify them to the governor as promptly as possible, but not later than seventy (70) days after the time the vacancy occurs.

(d) When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the clerk shall notify the commission immediately of the future vacancy, and the commission may, not later than sixty (60) days after receiving the notice of the vacancy, make nominations and submit to the governor the names of three (3) persons nominated for the future vacancy.

Sec. 2. (a) The judicial nominating commission shall submit to the governor, from those names the commission considers for a vacancy, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified each commission member shall evaluate each candidate, in writing, on the following considerations:

(1) Legal education, including law schools attended and education after law school, and any academic honors and

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awards achieved.

(2) Legal writings, including legislative draftings, legal briefs, and contributions to legal journals and publications.

(3) Reputation in the practice of law, as evaluated by attorneys and judges with whom the candidate has had professional contact, and the type of legal practice, including experience and reputation as a trial lawyer or trial judge.

(4) Physical condition, including general health, stamina, vigor, and age.

(5) Financial interests, including any interest that might conflict with the performance of judicial responsibilities.

(6) Activities in public service, including writings and speeches concerning public affairs and contemporary problems, and efforts and achievements in improving the administration of justice.

(7) Any other pertinent information that the commission feels is important in selecting the most highly qualified individuals for judicial office.

(b) The commission may not make an investigation to determine these considerations until the individual states in writing that the individual desires to hold a judicial office that has been or will be created by a vacancy and that the individual consents to the public disclosure of information under subsections (d) and (g).

(c) The commission shall inquire into the personal and legal backgrounds of each candidate by investigations made independent from the statements on an application of the candidate or in an interview with the candidate. In completing these investigations, the commission may use information or assistance provided by:

(1) a law enforcement agency;

(2) any organization of lawyers, judges, or individual practitioners; or

(3) any other person or association.

(d) The commission shall publicly disclose the names of all candidates who have filed for judicial appointment after the commission has received the consent required by subsection (b) but before the commission has begun to evaluate any of the candidates. If the commission's screening of the candidates for judicial appointment occurs in an executive session conducted under IC 5-14-1.5-6.1(b)(10), the screening may not reduce the number of candidates for further consideration to fewer than ten (10) individuals unless there are fewer than ten (10) individuals from which to choose before the screening. When the commission's

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screening has reduced the number of candidates for further consideration to not less than ten (10) or it has less than ten (10) eligible candidates otherwise from which to choose, the commission shall:

(1) publicly disclose the names of the individuals and their applications before taking any further action; and

(2) give notice of any further action in the same manner that notice is given under IC 5-14-1.5.

(e) Information described in subsection (d)(1) is identifying information for the purposes of IC 5-14-1.5-6.1(b)(10).

(f) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of each nominee, based on the considerations set forth in subsection (a). The list of names submitted to the governor and the written evaluation of each nominee shall be publicly disclosed by the commission.

(g) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the judicial nominating commission are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the judicial nominating commission:

(1) Personnel files of commission employees and files of applicants for employment with the commission to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

(3) Investigatory records prepared for the commission under subsection (c) until:

(A) the records are filed or introduced into evidence in connection with the consideration of a candidate;

(B) the records are publicly discussed by the commission in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the commission; or

(D) the commission elects to release the records that the commission considers appropriate in response to publicly disseminated statements relating to the activities or actions of the commission;

whichever occurs first.

(4) Applications of candidates for judicial appointment who

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are not among the applicants eligible for further consideration following the commission's screening under subsection (d).

(5) The work product of an attorney (as defined in IC 5-14-3-2) representing the commission.

(h) When an event described by subsection (g)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(i) As used in this subsection, "attributable communication" refers to a communication containing the sender's name, address, and telephone number. The commission shall provide a copy of all attributable communications concerning a candidate for judicial appointment to each member of the commission. An attributable communication becomes available for public inspection and copying under IC 5-14-3-3 after a copy is provided to each member of the commission. The commission may not consider a communication other than an attributable communication in evaluating a candidate for judicial appointment.

(j) The commission shall release the investigatory records prepared for the commission under subsection (c) to the candidate for judicial appointment described by the records.

Sec. 3. If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee from the list of nominees previously provided. Whenever two (2) or more vacancies exist, the commission shall nominate three (3) different persons for each vacancy and submit a list of the persons nominated to the governor.

Sec. 4. (a) If the governor fails to make an appointment not later than sixty (60) days after the date the names of the nominees are submitted to the governor, the chief justice shall make the appointment from the nominees.

(b) A change in a list submitted to the governor under section 3 of this chapter requires a resubmission of the altered list to the governor, and the sixty (60) day period in which the governor must make the appointment begins on the date of resubmission.

Sec. 5. An individual appointed to the supreme court, the court of appeals, or the tax court by the governor shall commence the duties of the individual's office immediately upon the effective date of the appointment. An appointment to a judicial office does not take effect until a vacancy for the office exists.

Sec. 6. (a) The judicial nominating commission shall meet as

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necessary to discharge the commission's responsibilities under the Constitution of the State of Indiana and the state laws. Meetings of the commission shall be called by the chairman, or if the chairman fails to call a meeting when a meeting is necessary, upon the call of any four (4) members of the commission. When a meeting is called, the chairman shall give each member of the commission at least five (5) days written notice by mail of the time and place of the meeting unless the commission at its previous meeting designated the time and place of the next meeting.

(b) Meetings of the commission must be held at a place in Indiana, as arranged by the chairman of the commission.

(c) The commission shall act only at a meeting and may act only on the concurrence of a majority of the members attending a meeting. The commission may not vote to reduce the number of candidates for further consideration or to submit or not submit the list of nominees under subsection (e) during an executive session. Four (4) members constitute a quorum.

(d) The commission may adopt reasonable and proper rules for the conduct of its proceedings and the discharge of its duties. The rules must comply with this chapter and include procedures by which eligible candidates for a vacancy in the supreme court or court of appeals may submit their names to the commission. The rules are public records, and the meetings of the commission at which the rules are considered for initial adoption or amendment must be publicly announced and open to the public.

(e) Notwithstanding IC 5-14-1.5-2, the commission is a public agency for the purposes of IC 5-14-1.5. The commission may meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment if:

(1) notice of the executive session is given in the manner prescribed by IC 5-14-1.5-5;

(2) all interviews of candidates are conducted at meetings open to the public; and

(3) copies of all attributable communications (as defined in section 2(i) of this chapter) concerning the candidates have been provided to all commission members and made available for public inspection and copying.

Chapter 4. Appointment of Senior Judges

Sec. 1. A person who desires to serve as a senior judge under IC 33-23-3 may apply to the judicial nominating commission for certification to the supreme court as a senior judge.

Sec. 2. The judicial nominating commission shall certify to the

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supreme court a person desiring to serve as a senior judge if the person meets requirements for service as a senior judge set by the supreme court under IC 33-24-3-7.

Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

(1) the person:

(A) has not served as a judge or justice; or

(B) is still serving as a judge or justice;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the election.

SECTION 7. IC 33-28 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 28. CIRCUIT COURTS

Chapter 1. Jurisdiction, Duties, and Powers

Sec. 1. The circuit court shall be held in the respective counties at times as may be fixed by law. The court shall be styled "_____ Circuit Court", according to the name of the county in which it may be held.

Sec. 2. (a) The circuit court has original jurisdiction in all civil cases and in all criminal cases, except where exclusive jurisdiction is conferred by law upon other courts of the same territorial jurisdiction.

(b) The circuit court also has the appellate jurisdiction that may be conferred by law upon it.

Sec. 3. The judge of a circuit court, within the judge's district, shall take all necessary recognizances to keep the peace, or to answer any criminal charge, or offense, in the court having

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jurisdiction.

Sec. 4. If there is a process for which a form is not prescribed by law, a circuit court shall frame a new writ in conformity with the principles of the process.

Sec. 5. A circuit court may do the following:

(1) Issue and direct all processes necessary to the regular execution of the law to the following:

(A) A court of inferior jurisdiction.

(B) A corporation.

(C) An individual.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana.

(3) Administer all necessary oaths.

(4) Punish, by fine or imprisonment, or both, all contempts of the court's authority.

(5) Proceed in any matter before the court, or in any matter in which the proceedings of the court, or the due course of justice, is interrupted.

(6) Grant commissions for the examination of witnesses according to the regulations of law.

Sec. 6. When the subject matter of a circuit court is situated in two (2) or more counties, the court that takes cognizance of the matter first shall retain the matter.

Sec. 7. The circuit court of each county shall have a seal. A description of the seal must be signed by the judge devising the seal. The seal must be filed by the clerk and recorded.

Sec. 8. (a) This section applies to a new county in which a seal has not been devised for the county's circuit court.

(b) The clerk of a circuit court located in a county subject to this section may seal all papers required by law to be sealed with the seal of the circuit court with the clerk's private seal. Papers sealed with the clerk's seal under this section are considered to have been sealed with a seal devised by the circuit court.

Sec. 9. A suit, process, matter, or proceeding returnable to or pending in any circuit court may not be discontinued by reason of a failure of the judge to attend on the first or any other day of the term.

Sec. 10. If, at any time both the sheriff and the coroner are unable to attend, or if the sheriff and coroner are both incapacitated from serving, the board of county commissioners

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may appoint an elisor to serve during the pendency of the matter in which the sheriff and coroner are disabled from serving.

Sec. 11. An elisor appointed under section 10 of this chapter shall take the same oath and give the same bond and surety that are required of sheriffs. The elisor has the same authority to perform all the duties of the sheriff that relate to the service for which the elisor is specially appointed. The elisor is governed by the same rules and subject to the same penalties and liabilities as the sheriff.

Chapter 2. Election of Judges

Sec. 1. (a) A judge of the circuit court shall be elected under IC 3-10-2-11 by the voters of each circuit.

Sec. 2. In any circuit for which IC 33-33 provides more than one (1) judge of the circuit court, the county election board shall assign a number to each seat on the court. After that, any candidate for judge of the circuit court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified seat of the court. Each seat on the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

Chapter 3. Small Claims and Misdemeanors Division

Sec. 1. This chapter applies to each circuit court for which this title provides a standard small claims and misdemeanor division.

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

(1) A small claims docket.

(2) A minor offenses and violations docket.

Sec. 3. (a) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars ($3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars ($3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars ($3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This section expires July 1, 2005.

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Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars ($6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars ($6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the case.

(c) If, at the trial of the case, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) The defendant may, not later than ten (10) days following

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service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, must be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars ($70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D felony cases.

(2) All misdemeanor cases.

(3) All infraction cases.

(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-10.

Sec. 9. (a) The court shall provide by rule for an evening session to be held once each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

Chapter 4. Jury Commissioners and Jury Service

Sec. 1. (a) This chapter does not apply to a county that chooses under subsection (b) to follow the procedure for jury selection and service set out in IC 33-28-5.

(b) The court administrator or the clerk of the circuit and superior courts of a county may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the procedure set out in this chapter. The court administrator shall serve as the jury commissioner under IC 33-28-5. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

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Sec. 2. (a) The circuit court shall, during November, appoint for the next calendar year two (2) persons, at least one (1) of whom shall be a resident of the town or city in which the court shall be held, as jury commissioners.

(b) The jury commissioners appointed under subsection (a) must be freeholders and voters of the county, well known to be of opposite politics, and of good character for intelligence, morality, and integrity.

(c) The circuit court shall cause the jury commissioners to appear and take an oath or affirmation in open court, to be entered of record in the order book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for intelligence and honesty, that you will select none whom you have been or may be requested to select, and that, in all of your selections, you will endeavor to promote only the impartial administration of justice.".

(d) After entering the oath required under subsection (c), the court shall instruct the jury commissioners concerning their duties.

Sec. 3. (a) The jury commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of the courts, to begin with the following calendar year.

(b) Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making the selections, the jury commissioners shall in all things observe their oaths. The jury commissioners shall not select the name of any person who is to them known to be interested in or has case pending that may be tried by a jury to be drawn from the names so selected.

(c) The jury commissioners shall deliver the locked box to the clerk of the circuit court, after having deposited into the box the names as directed under this section. The key shall be retained by one (1) of the jury commissioners, who may not be an adherent of

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the same political party as the clerk.

(d) In a county containing a consolidated city, the jury commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make the selections and deposits required under this section monthly instead of annually. The jury commissioners may omit the personal examination of prospective jurors, the examination of voters lists, and make selection without reference to county commissioners' districts. The judge of the circuit court in a county containing a consolidated city may do the following:

(1) Appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the jury commissioners.

(2) Fix the salaries of the commissioners, the secretary, and stenographic and clerical employees.

(3) Provide office quarters and necessary supplies for the jury commissioners and their employees.

The expenses incurred under this subsection shall be paid for from the treasury of the county upon the order of the court.

(e) Subject to appropriations made by the county fiscal body, the jury commissioners may use a computerized jury selection system. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

(f) The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross-section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(g) The supplemental sources designated under subsection (f) may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental

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sources than are drawn from the voter registration lists and tax schedules.

Sec. 4. When a court believes that by reason of numerous challenges in any cause, a special venire should issue for jurors, the court shall direct the clerk to draw from the box described in section 3 of this chapter the number of names considered proper. The persons drawn under this section shall be summoned by virtue of the special venire. If:

(1) the names in the box are exhausted for any reason; and

(2) a court of the county cannot be furnished with juries at any term during the calendar year;

the circuit court, or judge of the circuit court in vacation, shall by order require the jury commissioners at a time to be fixed, to deposit in the box the additional number of names as the court or judge shall name in the order. Additional jurors shall be selected under the rules and regulations prescribed in section 3 of this chapter. The box shall then be delivered to the clerk, as provided under section 3 of this chapter, to be drawn by the clerk as may be necessary under section 9 of this chapter.

Sec. 5. The box described in section 3 of this chapter shall remain in possession of the clerk, securely locked. The only key to the box must remain in the possession of the jury commissioner, of opposite politics from the clerk. The clerk shall be present each time the box is opened, for any purpose under this chapter.

Sec. 6. (a) A person may not be appointed a jury commissioner if, at the time of the appointment, the person is:

(1) a party to; or

(2) interested in;

a case pending in the county that may be tried by a jury to be drawn during the calendar year following the year of the appointment.

(b) A person appointed a jury commissioner, who fails to take the office, or having accepted the office, fails without good cause, to discharge any of the duties of the office, is guilty of contempt of the court. A person guilty of contempt under this section shall be summarily punished by fine of at least five dollars ($5) and not more than one hundred dollars ($100).

Sec. 7. (a) The circuit court shall appoint a person to fill a vacancy, or to act for a jury commissioner, as the case may require, if:

(1) a vacancy occurs in the office of jury commissioner;

(2) a jury commissioner fails to act when required; or

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(3) illness or any other cause renders a jury commissioner unable to act.

(b) A person appointed under subsection (a):

(1) must possess the qualifications required for jury commissioners;

(2) must be an adherent of the same political party as is the commissioner in whose stead the person is appointed to serve;

(3) shall take the oath required by this chapter.

(c) For the time actually employed in the performance of jury commissioner's duties, each jury commissioner shall be allowed a per diem to be fixed by the court and paid out of the county treasury upon the warrant of the county auditor.

Sec. 8. (a) A person shall be excused from acting as a juror if the person:

(1) is at least sixty-five (65) years of age;

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

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and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

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(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (i) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

Sec. 9. (a) During the month of December, and at other times the judge considers necessary, the judge of any court of record in which jury trials are had shall by written order direct the clerk of

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the circuit court to draw grand jurors or petit jurors from the names selected by the jury commissioners. The names shall be drawn by the clerk in the presence of the jury commissioners, in a number equal to the number of jurors to be summoned according to the judge's orders. The names of jurors for each court having criminal jurisdiction shall be drawn first.

(b) At the time of the drawing, the clerk shall enter in the order book of the court a list of the names drawn, in the order in which they were drawn. The clerk shall attach the clerk's certificate to attest to the accuracy of the list. The clerk shall issue venires for the jurors as the courts direct. However, the jurors called to service shall be identified long enough before the trial or grand jury session to permit counsel to study their backgrounds.

(c) Notice to or summons of persons for jury duty shall be served by the clerk of the circuit court upon order of the court.

(d) The sheriff or bailiff shall call the jurors to the jury box in the same order in which their names were drawn. Jurors shall serve for three (3) months, or for a shorter period if a shorter period is specified in the judge's written order.

(e) This section shall be construed to supplement IC 34-36-2, and IC 34-36-3-5 through IC 34-36-3-7, and other statutory provisions for special juries, for juries by agreement, for juries from other counties, for struck juries, and for special venires. This section shall be construed liberally, to the effect that no indictment shall be quashed, and no trial, judgment, order, or proceeding shall be reversed or held invalid on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

Chapter 5. Circuit and Superior Court Jury Selection and Service

Sec. 1. As used in this chapter, "courts" means the circuit and superior courts of a county that choose to follow the procedure for jury selection and service set out in this chapter.

Sec. 2. As used in this chapter, "juror qualification form" means the form prescribed for use by the courts and mailed to each prospective juror, or an electronic data processing facsimile of the form that may be created on magnetic tape, punched cards, or computer discs.

Sec. 3. As used in this chapter, "jury commissioner" means the court administrator or the clerk of the court and includes a deputy

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court administrator designated by the jury commissioner periodically to act in the jury commissioner's place.

Sec. 4. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

Sec. 5. As used in this chapter, "master list" means:

(1) a serially printed list;

(2) a magnetic tape;

(3) an addressograph file;

(4) a punched card file;

(5) a computer record; or

(6) another form of record determined by the supervising judge to be consistent with this chapter;

that fosters the policy and protects the rights secured by this chapter, contains all current, up-to-date voter registration lists for each precinct in the county, and is supplemented by names derived from other sources identified under this chapter.

Sec. 6. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

Sec. 7. As used in this chapter, "supervising judge" means a judge of the courts who is designated by the judges of the courts to supervise the jury selection process.

Sec. 8. As used in this chapter, "voter registration lists" means the official records of persons registered to vote.

Sec. 9. The jury commissioner and supervising judge under the plan required by section 13 of this chapter shall provide a uniform system of jury selection for the courts ensuring that:

(1) persons selected for jury service are selected at random from a fair cross-section of the population of the area served by the courts; and

(2) qualified citizens have the opportunity under this chapter to:

(A) be considered for jury service in the county; and

(B) fulfill their obligation to serve as jurors when summoned for that purpose.

Sec. 10. (a) The supervising judge is responsible for the selection of jurors as prescribed by this section.

(b) The supervising judge may authorize use of a computerized jury selection system under this chapter.

(c) A system authorized under subsection (b) must be fair and

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may not violate the rights of persons with respect to impartial and random selection of prospective jurors. Jurors selected under a computerized selection system must be eligible for selection under this chapter.

Sec. 11. (a) The court administrator shall serve as the jury commissioner for the county and has the powers and shall perform the duties prescribed in this chapter for the jury commissioner under the direction of the supervising judge.

(b) When acting as jury commissioner, the court administrator may not receive any compensation in addition to the court administrator's regular salary.

(c) The court administrator may delegate certain duties of the jury commissioner to a deputy court administrator with the approval of the supervising judge.

Sec. 12. (a) Under the supervision of the supervising judge, the jury commissioner shall prepare a written plan for the selection of grand and petit jurors in the county. The plan must be designed to achieve the objectives of, and otherwise comply with, this chapter. The plan must specify the following:

(1) Source of names for the master list.

(2) Form of the master list.

(3) Method of selecting names from the master list.

(4) Forms of and method for maintaining records of names drawn, jurors qualified, and juror's excuses and reasons to be excused.

(5) Method of drawing names of qualified jurors for prospective service.

(6) Procedures to be followed by prospective jurors in requesting to be excused from jury service.

(7) Number of petit jurors that constitutes a panel for civil and criminal cases or a description of the uniform manner in which this determination is made.

(b) The plan must be placed into operation after approval by the judges of the courts. The judges of the courts shall examine the plan to determine whether it complies with this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes to bring the plan into compliance.

(c) The plan may be modified at any time according to the procedure specified under this chapter.

(d) The plan must be submitted by the jury commissioner to the judges of the courts. The judges of the courts shall approve or direct modification of the plan not later than sixty (60) days after

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its receipt. The approved plan must go into effect not later than sixty (60) days after approval by the judges of the courts.

(e) The plan is a public document on file in the office of the jury commissioner and must be available for inspection at all reasonable times.

Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of supplemental lists is feasible. The supreme court may designate supplemental lists for use by the courts periodically in a manner that fosters the policy and protects the rights secured by this chapter. Supplemental sources may consist of lists of:

(1) utility customers;

(2) property taxpayers; and

(3) persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses.

Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) A person who has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the master list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the courts.

(d) The master list of names is open to the public for examination as a public record. However, the source of names and any information other than the names contained in the source is confidential.

Sec. 14. (a) Names must be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing of names for the next quarter must be held during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

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(b) The jury commissioner shall create and file an alphabetical list of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet records (such as punched cards, addressograph plates, or computer records) filed together to constitute the alphabetical list. Names may not be added to the alphabetical list, except by order of the court. The names drawn or any list compiled from the alphabetical list may not be disclosed to any person other than under this chapter or by order of the supervising judge.

(c) The number of names required to be drawn each quarter must be determined by the jury commissioner after consultation with all judges of the courts who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of the drawing of names may be increased by the jury commissioner if the jury commissioner determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(e) Names must be drawn randomly under section 16 of this chapter.

(f) Names drawn from the master list may not be returned to the master list until all nonexempt persons on the master list have been called.

Sec. 15. Assuming the master list contains names in some sequential order, such as an alphabetical or a numeric sequence, the drawing of names from the master list must be performed in the following manner:

(1) The total number of names on the master list is divided by the number of names to be drawn. The next whole number greater than the resulting quotient is the key number, except that the key number is never less than two (2).

(2) A starting name for making the selection is determined by randomly choosing a number between one (1) and the key number, inclusive.

(3) The required number of names is selected beginning with the starting name selected under subdivision (2) and proceeding to successive names appearing in the master list at intervals equal to the key number, recommencing at the beginning of the list until the required number of names is selected.

(4) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from

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the master list, names previously selected in the process described in subdivision (3) must be disregarded in selecting the additional names.

(5) An electronic or a mechanical system may be used to draw names from the master list.

Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names from the master list, the jury commissioner shall mail to each person whose name is drawn a juror qualification form. The form must be accompanied by instructions to fill out and return the form by mail to the jury commissioner not later than ten (10) days after its receipt. The instructions must state that requests for excuse from jury service during the next jury term should accompany the return of the qualification form.

(b) The juror qualification form must be designed by the jury commissioner and subject to approval by the judges of the courts as to matters of content and must elicit:

(1) the prospective juror's name, address, and age; and

(2) whether the prospective juror:

(A) is a citizen of the United States and a resident of the county;

(B) is able to read, speak, and understand English;

(C) has any physical or mental disability impairing the person's capacity to render satisfactory jury service; or

(D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commissioner not later than ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed must be directed by the jury commissioner to immediately appear before the jury commissioner

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to fill out a juror qualification form.

(f) When a prospective juror appears for jury service, or when there is an official conversation with the supervising judge or jury commissioner, a prospective juror may be required to fill out another juror qualification form in the presence of the supervising judge or jury commissioner. At this time, the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Information acquired under this subsection by the supervising judge or jury commissioner must be noted on the juror qualification form.

Sec. 17. (a) A prospective juror who fails to appear as directed by the jury commissioner under section 16 of this chapter must be ordered by the supervising judge to appear and show cause for the failure to appear as directed. If the prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

Sec. 18. (a) The supervising judge or the jury commissioner shall determine solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. Upon request of a prospective juror, the supervising judge or jury commissioner shall determine on the basis of information provided on:

(1) the juror qualification form;

(2) correspondence from the prospective juror; or

(3) an interview with the prospective juror;

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only upon a showing of:

(1) undue hardship;

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(2) extreme inconvenience; or

(3) public necessity;

until the time of the next drawing when the person is resummoned. Appropriate records must be maintained by the jury commissioner to facilitate resummoning.

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear.

Sec. 19. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) The judges of the courts shall, by local court rule, specify the procedure to be used for:

(1) the selection of qualified prospective jurors under this section; and

(2) summoning qualified prospective jurors whose names are drawn from the qualified jury wheel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly, and in accordance with section 20 of this chapter, draw at random from the qualified jury wheel twelve (12) qualified jurors and direct them to appear before the supervising judge. The supervising judge shall randomly select six (6) jurors after:

(1) explaining to the twelve (12) prospective jurors the duties and responsibilities of a grand jury; and

(2) excusing jurors under section 18 of this chapter.

(d) Whenever there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the supervising judge may require the jury commissioner to draw additional jurors at random from the qualified jury wheel. Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(e) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired. However, attorneys in any cases in which these jurors may serve may have access to the information.

Sec. 20. The same method described in section 15 of this chapter

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for drawing names from the master list must be followed for drawing names from the qualified jury wheel unless the names in the qualified jury wheel are not in some sequential order as described in section 15 of this chapter. The key number system is not necessary if the names are in the form of ballots or in some other form requiring them to be blindly drawn from a container by hand.

Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

(1) in a civil case move to stay the proceedings; and

(2) in a criminal case move:

(A) to dismiss the indictment (if the case has been brought by indictment);

(B) to stay the proceedings; or

(C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present in support of the motion:

(1) the testimony of the jury commissioner;

(2) relevant records and papers not public or otherwise available used by the jury commissioner; and

(3) other relevant evidence.

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

(1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and

(2) may dismiss an indictment (if the case was brought by indictment) or grant other appropriate relief.

(d) The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(e) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection (a).

Sec. 22. After the period of service for which names were drawn

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from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the supreme court. The records and papers must be available for public inspection at all reasonable times.

Sec. 23. (a) A person who appears for service as a petit or grand juror serves until the conclusion of the first trial in which the juror is sworn, regardless of the length of the trial or the manner in which the trial is disposed. A person who appears for service but is not selected and sworn as a juror completes the person's service at the end of one (1) day.

(b) A person who:

(1) serves as a juror under this chapter; or

(2) completes one (1) day of jury selection but is not chosen to serve as a juror;

may not be selected for another jury panel until all nonexempt persons on the master list have been called for jury duty.

Sec. 24. A person summoned for jury service who fails to appear or complete jury service as directed must be ordered by the court to immediately appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars ($100) or imprisoned in the county jail for not more than three (3) days, or both.

Sec. 25. The supreme court may adopt rules, not inconsistent with this chapter, regulating the selection and service of jurors.

Chapter 6. Lake County Jury Selection and Service Provisions

Sec. 1. The policy of this chapter is to provide a uniform system of jury selection for all courts so that:

(1) all persons selected for jury service shall be selected at random from a fair cross-section of the population of the area served by the court; and

(2) all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this county and an obligation to serve as jurors when summoned for that purpose.

Sec. 2. (a) As used in this chapter, "court" means the superior court of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

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(b) The term includes all other courts in the counties.

Sec. 3. As used in this chapter, "juror qualification form" means the form prescribed for use by the court and mailed to each prospective juror, or an electronic data processing facsimile of that form that might be created on magnetic tape, punched cards, or computer discs.

Sec. 4. As used in this chapter, "jury commissioner" includes any deputy court administrator designated by the jury commissioner from time to time to act in the jury commissioner's place.

Sec. 5. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

Sec. 6. As used in this chapter, "master list" means all current, up-to-date voter registration lists for each precinct in the county supplemented with names from other sources prescribed pursuant to this chapter, in order to foster the policy and protect the rights secured by this chapter. The master list may be in the form of a serially printed list, a magnetic tape, an addressograph file, punched cards, or such other form considered by the chief judge to be consistent with this chapter.

Sec. 7. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

Sec. 8. As used in this chapter, "voter registration lists" means the official records of persons registered to vote in the most recent general election.

Sec. 9. A citizen may not be excluded from jury service in counties affected by this chapter on account of race, color, religion, sex, national origin, or economic status.

Sec. 10. (a) The chief judge of the superior court within counties affected by this chapter is responsible for the selection of jurors as prescribed by this section.

(b) The chief judge of the superior court may authorize the use of a computerized jury selection system under this chapter. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized selection system must be eligible for selection under this chapter.

Sec. 11. (a) The court administrator of the court shall also serve

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as the jury commissioner for the county, and has the powers and shall perform the duties prescribed in this chapter for jury commissioners, under the direction of the chief judge.

(b) The court administrator in the court administrator's role as jury commissioner shall not receive any compensation in addition to the court administrator's regular salary.

(c) Performance of certain duties of the jury commissioner may be delegated to a deputy court administrator with the express approval of the chief judge.

(d) The jury commissioner may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the procedure set out in this chapter. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

Sec. 12. (a) The jury commissioner, under the supervision of the chief judge, shall prepare a written plan for the selection of grand and petit jurors in this county designed to achieve the objectives of, and otherwise comply with the provisions of, this chapter. This plan must specify the following:

(1) The source of names for the master list.

(2) The form of the list.

(3) The method of selecting names from the list.

(4) The forms of, and method for, maintaining records of names drawn, jurors qualified, and juror's excuses and reasons therefore.

(5) The method of drawing names of qualified jurors for prospective service.

(6) The procedures to be followed by prospective jurors in requesting excuse from jury service.

The plan must either specify the number of petit jurors that constitute a panel for civil and criminal cases or describe the uniform manner in which this determination shall be made.

(b) The plan shall be placed into operation after approval by the court. The judges of the court shall examine the plan to ascertain that it complies with the intent and provisions of this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes.

(c) The plan may be modified at any time under the procedure specified under this chapter.

(d) The plan shall be submitted by the jury commissioner to the court. The court shall approve or direct modification of the plan within sixty (60) days after its receipt. The approved plan shall go

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into effect not more than sixty (60) days after approval by the court.

(e) The plan is a public document on file in the office of the jury commissioner and available for inspection at all reasonable times.

Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of the supplemental lists is feasible. The supreme court shall exercise the authority to designate supplemental lists periodically in order to foster the policy and protect the rights secured by this article. The supplemental sources may include lists of utility customers, property taxpayers, and persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

(d) The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than the names contained in that source may not be public information.

Sec. 14. (a) Names shall be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing shall be held of names for the next quarter during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) An alphabetic list of names so drawn shall be created and filed in the office of the jury commissioner. The list may be in the form of a serial listing or discreet records (such as punched cards or addressograph plates) filed together to constitute the list. Names

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may not be added to this list, except by order of the court. The names drawn or any list compiled from the names drawn may not be disclosed to any person other than under this chapter or specific order of the chief judge.

(c) The number of names required to be drawn each quarter shall be determined by the jury commissioner after consultation with all judges who may conduct jury trials during the quarter, taking into consideration the number of jurors required for the grand jury.

(d) The frequency of drawing of names may be increased by the jury commissioner without amendment to this chapter when the jury commissioner considers it necessary for purposes of fairness or efficiency or to ensure compliance with this chapter.

(e) Names shall be drawn randomly in the manner prescribed in section 15 of this chapter.

(f) Names drawn from the master list may not be returned to the list until one (1) year after the date of the drawing of the name.

Sec. 15. (a) If the master list contains names in some sequential order, such as alphabetic or numeric sequence, the drawing of names from the master list shall be performed in the following manner:

STEP ONE: The total number of names on the master list shall be divided by the number of names desired to be drawn. The whole number next greater than the resulting quotient shall be the "key number" except that the key number may not be less than two (2).

STEP TWO: A "starting name" for making the selection shall then be determined by randomly choosing a number between one (1) and the "key number", inclusive.

STEP THREE: The required number of names shall then be selected beginning with the "starting name" selected under STEP TWO and proceeding to successive names appearing in the master list at intervals equal to the "key number", recommencing at the beginning of the list until the required number of names has been selected.

(b) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subsection (a) STEP THREE shall be disregarded in selecting the additional name.

(c) An electronic or a mechanical system may be used to draw names from the master list.

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Sec. 16. (a) Not more than one (1) calendar week after the date of the drawing of names from the master list, the jury commissioner shall cause to be mailed to each person whose name is drawn a juror qualification form. The form shall be accompanied by instructions to fill out and return the form by mail to the jury commissioner within ten (10) days after its receipt. The instructions shall further state that requests for excuse from jury service during the next jury term should accompany return of the qualification form.

(b) The juror qualification form:

(1) shall be designed by the jury commissioner subject to approval by the court as to matters of content; and

(2) must elicit the name, address of residence, and age of the prospective juror and whether the prospective juror:

(A) is a citizen of the United States and a resident of the county;

(B) is able to read, speak, and understand the English language;

(C) has any physical or mental disability impairing the prospective juror's capacity to render satisfactory jury service; or

(D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the prospective juror's responses are true to the best of prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If the prospective juror is unable to fill out the form, another person may do it for the prospective juror. A person filling out the form for a prospective juror shall indicate that the person has done so and the reason that the prospective juror was unable to fill out the form.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall again send the form, instructing the prospective juror to:

(1) make the necessary addition, clarification, or correction; and

(2) return the form to the jury commissioner within ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commissioner to appear before the jury commissioner to fill out a

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juror qualification form.

(f) At the time of a prospective juror's appearance for jury service, or at the time of any official conversation with the court or jury commissioner, any prospective juror may be required to fill out another juror qualification form in the presence of the court or jury commissioner. At this time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

(g) A prospective juror who fails to appear as directed by the jury commissioner under this section shall be ordered by the court to appear and show cause for the prospective juror's failure to appear as directed. If the prospective juror fails to appear under the court's order or fails to show good cause for the prospective juror's failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(h) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

Sec. 17. (a) The court or the jury commissioner shall determine solely on the basis of information provided on the juror qualification form or interview with the prospective juror whether or not the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A prospective juror is disqualified to serve on a jury if the prospective juror:

(1) is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county;

(2) is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is incapable, by reasons of a physical or mental disability, of rendering satisfactory jury service; or

(4) has had the prospective juror's rights revoked by reason of a felony conviction and not restored.

(c) A person claiming a disqualification under subsection (b)(3) may be required to submit a physician's or an authorized Christian

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Science practitioner's certificate as to the disability. The court may subject the certifying physician or practitioner to inquiry.

Sec. 18. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) A judge of any court or any other state or county official having the authority to conduct a trial or hearing with a jury within the county by order may direct the jury commissioner to draw and assign to that court or official the number of qualified jurors necessary for one (1) or more petit jury panels. Upon receipt of the order and in a manner prescribed in section 20 of this chapter, the jury commissioner shall publicly draw at random from the qualified jury wheel the number of qualified jurors required by the order and assign the qualified jurors so drawn to the court's jury panel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly and in a manner prescribed in section 20 of this chapter draw at random from the qualified jury wheel twelve (12) qualified jurors who shall be directed to appear before the chief judge. The chief judge shall randomly select six (6) jurors and one (1) alternate juror after having explained to the twelve (12) prospective jurors the duties and responsibilities of a grand jury and having excused jurors as prescribed in section 21 of this chapter.

(d) An alphabetical listing of grand and petit jurors assigned to each court location shall be maintained by the jury commissioner and a copy transmitted to the judge for whom the names have been drawn.

(e) If a grand, petit, or other jury is ordered to be drawn, the clerk shall cause each person drawn for jury service to be served with a summons either personally or by registered or certified mail, return receipt requested, addressed to the person at the person's usual residence, business, or post office address. The summons requires the person to report for jury service at a specified time and place.

(f) If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the jury commissioner to:

(1) draw additional jurors at random from the qualified jury wheel; or

(2) send available jurors from another panel to the court

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location requiring additional jurors.

Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(g) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired, except that attorneys in any cases in which these jurors may serve shall have access to the information.

Sec. 19. A qualified prospective juror is not exempt from jury service except for the following:

(1) Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties.

(2) Elected or appointed officials of the executive, legislative, or judicial branches of government of the:

(A) United States;

(B) State of Indiana; or

(C) counties affected by this chapter;

who are actively engaged in the performance of their official duties.

(3) A person who:

(A) would serve as a juror during a criminal trial; and

(B) is:

(i) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(ii) the spouse or child of a person described in item (i);

and desires to be excused for that reason.

Sec. 20. The same method described in section 15 of this chapter for drawing names from the master list shall be followed for drawing names from the qualified wheel unless the names in the qualified wheel are not in some sequential order as described in section 15 of this chapter. If the names are in the form of ballots or in some other form in which they must be blindly drawn from a container by hand, the key number system is not necessary.

Sec. 21. (a) Except as provided in section 19 of this chapter, a person may not be automatically excused under this chapter. The chief judge or jury commissioner, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective

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juror, or interview with the prospective juror whether the prospective juror should be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing at which time the person will be resummoned. Appropriate records shall be maintained by the jury commissioner to facilitate a resummoning.

(c) Requests for excuse, other than those accompanying return of the qualification form, shall be made by the prospective juror in writing to the presiding judge not later than three (3) weeks before the date upon which the prospective juror has been summoned to appear.

Sec. 22. (a) Not more than seven (7) days after the moving party discovered or by the exercise of diligence could have discovered the grounds and before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case, to dismiss the indictment (if the case has been brought by indictment) or stay the proceedings or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the jury commissioner any relevant records and papers not public or otherwise available used by the jury commissioner and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this article, and may dismiss an indictment (if the instant case was brought by indictment) or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(d) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection

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(a).

Sec. 23. After the period of service for which names were drawn from the master jury list has expired, and all persons elected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk shall be preserved by the clerk for a period as prescribed by rule of the supreme court and must be available for public inspection at all reasonable times.

Sec. 24. In any one (1) year period, a person may not be eligible or required to be available for service as a petit or grand juror for more than one (1) term of service, except when necessary to complete service in a particular case. The term of service shall be three (3) months unless a shorter jury term is ordered by the chief judge due to a sustained increase in frequency or length of jury trials that would result in a requirement for jurors to be present at court more than ten (10) court days during the quarter, except as necessary to complete service in a particular case.

Sec. 25. A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars ($100) or imprisoned in the county jail not more than three (3) days, or both.

Sec. 26. The supreme court may make and amend rules, not inconsistent with this chapter, regulating the selection and service of jurors.

SECTION 8. IC 33-29 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 29. SUPERIOR COURTS

Chapter 1. Provisions Concerning Standard Superior Courts

Sec. 1. Except as otherwise provided in IC 33-33, this chapter applies to standard superior courts established in IC 33-33.

Sec. 2. A standard superior court may have a seal containing the words "_____ (insert name of county in which the court is located) Superior Court _____ (insert court number for multiple courts), _____ (insert name of county) County, Indiana".

Sec. 3. (a) A standard superior court judge is elected at the general election every six (6) years in the county in which the court is located. The judge's term begins January 1 following the election

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and ends December 31 following the election of the judge's successor.

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

(1) a resident of the county in which the court is located;

(2) less than seventy (70) years of age at the time the judge takes office; and

(3) admitted to practice law in Indiana.

Sec. 4. The judge of a standard superior court:

(1) has the same powers relating to the conduct of business of the court as the judge of the circuit court of the county in which the standard superior court is located; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. (a) The judge of a standard superior court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

(1) fixed in the same manner as the salaries of the bailiff and the official court reporter for the circuit court of the county in which the standard superior court is located; and

(2) paid monthly:

(A) out of the treasury of the county in which the standard superior court is located; and

(B) as provided by law.

Sec. 6. The clerk of a standard superior court, under the direction of the judge of the court, shall provide:

(1) order books and fee books;

(2) judgment dockets and execution dockets; and

(3) other books for the court;

that must be kept separately from the books and papers of other courts.

Sec. 7. (a) The county executive for the county in which the standard superior court is located shall provide and maintain:

(1) a suitable courtroom;

(2) furniture and equipment; and

(3) other rooms and facilities;

necessary for the operation of the court.

(b) The county fiscal body shall appropriate sufficient funds for the provision and maintenance of the items described in subdivisions (1) through (3).

Sec. 8. (a) The jury commissioners appointed by the judge of the

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circuit court of the county in which the standard superior court is located shall serve as the jury commissioners for the standard superior court.

(b) A jury in the standard superior court shall be selected in the same manner as a jury in the circuit court of the county in which the standard superior court is located.

(c) A grand jury selected for the circuit court of the county in which the standard superior court is located shall serve as the grand jury for the standard superior court.

Sec. 9. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, transfer any action or proceeding from the circuit court to the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the standard superior court to the circuit court of the county in which the standard superior court is located.

Sec. 10. (a) The judge of the circuit court of the county in which the standard superior court is located may, with the consent of the judge of the standard superior court, sit as a judge of the standard superior court in any matter as if the circuit court judge were an elected judge of the standard superior court.

(b) The judge of a standard superior court may, with the consent of the judge of the circuit court, sit as the judge of the circuit court of the county in which the standard superior court is located in any matter as if the judge of the standard superior court were the elected judge of the circuit court.

Chapter 2. Provisions Governing Standard Small Claims and Misdemeanor Division

Sec. 1. This chapter applies to each superior court for which IC 33-33 provides a standard small claims and misdemeanor division.

Sec. 2. The small claims and misdemeanor division of the court has the following dockets:

(1) A small claims docket.

(2) A minor offenses and violations docket.

Sec. 3. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars ($3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of

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any claim that exceeds three thousand dollars ($3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars ($3,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars ($6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars ($6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(c) This section expires July 1, 2005.

Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars ($6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars ($6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering an

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appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of the plaintiff's claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

Sec. 6. There is no change of venue from the county as of right in cases on the small claims docket. However, a change of venue from the judge shall be granted as provided by statute and by rules of the supreme court.

Sec. 7. (a) The filing of a claim on the small claims docket is considered a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint in a small claims case, demand a trial by jury by filing an affidavit that:

(1) states that there are questions of fact requiring a trial by jury;

(2) specifies those questions of fact; and

(3) states that the demand is in good faith.

(c) Notice of the defendant's right to a jury trial, and the ten (10) day period in which to file for a jury trial, shall be clearly stated on the notice of claim or on an additional sheet to be served with the notice of claim on the defendant.

(d) Upon the deposit of seventy dollars ($70) in the small claims docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim then loses its status as a small claim.

Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D felony cases.

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(2) All misdemeanor cases.
(3) All infraction cases.
(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through IC 34-28-5-13.

Sec. 9. (a) The court shall provide by rule for an evening session to be held one (1) time each week.

(b) The court shall hold additional sessions in the evening and on holidays as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 10. The court shall comply with all requests made under IC 33-24-6-3 by the executive director of the division of state court administration concerning the small claims and misdemeanor division.

Chapter 3. Small Claims Referees

Sec. 1. This chapter applies to each superior court having a standard small claims and misdemeanor division for which a judge of the superior court is authorized under IC 33-33 to appoint a small claims referee.

Sec. 2. (a) A small claims referee shall serve at those times the court requires.

(b) A small claims referee:
(1) must be admitted to the practice of law in Indiana;
(2) is not required to be a resident of the county; and
(3) continues in office until removed by the judge of the court.

Sec. 3. The appointment of the small claims referee:
(1) must be in writing; and
(2) does not prohibit the private practice of law by the appointee.

Sec. 4. A small claims referee may:
(1) administer all oaths and affirmations;
(2) take and certify affidavits and depositions;
(3) issue subpoenas for witnesses;
(4) compel the attendance of witnesses; and
(5) punish contempts;
for matters within the small claims jurisdiction of the court.

Sec. 5. The small claims referee shall:
(1) conduct trials of small claims cases;
(2) for cases disposed of by trial, submit written findings of fact, conclusions of law, and recommendations for final judgments to the judge of the court; and
(3) for cases disposed of without trial, submit a written

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disposition report to the judge of the court.

Sec. 6. The judge of the court may:

(1) limit any of the rights or powers of the small claims referee; and

(2) specifically determine the duties of the small claims referee within the limits established in this chapter.

Chapter 4. Division of Rooms in Superior Courts

Sec. 1. In a county that has a superior court consisting of two (2) or more judges, the court shall be divided into rooms.

Sec. 2. The rooms described in section 1 of this chapter shall be numbered consecutively, beginning with No. 1. The judges of the courts shall be nominated and elected by rooms. However, any one (1) judge may sit as judge in the other rooms of the court.

Chapter 5. Terms and Powers of Superior Courts

Sec. 1. (a) Except as provided in subsection (b), terms and powers described in this chapter apply to superior courts except as otherwise provided in the particular statute creating the superior court for a particular county.

(b) Section 7 of this chapter applies to all superior courts.

Sec. 2. (a) If a superior court consists of more than one (1) judge, the court shall hold general and special terms.

(b) A general term of the superior court may be held by a majority of the judges and a special term by any one (1) or more of the judges. General and special terms may be held at the same time, as the judges of the court may direct. If a general or special term is held, the terms shall be taken and considered to have been held by the authority and direction of the judges.

Sec. 3. (a) The superior court, at general or special term, may do the following:

(1) Issue and direct all process to courts of inferior jurisdiction, and to corporations and individuals, which shall be necessary in exercising its jurisdiction, and for the regular execution of the law.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions.

(3) Issue all process and executions.

(4) Do other acts necessary to carry into effect subdivisions (1) through (3) in conformity with the Constitution of the State of Indiana and laws of Indiana.

(b) The court shall, at times as the business of the court may require, meet in general term, and may, at any time, make a distribution and redistribution of the business of the court to

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special term, as it considers proper.

(c) Each judge holding court at special term shall transact the business assigned to the judge. However, the judge may call one (1) or more of the other judges of the court to sit with the judge in special term to consider any matter pending before the judge.

(d) The court, at special term, may hear and dispose of business distributed to it by the general term. The court may, at special or general term:

(1) vacate or modify its own judgments or orders, rendered at either special or general term; and

(2) enter judgments by confession, as is vested by law in circuit courts.

Sec. 4. The judges of the superior court, individually or collectively, may do the following:

(1) Grant restraining orders and injunctions.

(2) Issue writs of habeas corpus, and of mandate and prohibition.

(3) Appoint receivers, master commissioners, and commissioners to convey real property.

(4) Grant commissions for the examination of witnesses.

(5) Appoint other officers necessary to facilitate and transact the business of the court as is conferred on judges of circuit courts.

Sec. 5. When any reason for a change of venue is shown to exist from any of the judges, the remaining judge or judges alone shall act. However, when all the judges are incompetent to act, the case shall be transferred to the circuit court of the county.

Sec. 6. (a) In all cases where a person has the right of appeal from the circuit to the supreme court or court of appeals, an appeal may be taken directly to the supreme court or court of appeals from any order or judgment of the superior court.

(b) Appeals described in subsection (a) are governed by the law regulating appeals from the circuit court to the supreme court or court of appeals.

(c) Appeals from the special to the general term are abolished.

Sec. 7. To be eligible to hold office as a judge of a superior court, a person must be a resident of the judicial circuit that the judge serves.

Chapter 6. Transfer of Action to Circuit Court

Sec. 1. In all counties that contain circuit and superior courts, the judge of the superior court may, upon the judge's own motion, transfer any case filed and docketed in the superior court to the

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circuit court to be redocketed and disposed of as if originally filed with the circuit court if:

(1) any reason for change of venue from the judge of the superior court is shown to exist as provided by law;

(2) more cases are filed in the superior court during any term of the superior court than can be disposed of with expedition; and

(3) in the opinion of the superior court, an early disposition of the case is required.

Sec. 2. In all counties with circuit and superior courts, the judge of the circuit court may, with the consent of the judge of the superior court, transfer any action, cause, or proceedings filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court, provided the action, cause, or proceeding could have been originally filed and docketed in the superior court, in any of the following instances:

(1) Whenever more cases are filed in the circuit court during any year than can be disposed of with expedition.

(2) In all other cases where, in the opinion of the circuit court judge, an early disposition of the case is required.

Sec. 3. In all counties with circuit and superior courts, the judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceedings filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court, in any of the following instances:

(1) Whenever more cases are filed in the superior court during any year than can be disposed of with expedition.

(2) In all other cases where, in the opinion of the superior court judge, an early disposition of the case is required.

Sec. 4. Whenever a special judge has been designated in any action, cause, or proceeding, and the special judge is the elected qualified and acting judge of a circuit, superior, or probate court in the county having jurisdiction of the subject matter of the action, cause, or proceeding, the regular judge of the court in which the action, cause, or proceeding is pending may, after the designation of a special judge, with the consent of the special judge,

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transfer the action, cause, or proceeding to the court presided over by the special judge by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript to be redocketed and disposed of as if originally filed with the court to which the action, cause, or proceeding is transferred.

SECTION 9. IC 33-30 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 30. COUNTY COURTS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Chief justice" means the chief justice of Indiana.

Sec. 3. "Judge" means a county court judge or, where the context requires, a judge of a unified superior court.

Sec. 4. "Temporary transfer" means an assignment for more than the duration of a six (6) year term.

Chapter 2. Establishment and Organization

Sec. 1. A county court is established in each county, except in a county for which:

(1) IC 33-33 provides a small claims docket of the circuit court;

(2) IC 33-33 provides a small claims docket of the superior court; or

(3) IC 33-34 provides a small claims court.

Sec. 2. Notwithstanding section 1 of this chapter, Lake County does not have a county court. However, the county division of the superior court of Lake County shall maintain the dockets described in IC 33-30-5-1.

Sec. 3. Each county court has one (1) judge except as otherwise provided in this chapter.

Sec. 4. The county court of Madison County has two (2) judges.

Sec. 5. There must be one (1) division for each judge of the county court. Each division must include the entire county or counties the judge normally serves.

Sec. 6. (a) The judge shall formulate an organizational plan for the efficient operation of the judge's court. The organizational plan must include provisions to facilitate the speedy disposition of cases involving motorists charged with the violation of state traffic laws.

(b) The organizational plan must provide for a system of posting bond in traffic cases by designating the places where bond may be

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posted with due consideration given to factors of convenience to both law enforcement officers and alleged offenders.

(c) To facilitate the speedy disposition of cases involving traffic violations, the organizational plan must provide for a standard traffic violations bureau for the county court under IC 34-28-5-7 through IC 34-28-5-10. The plan must ensure that the defendant is advised of all rights. A judge serving more than one (1) county shall establish a traffic violations bureau in each county.

Sec. 7. (a) A judge of a county court may adopt rules and regulations for conducting the business of the court.

(b) The judge of the county court may do the following:

(1) Perform marriages.

(2) Issue warrants.

(3) Issue and direct a process necessary in exercising the court's jurisdiction.

(4) Make proper judgments, sentences, decrees, and orders.

(5) Issue process.

(6) Perform acts necessary and proper to carry out the provisions of this article.

(c) The judge of the county court has the same power as the judge of a circuit court concerning the following:

(1) The attendance of witnesses.

(2) The punishment of contempts and the enforcement of the judge's orders.

(3) The administration of oaths.

(4) The issuance of necessary certificates for the authentication of the records and proceedings of the court.

Sec. 8. (a) A county court shall meet in continuous session.

(b) A vacation of one (1) month per year shall be provided for the judge of the county court. The judge of the county court shall coordinate the judge's schedule so that great inconvenience is not caused to a person seeking the services of the court during the vacation period.

(c) The judge may appoint a judge pro tem to handle the court's judicial business during the judge's vacation or for any period the judge considers necessary. The sitting of a judge pro tem may not become a standard practice of the court.

Sec. 9. A county court shall have a seal consisting of a circular disk containing the words, "_____ (insert name of county) County Court of the State of Indiana". If a judge normally serves more than one (1) county, there shall be a separate seal for each county.

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Chapter 3. Judges

Sec. 1. A person may not run for judge of a county court if the person will be at least seventy (70) years of age before the person begins the person's term of office. The chief justice of the state may authorize a retired judge due to age to perform temporary judicial duties in a county court.

Sec. 2. To be eligible to serve as a county court judge, a person must:

(1) meet the qualifications prescribed by IC 3-8-1-18; and

(2) be a resident of the county that the county court judge serves.

Sec. 3. (a) The number of county court judges required by IC 33-30-2 shall be elected under IC 3-10-2-11 by the voters of each county or by the voters of two (2) counties if a judge is required to serve two (2) counties. The term of office of a county court judge is six (6) years, beginning on January 1 after election and continuing until a successor is elected and qualified.

(b) In any county for which IC 33-30-2 provides more than one (1) judge of the county court, the county election board shall assign a number to each division of the court. After the assignment, any candidate for judge of the county court must file a declaration of candidacy under IC 3-8-2 or petition of nomination under IC 3-8-6 for one (1) specified division of the court. Each division of the court shall be listed separately on the election ballot in the form prescribed by IC 3-10-1-19 and IC 3-11-2.

Sec. 4. A judge of a county court:

(1) shall devote full time to the judge's judicial duties; and

(2) may not engage in the practice of law.

Sec. 5. If a county court judge serves two (2) counties that coincide with the boundaries of a joint judicial circuit, the county court judge shall coordinate the judge's schedule with that of the circuit court judge to ensure, as far as practicable, the location of a full-time judge in each county.

Sec. 6. The judges of a county court shall be members of the judicial conference of Indiana established by IC 33-38-9-3.

Sec. 7. Each judge of a county court shall be a participant in the judges' retirement fund under IC 33-38.

Sec. 8. A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging the judge in any court in the United States with a crime punishable as a felony under the laws of the state or the United States; or

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(2) a recommendation to the supreme court by the commission on judicial qualifications for the judge's removal or retirement.

Sec. 9. (a) The commission on judicial qualifications shall serve as the commission on judicial qualifications for judges of the county court.

(b) The procedures and practices provided by IC 33-38-13 for the organization and operation of the commission on judicial qualifications shall govern the practice and procedure in all proceedings brought under this section.

Sec. 10. (a) On recommendation of the commission on judicial qualifications or on a supreme court motion, the supreme court may suspend a judge from office without salary when, in any court in the United States, the judge:

(1) pleads guilty to;

(2) pleads no contest to; or

(3) is found guilty of;

a crime punishable as a felony under the laws of a state or the United States or any crime that involves moral turpitude under the law.

(b) If the judge's conviction is reversed, the suspension terminates, and the judge shall be paid the judge's salary for the period of suspension.

(c) If the judge is suspended and the judge's conviction becomes final, the supreme court shall remove the judge from office.

Sec. 11. (a) On recommendation of the commission on judicial qualifications, the supreme court may:

(1) retire a judge for a disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent; and

(2) censure or remove a judge for action occurring not more than six (6) years before the commencement of the judge's current term when the action constitutes:

(A) willful misconduct in office;

(B) willful and persistent failure to perform the judge's duties;

(C) habitual intemperance; or

(D) conduct prejudicial to the administration of justice that brings that judicial office into disrepute.

(b) Upon receipt by the supreme court of a recommendation, the supreme court shall hold a hearing and make a required determination. The judge is entitled to be present at the hearing.

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(c) A judge retired by the supreme court is considered to have retired voluntarily.

(d) A judge removed by the supreme court is ineligible for judicial office and, pending further order of the court, is suspended from practicing law in Indiana. A judge removed forfeits the judge's interest in the judges' retirement system or to an annuity under that law, except for the right of return of contributions made by the judge, plus accrued interest.

Sec. 12. (a) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit, superior, and county courts.

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

Chapter 4. Jurisdiction

Sec. 1. (a) A county court has the following jurisdiction:

(1) Original and concurrent jurisdiction in civil cases founded on contract or tort in which the debt or damage claimed is not more than ten thousand dollars ($10,000).

(2) Original and concurrent jurisdiction in possessory actions between a landlord and tenant and original exclusive jurisdiction in actions for the possession of property where the value of the property sought to be recovered is not more than ten thousand dollars ($10,000).

(3) Original and concurrent jurisdiction of a case involving a Class D felony, a misdemeanor, or an infraction case.

(4) Original and concurrent jurisdiction of a case involving the violation of a:

(A) city;

(B) town; or

(C) municipal corporation;

ordinance.

(5) Original and concurrent jurisdiction of a case involving the violation of a traffic ordinance.

(b) If a defendant is charged with a crime outside the jurisdiction of the county court, the court may hold the defendant to bail in an equal amount of either cash or surety.

Sec. 2. (a) The county court does not have jurisdiction in the following:

(1) Actions seeking injunctive relief or involving partition of real estate.

(2) Actions to declare or enforce any lien.

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(3) Matters pertaining to paternity, juvenile, or probate.
(4) Cases where the appointment of a receiver is asked.
(5) Suits for dissolution of marriage.

(b) The county court has jurisdiction to conduct preliminary hearings in felony cases.

Chapter 5. Practice and Procedure

Sec. 1. (a) Each judge of a county court shall maintain the following dockets:

(1) An offenses and violations docket.
(2) A small claims docket for the following:
(A) All cases where the amount sought or value of the property sought to be recovered is not more than three thousand dollars ($3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over three thousand dollars ($3,000) to bring the claim within the jurisdiction of the small claims docket.
(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than three thousand dollars ($3,000).
(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.
(3) A plenary docket for all other civil cases.

(b) This section expires July 1, 2005.

Sec. 2. (a) This section applies after June 30, 2005.

(b) Each judge of a county court shall maintain the following dockets:

(1) An offenses and violations docket.
(2) A small claims docket for the following:
(A) All cases where the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of the claim that is over six thousand dollars ($6,000) to bring the claim within the jurisdiction of the small claims docket.
(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than six thousand dollars ($6,000).
(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.
(3) A plenary docket for all other civil cases.

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Sec. 3. Except as otherwise provided in this article, the practice and procedure in a county court shall be as provided by statute and Indiana Rules of Procedure as adopted by the supreme court. However, in cases of the small claims docket, the following exceptions apply:

(1) Defendants are considered to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance is considered a general denial and preserves all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

(2) If, at the trial of the cause, the court determines that the complaint is so vague and ambiguous that:

(A) the defendant was unable to determine the nature of the plaintiff's claim; or

(B) the plaintiff is surprised by the defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications and offers of compromise.

Sec. 4. Except as provided by statute or by rules of the supreme court, there is not a right to a change of venue from the county in cases in the county court.

Sec. 5. (a) The filing of a small claim in a county court is deemed a waiver of trial by jury.

(b) A defendant may, not later than ten (10) days following service of the complaint, make demand for a trial by jury by affidavit:

(1) stating that there are questions of fact requiring a trial by jury; and

(2) specifying the facts and that the demand is intended in good faith.

(c) The notice of claim or an additional sheet served with the notice of claim on the defendant must clearly state:

(1) the defendant's right to a jury trial; and

(2) the ten (10) day period in which to file for a jury trial.

(d) Upon the deposit of seventy dollars ($70) in the small claims

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docket by the defendant, the court shall transfer the claim to the plenary docket. Upon transfer, the claim shall lose the claim's status as a small claim.

Sec. 6. With respect to jury trials for criminal cases in a county court, the jury must consist of the number of qualified jurors required by IC 35-37-1-1. When a jury trial is demanded, the county court may call a jury from the list provided and used by the circuit court.

Sec. 7. (a) If a court or jury finds against the defendant, the court shall specify the terms and conditions for satisfaction of the judgment. The judgment may be paid in installments.

(b) The judge may stay the issuance of execution and other supplementary process during compliance. The stay may be modified or vacated by the court.

Sec. 8. A county court is a court of record.

Sec. 9. (a) All judgments rendered in civil actions must be properly recorded in the judgment docket book of a county court. Judgments are liens on real estate when the judgment is entered in the county court judgment docket in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

(b) The clerk of the county court shall keep a judgment docket in which judgments must be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

Sec. 10. An appeal of a judgment from a county court must be taken:

(1) in the same manner and under the same rules and statutes; and

(2) with the same assessment of costs;

as cases appealed from a circuit court.

Chapter 6. Transfer of Cases and Judges

Sec. 1. (a) A judge of a circuit or superior court may order a case filed in the judge's court to be transferred to the county court and entered in the appropriate docket if:

(1) the county court has jurisdiction of the case concurrent with the circuit or superior court; and

(2) the county court judge consents to the transfer.

(b) A judge of the county court may order a case filed in the plenary or criminal docket of the county court to be transferred to the circuit or superior court and entered in the appropriate docket if:

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(1) the circuit or superior court has jurisdiction of the case concurrent with the county court; and

(2) the county court judge consents to the transfer.

Sec. 2. (a) The county clerk shall prepare, and the county court judge shall certify and file, quarterly reports on March 31, June 30, September 30, and December 31 each year with the chief justice. The reports must include:

(1) the gross case filings, terminations, and cases remaining open, broken down by the type of case; and

(2) the number of jury trials, broken down by the type of case.

(b) The reports must be:

(1) in a form prescribed by; and

(2) distributed by;

the supreme court.

(c) Noncompliance with this section is grounds for censure or removal of the judge under IC 33-30-3-11.

Sec. 3. Based on the quarterly reports concerning the volume and nature of judicial workload prepared under section 2 of this chapter, the supreme court shall consider the temporary transfer of any judge of a county court to another county court if the temporary transfer is determined to be beneficial to facilitate the judicial work of the court to which the judge is transferred without placing an undue burden on the court from which the judge is transferred. However, a judge may not be temporarily transferred to a court in another county that, at the court's nearest point, is more than forty (40) miles from the county seat that the judge normally serves unless the judge consents to the transfer.

Sec. 4. Any judge transferred to a court in another county shall be paid travel and other necessary expenses by the county to which the judge is transferred. An allowance for expenses shall be certified by the chief justice in duplicate to the auditor of the county.

Chapter 7. County Responsibilities

Sec. 1. (a) The board of county commissioners of each county shall provide a suitable place for the holding of court for each judge of the county court sitting in the board's county. The county may rent suitable facilities from other governmental units.

(b) A judge may conduct hearings and hold court in cities or towns outside the place provided by the board of county commissioners if the judge considers it necessary for the convenience of the citizens of the district.

(c) Each judge of the county court shall provide by rule for an

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evening session to be held one (1) time each week in each county served by the court. Additional sessions in the evening and on holidays shall be held as necessary to ensure the just, speedy, and inexpensive determination of every action.

Sec. 2. (a) The clerk and sheriff of the county shall serve as the clerk and sheriff of the county court. The clerk and sheriff shall attend the court and discharge all duties pertaining to the respective offices as required by law in circuit courts.

(b) The clerk shall permit cases to be filed in any normal weekday whether or not the county court judge is sitting in the county on that day.

(c) All instruments requiring the signature of the clerk in the county court's business shall be signed as "Clerk of the _____ County Court.".

(d) The judge of the county court shall appoint a bailiff and a reporter and other employees necessary to carry out the business of the court.

Sec. 3. (a) The county shall furnish all supplies, including the following:

(1) Blanks, forms, and papers of every kind required for use in all cases.
(2) Furniture.
(3) Books.
(4) Papers.
(5) Stationery.
(6) Recording devices.
(7) Other equipment and supplies of every character necessary for the keeping of the records of the proceedings and maintaining of the county court.

(b) The county shall provide a suitable place for the holding of court for the judge of the county court sitting in the county. The county shall pay the salary of the:

(1) deputy clerk;
(2) county police officer;
(3) bailiff; and
(4) reporter;

assigned to the county court as prescribed by law.

Sec. 4. (a) The salary of a county court judge who serves more than one (1) county shall be paid by the respective counties in equal amounts.

(b) The salary of every county court judge, as set by IC 33-38-5, shall be paid in equal monthly installments.

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SECTION 10. IC 33-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 31. PROBATE COURTS

Chapter 1. St. Joseph County Probate Court

Sec. 1. There is established a probate court in St. Joseph County known as the St. Joseph Probate Court. The court shall be presided over by one (1) judge to be chosen as provided in this chapter.

Sec. 2. The court:

(1) is a court of record; and

(2) shall have a seal and device, as the judge may choose, with the name of the county on its face. A description and impression of the seal and device shall be spread on the order book of the court.

Sec. 3. (a) The court consists of one (1) judge, to be elected by the legal voters of the county for a term of six (6) years:

(1) beginning on the first day of January following the election of the judge; and

(2) continuing until the successor of the judge is elected and qualified.

The election must occur at the time of the general election every six (6) years.

(b) The judge shall be commissioned by the governor in the same manner as judges of the circuit court. Vacancies occurring in the office of judge of the probate court shall be filled by appointment by the governor, in the same manner as vacancies in the office of judge of the circuit court.

(c) To be eligible to hold office as judge of the court, a person must be a resident of St. Joseph County.

Sec. 4. The clerk of the circuit court and the sheriff of the county where the court is organized shall be the clerk and sheriff of the probate court. The clerk and the sheriff are each entitled to fees for their services as are allowed in the circuit court for similar services.

Sec. 5. (a) The clerk and sheriff shall attend the court and discharge all the duties pertaining to their respective offices required by law in the circuit court.

(b) All laws:

(1) prescribing the duties and liability of the officers;

(2) prescribing the mode of proceeding against either or both of the officers for any neglect of official duty; and

(3) allowing fees and providing for the collection of the fees;

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in the circuit court, extend to the probate court, as applicable.

Sec. 6. The probate court shall hold sessions at the courthouse of the county, or at any other convenient place as the court designates in the county. The county commissioners shall provide suitable quarters for the sessions.

Sec. 7. The judge of the court may adjourn the same on any day previous to the expiration of the time for which it may be held, and also from any one (1) day in the term over to any other day in the same term, if in the opinion of the judge, the business of the court will allow.

Sec. 8. When a trial is begun and in progress at the time when by law, the term of the court would expire, the term shall be extended until the close of the trial.

Sec. 9. (a) The probate court in the county for which it is organized has original, concurrent jurisdiction with the superior courts of the county in all matters pertaining to the following:

(1) The probate of wills.

(2) Proceedings to resist probate of wills.

(3) Proceedings to contest wills.

(4) The appointment of guardians, assignees, executors, administrators, and trustees.

(5) The administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons.

(6) The administration of trusts, assignments, adoption proceedings, and surviving partnerships.

(7) Any other probate matters.

(b) The probate court has exclusive juvenile jurisdiction in St. Joseph County.

(c) The probate court does not have jurisdiction in civil actions.

Sec. 10. The probate court has jurisdiction and shall proceed in the probate and juvenile causes. All proceedings in probate and juvenile causes in the court shall be conducted as proceedings are required, by law, to be conducted in the circuit court in the counties not having a probate court.

Sec. 11. A judge of the probate court may act as judge of any circuit court or superior court upon the trial of any cause or proceeding, when:

(1) the judge of the circuit or superior court may be incompetent to try the cause; or

(2) a change of venue is granted for objection to the judge.

Sec. 12. (a) If the judge of the probate court is unable to attend and preside at any term of the court, or during any part of a term,

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the judge may appoint, in writing, an attorney eligible to the office of the judge, at the term or part of the term.

(b) A written appointment shall be entered of record in the court.

(c) If the appointee is not a judge of a court of record, the appointee shall take the same oath required by law of judges of the probate court.

(d) The appointee has the same power and authority during the continuance of the appointment of the judge as a regularly elected judge of the court.

Sec. 13. (a) When a person is appointed judge pro tem under this chapter, the appointee is entitled to ten dollars ($10) for each day the appointee serves as the judge to be paid:

(1) out of the county treasury of the county where the probate court is held;

(2) upon the warrant of the county auditor; and

(3) based upon the filing of a claim approved by the judge of the court.

(b) Any amount more than five hundred dollars ($500) allowed to a judge pro tem during any year shall be deducted by the board of county commissioners from the regular annual salary of the judge of the probate court making the appointment unless the judge pro tem is appointed on account of change of venue, relationship, interest as former counsel, or absence of judge in case of serious sickness of the judge or a family member of the judge.

Sec. 14. The process of the court must:

(1) have the seal affixed;

(2) be attested, directed, served, and returned; and

(3) be in form as is or may be provided for process issuing from the circuit court.

Sec. 15. (a) The probate court is a court of record and of general jurisdiction.

(b) The court's judgments, decrees, orders, and proceedings:

(1) have the same force and effect as those of the circuit court; and

(2) shall be enforced in the same manner.

Sec. 16. (a) The judge of the court:

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana law; and

(2) has all the power incident to a court of record and of general original jurisdiction, in relation to the attendance of witnesses, the punishment of contempts, and enforcing its

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orders.

(b) The judge of the court may:

(1) administer oaths;

(2) take and certify acknowledgments of deeds; and

(3) give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 17. Under the direction of the judge, the clerk shall provide for court order books, judgment dockets, execution dockets, fee books, and other books, records, and supplies as may be necessary. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 18. The judge of the court has the same power as the judge of the circuit court of the county to:

(1) grant restraining orders and injunctions;

(2) issue writs of habeas corpus, and of mandate and prohibition; and

(3) appoint receivers, master commissioners for the examination of witnesses, and other officers necessary to facilitate and transact the business of the court.

Sec. 19. A party may appeal to the supreme court or the court of appeals from the order or judgment of the probate court in any case in which an appeal may be had from an order or judgment of the circuit court. The appeal shall be regulated by the law regulating appeals from the circuit court to the court of appeals and the supreme court, so far as applicable. An appeal may also be taken to the court of appeals and the supreme court in the same manner and in like cases as from circuit courts.

Sec. 20. (a) The same docket fees shall be taxed in the court as are provided by law to be taxed in the circuit court.

(b) The fees, when collected, shall be paid by the clerk to the treasurer of the county to be applied in reimbursing the county for expenses of the court.

Sec. 21. (a) The salary of the judge of the probate court shall be the same as that of the judge of the circuit court of the county. The salary of the judge and the compensation of a judge pro tempore shall be paid in the same manner and from the same sources as the judge of the circuit court or judges pro tempore of the court.

(b) A full-time judge of a probate court may not be paid compensation for serving as a special judge, except for reasonable expenses for meals, lodging, travel, and other incidental expenses approved by the executive director of the division of state court administration.

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Sec. 22. The probate court may appoint a chief clerk and other employees as the judge considers necessary whose salaries shall be fixed by the judge and be paid out of the county treasury.

Sec. 23. The probate judge shall appoint the probation officers authorized by law for cases under the court's juvenile jurisdiction. The probation officers shall perform the same duties and receive the same compensation as is provided by law.

Sec. 24. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, the judge of the St. Joseph probate court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate may exercise:

(1) probate jurisdiction under section 9(a) of this chapter; and

(2) juvenile jurisdiction under section 9(b) of this chapter;

and continues in office until removed by the judge.

SECTION 11. IC 33-32 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 32. CIRCUIT COURT CLERKS

Chapter 1. Definitions

Sec. 1. As used in this article, "clerk" means a clerk of the circuit court elected and qualified under Article 6, Sections 2 and 4 of the Constitution of the State of Indiana.

Chapter 2. General Powers and Duties

Sec. 1. In a county having one (1) or more superior courts or a county, municipal, or probate court, the clerk shall serve as clerk of the superior, county, and probate court as well as clerk of the circuit court.

Sec. 2. A clerk of the circuit court shall be elected under IC 3-10-2-13 by the voters of each county. The term of office of a clerk is four (4) years, continuing until a successor is elected and qualified.

Sec. 3. In the manner prescribed by IC 5-4-1, the clerk of each county shall execute a bond conditioned upon:

(1) the faithful discharge of the duties of the clerk's office; and

(2) the proper payment of all money received by the office of the clerk.

Sec. 4. (a) The board of county commissioners shall provide the clerk with an office at the county seat in a building provided for that purpose.

(b) The clerk shall keep the office open on every day of the year except on Sundays and legal holidays. However, the clerk:

(1) shall keep the office of the clerk open on those days and

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times necessary for the proper administration of the election statutes; and

(2) may close the office on those days that the judge of the circuit court orders the court closed in accordance with the custom and practice of the county.

(c) Any legal action required to be taken in the office of the clerk during the time the office is closed under this section may be taken on the next following day the office is open.

Sec. 5. A clerk may administer all oaths.

Sec. 6. A clerk shall carry out the duties prescribed for a clerk in IC 3 concerning elections.

Sec. 7. A clerk shall post in a conspicuous place in the clerk's office a table of the clerk's fees. If a clerk fails to post a table of fees, a clerk may not demand or receive fees for services rendered.

Sec. 8. The clerk may not become the purchaser of any judgment, decree, or allowance of any court of which the clerk is an officer. All these purchases are void as to the purchaser.

Chapter 3. Record Keeping Duties

Sec. 1. (a) The clerk shall endorse the time of filing on each writing required to be filed in the office of the clerk.

(b) The clerk shall carefully preserve in the office of the clerk all records and writings pertaining to the clerk's official duties.

(c) The clerk shall procure, at the expense of the county, all necessary judges' appearance, bar, judgment, and execution dockets, order books, and final record books.

(d) The clerk shall:

(1) attend, in person or by deputy, the circuit court of the county; and

(2) enter in proper record books all orders, judgments, and decrees of the court.

(e) Not more than fifteen (15) days after the cases are finally determined, the clerk shall enter in final record books a complete record of:

(1) all cases involving the title to land;

(2) all criminal cases in which the punishment is death or imprisonment, except where a nolle prosequi is entered or an acquittal is had; and

(3) all other cases, at the request of either party and upon payment of the costs.

Sec. 2. (a) The clerk shall keep a circuit court judgment docket.

(b) Upon the filing in the office of the clerk a statement or transcript of any judgment for the recovery of money or costs, the

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clerk shall enter, and index in alphabetical order, in this judgment docket a statement of the judgment showing the following:

(1) The names of all the parties.

(2) The name of the court.

(3) The number of the cause.

(4) The book and page of the record in which the judgment is recorded.

(5) The date the judgment is entered and indexed.

(6) The date of the rendition of judgment.

(7) The amount of the judgment and the amount of costs.

(c) If a judgment is against several persons, the statement required to be entered under subsection (b) shall be repeated under the name of each judgment debtor in alphabetical order.

(d) A person interested in any judgment for money or costs that has been rendered by any state court, or by any federal court of general original jurisdiction sitting in Indiana, may have the judgment entered upon the circuit court judgment docket by filing with the clerk:

(1) a statement setting forth the facts required under subsection (b); or

(2) a transcript of the judgment;

certified under the hand and seal of the court that rendered the judgment.

Sec. 3. The circuit court judgment docket is a public record that is open during the usual hours of transacting business for examination by any person.

Sec. 4. A clerk shall:

(1) enter a judgment or recognizance not more than fifteen (15) days after its rendition; or

(2) cause a release of judgment to be entered on the judgment docket not more than fifteen (15) days after satisfaction of the judgment.

Sec. 5. (a) The clerk shall keep an execution docket.

(b) The clerk shall enter all executions on the execution docket as they are issued by the clerk, specifying in proper columns the following information:

(1) The names of the parties.

(2) The amount of the judgment and the interest due upon the issuing of the execution.

(3) The costs.

The clerk shall also prepare an additional column in which the clerk shall enter the return of the sheriff.

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(c) The execution docket entries may be inspected and copied under IC 5-14-3-3.

Sec. 6. (a) Before the twenty-fifth day of each month, the clerk shall prepare a report showing as of the close of business on the last day of the preceding month the following information:

(1) The balance, if any, of fees payable to the county.

(2) Fees collected for fish and game licenses.

(3) Trust funds held, including payments collected for support.

(4) The total of the balances of all fees and funds.

(5) The record balance of money in each depository at the end of the month.

(6) The cash in the office at the close of the last day of the month.

(7) Any other items for which the clerk of the circuit court is entitled to credit.

(8) The total amount of cash in each depository at the close of business on the last day of the month.

(9) The total of checks issued against each depository that are outstanding at the end of the month and unpaid by the depositories.

(b) The clerk shall:

(1) retain one (1) copy as a public record of the clerk's office; and

(2) file three (3) copies with the county auditor, who shall:

(A) present one (1) copy to the board of commissioners of the county at its next regular meeting; and

(B) transmit one (1) copy to the state board of accounts.

Each copy of the report must be verified by the certification of the clerk. The clerk shall file the original with the county auditor, who shall file it with the records of the county board of finance.

(c) The state board of accounts shall prescribe forms for the clerk's monthly reports.

Sec. 7. (a) The clerk shall keep a register of witness fees and other court fees.

(b) When the clerk receives money in payment of court fees or fees for a witness or any other person, the clerk shall make an entry into the register recording the receipt of the payment.

(c) The register must contain the following information:

(1) The names, in alphabetical order, of persons for whom payment has been received.

(2) The cause for which the fee is paid.

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(3) In which fee book and on which page the fee is taxed.

(4) The amount paid.

(5) When the fee was paid in and when it was paid out.

(d) The register must be open for inspection at all times in a conspicuous place in the clerk's office.

Sec. 8. At the end of the clerk's term, the clerk shall deliver to the clerk's successor all the records, books, and papers belonging to the clerk's office.

Sec. 9. The county council shall appropriate reasonable sums to the clerk for necessary blank books and stationery.

Chapter 4. Child Support Payments

Sec. 1. As used in this chapter, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Sec. 2. As used in this chapter, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the division of family and children.

Sec. 3. The clerk may receive funds:

(1) in payment of judgments; and

(2) ordered to be paid into the court by the judge.

Sec. 4. Except as provided in sections 5 and 8 of this chapter, the clerk is liable, with the clerk's sureties, on the clerk's official bond for all funds received to any person who is entitled to demand and receive those funds from the clerk.

Sec. 5. The clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the clerk:

(1) through error or in accordance with the best information available to the clerk, disbursed the funds to a person the clerk reasonably believed to be entitled to receive the funds and to comply with a:

(A) child support order; or

(B) garnishment order;

(2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the clerk, that resulted from:

(A) an action by an employee of, or a consultant to, the division of family and children;

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(B) an ISETS technological error; or

(C) information generated by ISETS;

(3) disbursed funds that the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;

(4) disbursed child support funds paid to the clerk by a personal check that was later dishonored by a financial institution; and

(5) did not commit a criminal offense as a part of the disbursement.

Sec. 6. If the clerk improperly disburses funds in the manner described by section 5 of this chapter, the clerk shall do the following:

(1) Deduct the amount of funds improperly disbursed from fees collected under IC 33-37-5-6.

(2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under section 5 of this chapter.

(3) Notify the prosecuting attorney of the county of:

(A) the amount of the improper disbursement;

(B) the person from whom the amount of the improper disbursement should be collected; and

(C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.

(4) Record each action taken under this subsection on a form prescribed by the state board of accounts.

Sec. 7. If:

(1) fees collected under IC 33-37-5-6 are credited to an account under section 6(2) of this chapter because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and

(2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the subject of a stop payment order;

the clerk must reimburse the account containing fees collected under IC 33-37-5-6 using the amount the person paid to the clerk.

Sec. 8. The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

(1) the check was tendered to the clerk for the payment of a:

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(A) fee;
(B) court ordered payment; or
(C) license; and
(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

Sec. 9. (a) The clerk may provide for the:
(1) payment; and
(2) disbursement;
of child support payments by electronic funds transfer.

(b) A person may request the clerk in writing to allow the person to:
(1) pay child support to the clerk; or
(2) receive child support payment distributions from the clerk;
by means of an electronic funds transfer.

(c) A person's written request must authorize in advance the electronic funds transfer. The person's written authorization must designate a financial institution and an account number. The person's authorization remains in effect until the person revokes it in writing.

(d) The clerk may not make an electronic funds transfer under this section except in accordance with procedures adopted by the state board of accounts.

Chapter 5. Collection of Fees; Marriage Licenses, Junk Dealing, and Distress Sales

Sec. 1. (a) For issuing a marriage license under IC 31-11-4, the clerk shall collect a fee of ten dollars ($10). The clerk shall pay these fees to the treasurer of state, who shall deposit the money in the state user fee fund established by IC 33-37-9-2.

(b) For issuing a marriage certificate under IC 31-11-4, the clerk shall collect the following fee:
(1) Eight dollars ($8), if at least one (1) of the individuals is a resident of Indiana.
(2) Fifty dollars ($50), if neither of the individuals is a resident of Indiana.
When collected, these fees shall be deposited in the general fund of the county.

Sec. 2. For issuing a license to hold a distress sale under IC 25-18-1-6, the clerk shall collect the following fee:
(1) Forty dollars ($40) if the value of the inventory is not more than twenty-five thousand dollars ($25,000).

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(2) Sixty-five dollars ($65) if the value of the inventory is more than twenty-five thousand dollars ($25,000) but not more than fifty thousand dollars ($50,000).

(3) One hundred dollars ($100) if the value of the inventory is more than fifty thousand dollars ($50,000) but not more than seventy-five thousand dollars ($75,000).

(4) One hundred fifty dollars ($150) if the value of the inventory is more than seventy-five thousand dollars ($75,000).

SECTION 12. IC 33-33 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 33. COURT SYSTEM ORGANIZATION IN EACH COUNTY

Chapter 1. Adams County

Sec. 1. Adams County constitutes the twenty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Adams superior court.

(b) The Adams superior court is a standard superior court as described in IC 33-29-1.

(c) Adams County comprises the judicial district of the court.

Sec. 3. The Adams superior court has one (1) judge who shall hold sessions in the Adams County courthouse in Decatur, or in other places in the county as the board of county commissioners of Adams County may provide.

Sec. 4. The Adams superior court has the same jurisdiction as the Adams circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Adams superior court has a standard small claims and misdemeanor division.

Chapter 2. Allen County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Allen County constitutes the thirty-eighth judicial circuit.

Sec. 3. The judge of the Allen circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Sec. 4. (a) The Allen circuit court has concurrent jurisdiction with the Allen superior court concerning paternity actions.

(b) In addition to the magistrate appointed under section 3 of this chapter, the judge of the Allen circuit court may appoint a hearing officer with the powers of a magistrate under IC 33-23-5.

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The hearing officer continues in office until removed by the judge.

(c) The salary of a hearing officer appointed under subsection (b) is equal to that of a magistrate under IC 33-23-5. The hearing officer's salary must be paid by the county. The hearing officer is a county employee.

Sec. 5. (a) There is established a superior court in Allen County.

(b) The superior court shall be known as the Allen superior court.

(c) The Allen superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the Allen circuit court.

Sec. 6. The Allen superior court shall have a seal consisting of a circular disk containing the words, "Allen Superior Court", "Indiana", and "Seal", in a design as the court may determine. An impression of the seal shall be spread of record upon the order book of the superior court.

Sec. 7. (a) The Allen superior court shall hold its sessions in:

(1) the Allen County courthouse in Fort Wayne; and

(2) in other places in Allen County as the court may determine.

(b) The board of county commissioners of Allen County shall provide and maintain in the courthouse and at other places in Allen County as the court may determine:

(1) suitable and convenient courtrooms for the holding of the court;

(2) suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and

(3) other facilities as may be necessary.

(c) The board of county commissioners of Allen County shall also provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 8. (a) The Allen superior court consists of nine (9) judges as follows:

(1) Two (2) judges serve in the family relations division.

(2) Three (3) judges serve in the criminal division.

(3) Four (4) judges serve in the civil division.

A newly elected or appointed judge assumes the division assignment of the judge whom the judge replaces.

(b) If in the opinion of a majority of the judges there is an undue disparity in the number of cases in any division, the chief judge may assign specific cases normally assigned to that division to a

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judge in another division as directed by a majority of the judges.

(c) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for one (1) of the Allen superior court judgeships must file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2 that:

(1) is signed by the candidate; and

(2) designates the division and the name of the incumbent judge of the judgeship that the candidate seeks.

(d) A petition without the designation required under subsection (c) shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2).

(e) If an individual who files a declaration under subsection (c) ceases to be a candidate after the final date for filing a declaration under subsection (c), the election division may accept the filing of additional declarations of candidacy for that seat not later than noon on August 1.

Sec. 9. (a) All candidates for each respective Allen superior court judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(b) IC 3, except where inconsistent with this chapter, applies to elections held under this chapter.

(c) The term of each Allen superior court judge:

(1) begins January 1 following election and ends December 31 following the election of a successor; and

(2) is six (6) years.

Sec. 10. (a) To qualify as a candidate for Allen superior court judge, a person:

(1) must be a citizen of the United States domiciled in Allen County;

(2) must have at least five (5) years active practice of law, including cases involving matters assigned to the division in which the person would serve as judge;

(3) may not previously have had any disciplinary sanction imposed upon the person by the supreme court disciplinary commission of Indiana or any similar body in another state; and

(4) may not previously have been convicted of any felony.

(b) If a person does not qualify under subsection (a), the person may not be listed on the ballot as a candidate. However, an

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individual who was a judge of the court on January 1, 1984, does not have to comply with subsection (a)(2).

Sec. 11. A judge or candidate for judge of the Allen superior court may not:

(1) accept a contribution (as defined in IC 3-5-2-15) from any political party, political action committee (as defined in IC 3-5-2-37), or regular party committee (as defined in IC 3-5-2-42); or

(2) accept more than a total of ten thousand dollars ($10,000) in contributions from all sources to pay expenses connected with the candidate's candidacy.

Sec. 12. (a) The Allen superior court:

(1) may make and adopt rules and regulations for conducting the business of the court, not repugnant to Indiana laws and the rules of the supreme court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges of the superior court may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 13. The Allen superior court may:

(1) grant restraining orders and injunctions;

(2) issue writs of habeas corpus;

(3) appoint receivers, masters, and commissioners to convey real property and to grant commissions for the examination of witnesses; and

(4) appoint other officers necessary to facilitate and transact the business of the court;

as conferred on circuit courts or the judges of circuit courts.

Sec. 14. (a) The Allen superior court may appoint probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, the court believes are necessary to facilitate and transact the business of the court.

(b) In addition to the personnel authorized under subsection (a) and IC 31-31-3, the following magistrates may be appointed:

(1) The judges of the Allen superior court-civil division may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5 to serve the Allen superior court-civil division. The judges of the Allen superior court-civil division

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may jointly assign any magistrates the duties and powers of a probate commissioner.

(2) The judge of the Allen superior court-criminal division may jointly appoint not more than three (3) full-time magistrates under IC 33-23-5 to serve the Allen superior court-criminal division. Any magistrate serves at the pleasure of, and continues in office until jointly removed by, the judges of the division that appointed the magistrate.

(c) All appointments made under this section must be made without regard to the political affiliation of the appointees. The salaries of the personnel shall be fixed and paid as provided by law. If the salaries of any of the personnel are not provided by law, the amount and time of payment of the 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 appointed shall perform duties as are prescribed by the court. Any administrative officer appointed by the court shall operate under the jurisdiction of the chief judge and serve at the pleasure of the chief judge. Any probate commissioners, magistrates, juvenile referees, bailiffs, court reporters, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(d) Any probate commissioner appointed by the court may be vested by the 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 the 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 the court, the enforcement of court rules and regulations, the making of reports to the court concerning the probate commissioner's actions under this subsection, including the taking and hearing of evidence together with the commissioner's findings and conclusions regarding the evidence. However, all matters under this subsection are under the final jurisdiction and decision of the judges of the court.

(e) A juvenile referee appointed by the court may be vested by the 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

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concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, and the making of reports to the court concerning the referee's actions under this subsection. The actions of a juvenile referee under this subsection are under final jurisdiction and decision of the judges of the court.

(f) A probate commissioner or juvenile referee may:

(1) summon witnesses to testify before the commissioner or juvenile referee; and

(2) administer oaths and take acknowledgments;

to carry out the commissioner's or juvenile referee's duties and powers.

(g) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-3 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

Sec. 15. Each juvenile referee appointed under section 14 of this chapter who:

(1) is appointed by the court to serve as a full-time referee; and

(2) does not practice law during the referee's term as referee;

is entitled to receive an annual salary as provided in IC 33-38-5-7.

Sec. 16. The clerk of the Allen circuit court and the sheriff of Allen County shall be the clerk and sheriff of the Allen superior court.

Sec. 17. (a) The clerk and sheriff shall attend the Allen superior court and discharge all the duties pertaining to their respective offices as they are required to do by law in the circuit court.

(b) All laws prescribing the duties and liabilities of clerk and sheriff and the mode of proceeding against them, or either of them, for neglect of official duty, allowing fees, and providing for the collection fees in the circuit court, apply to the Allen superior court.

(c) In a case in the Allen superior court based upon a violation of a city ordinance where fines or forfeitures are adjudged against a party:

(1) the fines or forfeitures shall be paid to and collected by the clerk and regularly remitted to the city clerk of the city that issued the ordinance; and

(2) the city clerk shall disburse the fines or forfeitures as required by law.

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Payment of fines for admitted parking violations shall be made to the city clerk of the city that issued the ordinances concerning parking violations.

Sec. 18. The clerk, under the direction of the Allen superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 19. The Allen superior court shall maintain a single order book for the entire court. The order book may be signed on behalf of the court by any of the judges of the court. The signature constitutes authentication of the actions of each judge in the court.

Sec. 20. (a) The Allen superior court has the same jurisdiction as the Allen circuit court. Except as provided in subsection (b), the superior court has exclusive juvenile jurisdiction in Allen County.

(b) The Allen superior court has concurrent jurisdiction with the Allen circuit court concerning paternity actions.

Sec. 21. The same fees shall be taxed in the Allen superior court as are provided by law to be taxed in the Allen circuit court. When collected in the Allen superior court, the fees shall be disbursed in the same manner as similar fees are disbursed in the Allen circuit court.

Sec. 22. All laws of the state and rules adopted by the supreme court governing the Allen circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the Allen superior court.

Sec. 23. (a) The clerk of the Allen circuit court and the jury commissioners appointed by the Allen circuit court:

(1) serve as jury commissioners for the Allen superior court; and

(2) are governed in all respects as provided for the selection of jurors and the issuing and servicing of process.

However, the jurors do not have to serve in any particular order

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in which they are drawn by the jury commissioners.

(b) A judge of the superior court may order the selection and summoning of other jurors for the court when necessary. The jurors shall serve the entire court and before any judge of the court where their service may be required.

Sec. 24. Jurors and witnesses in attendance upon the Allen superior court shall receive the same fees as are provided for by law for jurors and witnesses in the circuit court.

Sec. 25. The judge of the Allen circuit court may, with the consent of the Allen superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without a further transcript to be redocketed and disposed of as if originally filed with the Allen superior court.

Sec. 26. Any judge of the Allen superior court may, with the consent of the judge of the Allen circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript thereof to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 27. The judge of the Allen circuit court may sit as a judge of the superior court, with the superior court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the circuit court judge were a judge of the superior court with all the rights and powers as if the circuit court judge were appointed judge of the superior court.

Sec. 28. Any party may appeal from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 29. The process of the Allen superior court must have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.

Sec. 30. (a) The Allen superior court shall be governed and operated by a board of judges composed of all the judges of the superior court. Six (6) judges are required for a quorum for conducting business and as a majority for taking action. Every two (2) years the board of judges shall elect a chief judge to carry out ministerial functions of representation as the board of judges

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periodically determines by a majority of the board's members.

(b) Matters of administration, budget, expenditures, policy, and procedure affecting the entire superior court shall be determined by a majority of the board of judges. Any determination binds the entire board of judges and each judge of the board.

(c) One (1) budget covering all the divisions of the superior court shall be prepared for the superior court and submitted to the county fiscal body. However, each division shall prepare its own budget as a component of the superior court's total budget.

Sec. 31. (a) The court, by rules adopted by the Allen superior court, shall divide the work of the court into the following divisions:

(1) A family relations division.

(2) A criminal division (including a standard minor offenses and violations docket under IC 33-29-2-8).

(3) A civil division (including a standard small claims docket under IC 33-29-2-3.)

(b) Cases involving juvenile matters shall be assigned to the family relations division.

(c) Cases involving matters specified in IC 33-29-2-8 shall be assigned to the criminal division.

(d) Cases involving matters specified in IC 33-29-2-3 shall be assigned to the small claims docket in the civil division.

(e) The work of each division may be divided further by rules adopted by the court.

(f) Every two (2) years each division of the court shall elect an administrative judge for that division. The administrative judge shall carry out ministerial, administrative, and assignment functions as are periodically determined by a majority of the judges of that division.

(g) Matters of administration, budget, expenditures, policy, and procedure in each division shall be determined by a majority of the judges of that division.

(h) Disputes within any division concerning administration, budget, expenditures, policy, procedure, and assignments that pertain to the division as a whole or to any individual judge of the division, that for any reason cannot be resolved by a majority of the judges in the division, shall be submitted to the board of judges and determined by a majority of the board of judges.

(i) A resolution approved by a majority of the board of judges that resolves disputes within a division must include at least one (1) of the judges of that division and binds all of the judges of that

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division.

Sec. 32. (a) There is established a judicial nominating commission for the Allen superior court.

(b) The board of county commissioners of Allen County shall provide all facilities, equipment, supplies, and services necessary for the administration of the duties of the commission.

(c) The members of the commission serve without compensation. However, the board of commissioners shall reimburse members of the commission for actual expenses incurred in performing their duties.

Sec. 33. (a) The judicial nominating commission consists of seven (7) members, the majority of whom shall form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman. Persons who are admitted to the practice of law and who reside in Allen County shall, under sections 35 and 36 of this chapter, elect three (3) members to serve on the commission. The governor shall appoint to the commission three (3) residents of Allen County who are not admitted to the practice of law. However, not more than two (2) of these appointees may be from the same political party. If the governor fails to appoint any of the nonattorney commission members within the time required under section 34 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(b) A member of the commission other than a judge or justice may not hold any other salaried public office, and a member may not hold an office in a political party or organization. A member of the commission is ineligible for appointment to a judicial office in Allen County while the member is a member of the commission and for three (3) years thereafter. If any member of the commission other than a judge or justice terminates the member's residence in Allen County, the member is considered to have resigned from the commission.

Sec. 34. (a) The governor shall appoint the three (3) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall:

(1) reappoint the commissioner; or

(2) appoint a replacement.

All appointments shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court

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not more than ten (10) days after the appointment.

(c) After their initial terms, the governor shall appoint each nonattorney commissioner for a term of four (4) years.

(d) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing of that fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the governor not more than sixty (60) days after the governor has notice of the vacancy. The nonattorney commissioner appointed shall serve during the unexpired term of the member whose vacancy the nonattorney commissioner has filled.

Sec. 35. (a) Persons who are admitted to the practice of law and who reside in Allen County (referred to as "attorney electors") shall elect three (3) members to serve on the commission. The term of office of each elected attorney member is four (4) years, commencing on the first day of October following the member's election. The election day is the first Tuesday in September 1983, and every four (4) years thereafter. During the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner shall be filled for the unexpired term by a special election.

Sec. 36. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the superior court shall, at least ninety (90) days before the date of election, notify all attorneys in Allen County of the election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors and the written consent of the qualified nominee, shall be filed by an attorney elector in the office of the clerk at least sixty (60) days before the election.

(3) The clerk shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot must read:

"ALLEN SUPERIOR COURT

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NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Allen County and admitted to the practice of law in Indiana. Vote for not more than three (3) of the following candidates for terms commencing _____.

(Name) (Address)

(Name) (Address)

(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Allen Superior Court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The three (3) nominees receiving the most votes are elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting the ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Allen County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(5) A separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

(6) The clerk of the superior court shall mail a ballot and its accompanying material to all qualified electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificates, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk, with the assistance of the Allen County election board, shall open and canvass all ballots after 4 p.m. on the day of the election in the office of the clerk of the Allen superior court. A ballot received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots the

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clerk shall place all ballots in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the court of appeals.

(9) If two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered to have been elected.

Sec. 37. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, the clerk of the supreme court, and the clerk of Allen superior court;

the superior court clerk shall notify the members of the commission of their election or appointment.

Sec. 38. (a) A member of the commission shall serve until the member's successor is appointed or elected.

(b) An attorney commissioner or nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

Sec. 39. (a) When a judge of the superior court:

(1) dies, resigns, is removed from office; or

(2) is for any reason ineligible to continue or incapable of continuing in office until the end of the judge's term in office;

a judge in another division may not more than thirty (30) days after the vacancy occurs transfer to the vacant position for the remainder of the transferring judge's term. A judge who has made one (1) transfer is ineligible to make any other transfers. If more than one (1) judge desires to transfer, the most senior of these judges is entitled to transfer. After a transfer, or the thirty (30) day period if a transfer is not made, the commission shall meet to nominate three (3) candidates to fill the unexpired term of the vacancy caused by the transferring judge or the original vacancy if a transfer is not made.

(b) The clerk shall promptly notify the members of the commission of a vacancy that the commission must fill under subsection (a), and the chairman shall call a meeting of the commission within ten (10) days following that notice. The commission shall submit its nominations of three (3) candidates for the vacancy and shall certify them to the governor not later than

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sixty (60) days after the vacancy occurred. When it is known that a vacancy will occur at a definite future date within the term of the governor then serving:

(1) the clerk shall notify the chairman and each member of the commission immediately; and

(2) the chairman shall call a meeting of the commission within ten (10) days following that notice.

The commission may then submit its nominations of three (3) candidates for each impending vacancy and shall certify them to the governor.

(c) Meetings of the commission shall be called by its chairman, or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. Written notice of a meeting shall be given by mail to each member of the commission at least five (5) days before the meeting, unless the commission at its previous meeting designated the time and place of its next meeting.

(d) Meetings of the commission may be held in the Allen County courthouse or in another public building in Allen County designated by the commission.

(e) The commission shall act only at a meeting and may act only by the concurrence of a majority of its members attending a meeting. The commission may adopt rules for the conduct of its proceedings and the discharge of its duties.

Sec. 40. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the Allen superior court, a person must meet the qualifications listed in section 10 of this chapter.

(2) As an aid in choosing the three (3) most qualified candidates, the commission shall in writing evaluate each eligible individual it considers on the following factors:

(A) Law school record, including any academic honors and achievements.

(B) Contributions to scholarly journals and publications, legislative draftings, and legal briefs.

(C) Activities in public service, including:

(i) writings and speeches concerning public or civic affairs that are on public record, including campaign

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speeches or writing, letters to newspapers, and testimony before public agencies;

(ii) government service;

(iii) efforts and achievements in improving the administration of justice; and

(iv) other conduct relating to the candidate's profession.

(D) Legal experience, including the number of years practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(E) Probable judicial temperament.

(F) Physical condition, including age, stamina, and possible habitual intemperance.

(G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

(H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.

(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(3) An individual may not be evaluated before the individual states in writing that the individual desires to hold a judicial office that is or will be created by a vacancy.

(4) The political affiliations of a candidate may not be considered.

Sec. 41. The commission shall submit to the governor, with its list of nominees, its written evaluation of the qualifications of each nominee.

Sec. 42. (a) After the commission has nominated and submitted to the governor the names of three (3) nominees:

(1) a name may be withdrawn for a cause considered by the commission to substantially affect the nominee's qualifications to hold office; and

(2) another name or other names may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. Before an appointment is made,

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the commission may withdraw the lists of nominations and change the names of any persons nominated from one (1) list to another, or may substitute a new name for any of those previously nominated.

Sec. 43. (a) A vacancy created by a superior court judge's departure from office before the expiration of the judge's term in office that is not filled by a transfer under section 39 of this chapter shall be filled by appointment of the governor from the list of nominees. If the governor fails to make an appointment from the list within sixty (60) days after the list is presented to the governor, the appointment shall be made by the chief justice of the supreme court from the same list.

(b) The governor shall make all appointments to the Allen superior court without regard to the political affiliation of any of the nominees and shall consider only those qualifications included in section 40 of this chapter.

Sec. 44. An appointment to the Allen superior court for the remainder of a departing judge's term in office takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if the vacancy does not yet exist.

Sec. 45. A judge appointed under section 43 of this chapter serves during the unexpired part of the judge's predecessor's term in office.

Chapter 3. Bartholomew County

Sec. 1. Bartholomew County constitutes the ninth judicial circuit.

Sec. 2. (a) There are created two (2) courts of record to be known as Bartholomew superior court No. 1 and Bartholomew superior court No. 2.

(b) Each court is a standard superior court as described in IC 33-29-1.

(c) Bartholomew County comprises the judicial district of each court.

Sec. 3. The clerk of the Bartholomew circuit court is the clerk of the Bartholomew superior courts, and the sheriff of Bartholomew County is the sheriff of the Bartholomew superior courts. The clerk and sheriff shall attend the courts and discharge all the duties pertaining to their respective offices as they are required to do by law with reference to the Bartholomew circuit court.

Sec. 4. Each Bartholomew superior court has one (1) judge who shall hold sessions in the Bartholomew County courthouse in

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Columbus.

Sec. 5. (a) The judges of the Bartholomew superior courts:

(1) may make and adopt rules for conducting the business of the Bartholomew superior courts not repugnant to the laws of the state or rules of the supreme court; and

(2) have all powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and enforcement of its orders.

(b) In addition to the powers described in IC 33-29-1-4, the judges of each superior court may:

(1) give all necessary certificates for the authentication of records and proceedings of each court; and

(2) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 6. (a) The judge of Bartholomew superior court No. 2 may appoint one (1) full-time magistrate to serve Bartholomew superior court No. 2.

(b) The magistrate continues in office until removed by the judge of Bartholomew superior court No. 2.

Sec. 7. The Bartholomew superior courts have concurrent jurisdiction, both original and appellate, with the Bartholomew circuit court in all:

(1) civil actions and proceedings at law and in equity; and

(2) criminal and probate matters, actions, and proceedings of which the Bartholomew circuit court has jurisdiction.

However, the Bartholomew circuit court has exclusive jurisdiction in all juvenile matters, actions, and proceedings.

Sec. 8. The Bartholomew superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 4. Benton County

Sec. 1. (a) Benton County constitutes the seventy-sixth judicial circuit.

(b) The Benton circuit court has a standard small claims and misdemeanor division.

Chapter 5. Blackford County

Sec. 1. Blackford County constitutes the seventy-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Blackford superior court.

(b) The Blackford superior court is a standard superior court as described in IC 33-29-1.

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(c) Blackford County comprises the judicial district of the court.

Sec. 3. The Blackford superior court has one (1) judge who shall hold sessions in the Blackford County courthouse in Hartford City or in any other places in the county as the Blackford County executive may provide.

Sec. 4. (a) In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, the judge of the Blackford superior court may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, commissioner, or other person:

(1) shall be fixed in the same manner as the salaries of the personnel for the Blackford circuit court; and

(2) shall be paid monthly out of the treasury of Blackford County as provided by law.

(b) Personnel appointed under this section and IC 33-29-1-5 continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Blackford superior court has the same jurisdiction as the Blackford circuit court.

(b) The Blackford circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Blackford superior court has a standard small claims and misdemeanor division.

Chapter 6. Boone County

Sec. 1. Boone County constitutes the twentieth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Boone superior court No. 1 and Boone superior court No. 2.

(b) Except as otherwise provided in this chapter, both superior courts are standard superior courts as described in IC 33-29-1.

(c) Boone County constitutes the judicial district of each superior court.

Sec. 3. Each Boone superior court has one (1) judge who shall hold session in the Boone County courthouse in Lebanon.

Sec. 4. A case filed in the Boone circuit court or one (1) of the Boone superior courts may not be transferred by a court to one (1) of the other courts except on written stipulation of all the parties to the cause, other than parties defaulted. The stipulation shall be filed in the cause.

Sec. 5. (a) If either Boone superior court does not have jurisdiction of any action or proceeding filed in the superior court

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or the Boone circuit court does not have jurisdiction of any action or proceeding filed in the circuit court but under this chapter the jurisdiction is in one (1) of the other courts, the court in which the action or proceeding was filed shall certify the case and the papers to the proper court, which shall proceed as if the case were originally filed in the proper court. The transfer shall be made by order entered on the order book of the court transferring the action or proceeding and shall be docketed in the court to which it was transferred without a transcript.

(b) If any action, case, proceeding, or matter transferred under this section is taken on change of venue to the court of another county, or if the cause is appealed to the court of appeals or supreme court from any order, ruling, judgment, or decree, the clerk on request or praecipe of the party taking the change of venue or appeal shall make a certified transcript of the proceedings in each court, and the transcript has the same force and effect and gives the court to which it is taken on change of venue or appeal the same jurisdiction as though the transcript originally had been made when the actions, causes, cases, proceedings, and matters were transferred from one (1) court to the other.

Sec. 6. (a) The Boone superior courts shall, during the last sixty (60) days in each calendar year, each appoint for the next calendar year two (2) persons who are residents of Boone County as jury commissioners. The law concerning jury commissioners appointed by the circuit court fully governs the jury commissioners appointed by the superior courts.

(b) The jury commissioners shall prepare and draw the petit jury for the superior courts as is done by the jury commissioners for the circuit court. The superior courts in making appointments of the jury commissioners, the clerk in issuing process for the jury, and the sheriff in serving process are governed by the law for petit jurors for the circuit court.

(c) Each superior court may order on what day jurors shall be summoned to attend the court. The judge of that court may order the selection and summoning of other jurors for the court when necessary. If a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of the county a jury for the term, who shall be summoned and considered in all things as the regular panel of that court.

Sec. 7. (a) Subject to this section, the Boone superior courts have the same jurisdiction as the Boone circuit court.

(b) Only the circuit court has juvenile jurisdiction.

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(c) Except as provided in IC 31-30-1-1, only Boone superior court No. 1 has probate jurisdiction.

Sec. 8. The Boone superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 7. Brown County

Sec. 1. (a) Brown County constitutes the eighty-eighth judicial circuit.

(b) The Brown circuit court has a standard small claims and misdemeanor division.

(c) The judge of the Brown circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Chapter 8. Carroll County

Sec. 1. (a) Carroll County constitutes the seventy-fourth judicial circuit.

(b) The Carroll circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Carroll superior court.

(b) The Carroll superior court is a standard superior court as described in IC 33-29-1.

(c) Carroll County comprises the judicial district of the superior court.

Sec. 3. The Carroll superior court has one (1) judge who shall hold sessions in the Carroll County courthouse in Delphi or in other places in the county as the Carroll County executive may provide.

Sec. 4. The Carroll superior court has the same jurisdiction as the Carroll circuit court.

Sec. 5. The Carroll superior court has a standard small claims and misdemeanor division.

Chapter 9. Cass County

Sec. 1. Cass County constitutes the twenty-ninth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Cass superior court No. 1 and Cass superior court No. 2.

(b) Each Cass superior court is a standard superior court as described in IC 33-29-1.

(c) Cass County comprises the judicial district of each superior court.

Sec. 3. Each Cass superior court has one (1) judge who shall hold sessions in the Cass County courthouse in Logansport or in other places in the county as the board of county commissioners of

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Cass County may provide.

Sec. 4. The clerk of the Cass circuit court shall serve as the clerk of each Cass superior court, and the sheriff of Cass County shall serve as the sheriff of each Cass superior court. They shall attend the courts and perform the same duties relating to their offices as they are required to do with respect to the Cass circuit court.

Sec. 5. (a) Cass superior court No. 1 has the same jurisdiction as the Cass circuit court, except that only the circuit court has juvenile jurisdiction.

(b) Cass superior court No. 2 has the same jurisdiction as Cass superior court No. 1.

Sec. 6. Each Cass superior court has a standard small claims and misdemeanor division.

Chapter 10. Clark County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) Clark County constitutes the fourth judicial circuit.

(b) The judges of the Clark circuit court and Clark superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

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

Sec. 3. (a) There are established three (3) superior courts in Clark County, each of which consists of one (1) judge, who shall hold the judge's office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified.

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

(1) a resident of Clark County; and

(2) admitted to the bar of Indiana.

Sec. 4. (a) The superior courts shall be known as Clark superior court No. 1, Clark superior court No. 2, and Clark superior court No. 3, and the county of Clark shall constitute the judicial district of each court.

(b) Each superior court shall be a court of record having the same jurisdiction as the circuit court. A judge of the superior court has the same powers relating to the conduct of business of the court as the judge of the circuit court.

(c) Each court shall have a seal containing the words "Clark Superior Court _____ (insert "No. 1", "No. 2", or "No. 3") of Clark County, Indiana".

(d) Clark superior court No. 3 has a standard small claims and

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misdemeanor docket.

Sec. 5. Each judge of a superior court may make and adopt rules and regulations for conducting the business of the judge's court, not repugnant to Indiana law.

Sec. 6. Each judge of a superior court has the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, master commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of circuit courts.

Sec. 7. Each superior court of Clark County shall hold its sessions at the courthouse of the county, or at other convenient places as the court designates in the county. The county commissioners shall provide suitable quarters for each court.

Sec. 8. The clerk, under the direction of a judge of the superior court, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers and records as are necessary for that court, and all books, papers, and proceedings of that court shall be kept distinct and separate from those of other courts, and the records of all civil cases separate and apart from the records of juvenile matters.

Sec. 9. Each judge of a superior court shall appoint a bailiff for the court, whose salary shall be fixed and paid as provided by law.

Sec. 10. Each judge of a superior court shall appoint a court reporter, whose duties, salary, and term, shall be regulated in the same manner as the court reporter of circuit courts.

Sec. 11. All laws governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the courts established under this chapter. However, a superior court may not appoint jury commissioners or call the grand jury.

Sec. 12. The process of each superior court must have the seal affixed and be attested, directed, served, and returned, and be in form as is provided for process issuing from the circuit court.

Sec. 13. When an affidavit for a change of venue is filed in a superior court for any of the causes described in IC 34-35-1-1(1),

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IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7):

(1) a judge of a circuit court or superior court or a competent attorney shall be called to hear and determine the cause as provided by law for changes of venue in causes pending in the circuit court; or

(2) the cause may be certified to the Clark circuit court or a Clark superior court, in the discretion of the judge of the superior court. The original papers shall be transferred to the court. A transcript is not necessary. The circuit court has jurisdiction to hear and determine the cause and render judgment.

If the cause alleged in the affidavit is embraced in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), the change shall be granted, and the cause directed to the circuit or superior court of another county, as provided in cases of changes of venue from the circuit court, and the court to which the case is sent has jurisdiction to hear and determine the cause and render judgment.

Sec. 14. On the third Monday of each January, the clerk of each superior court and jury commissioners appointed by the judge of the circuit court shall select a petit jury, in the manner provided by law, to serve each superior court for that calendar year. The officers in selecting, the clerk in issuing process for the jury, and the sheriff in serving the process shall be governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. However, a superior court may order on what day the jurors shall be summoned to attend that court. The judge of a superior court may order the selecting and summoning of other jurors for the court whenever the same may be necessary.

Sec. 15. (a) The judge of the Clark circuit court may, with the consent of a judge of the superior court, transfer any action or proceeding from the circuit court to that superior court. The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action or proceeding from that superior court to the circuit court. The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action or proceeding from that superior court to the other superior court.

(b) The judge of the Clark circuit court may, with the consent of the judge of the superior court, sit as a judge of that superior court in any matter, as if the judge were an elected judge of that superior court. The judge of a superior court may, with consent of the judge of the circuit court, sit as a judge of the circuit court as if the judge were an elected judge of the circuit court. The judge of

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a superior court may, with the consent of the judge of the other superior court, sit as judge of the other superior court as if the judge were the elected judge of that superior court.

Chapter 11. Clay County

Sec. 1. Clay County constitutes the thirteenth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Clay superior court.

(b) The Clay superior court is a standard superior court as described in IC 33-29-1.

(c) Clay County comprises the judicial district of the superior court.

Sec. 3. The Clay superior court has one (1) judge who shall hold sessions in the Clay County courthouse in Brazil or in other places in the county as the board of county commissioners of Clay County may provide.

Sec. 4. The judges of the Clay superior court and Clay circuit court may jointly, in accordance with the Indiana Rules of Trial Procedure, establish local rules for governing their courts, including rules for distribution of cases over which the judges have concurrent jurisdiction.

Sec. 5. The Clay superior court has the same jurisdiction as the Clay circuit court, except that only the circuit court has juvenile and probate jurisdiction.

Sec. 6. The Clay superior court has a standard small claims and misdemeanor division.

Chapter 12. Clinton County

Sec. 1. Clinton County constitutes the forty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Clinton superior court.

(b) The Clinton superior court is a standard superior court as described in IC 33-29-1.

(c) Clinton County comprises the judicial district of the superior court.

Sec. 3. The Clinton superior court has one (1) judge who shall hold sessions in the Clinton County courthouse in Frankfort or in other places in the county as the Clinton County executive may provide.

Sec. 4. The Clinton superior court has the same jurisdiction as the Clinton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Clinton superior court has a standard small claims and misdemeanor division.

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Chapter 13. Crawford County

Sec. 1. (a) Crawford County constitutes the seventy-seventh judicial circuit.

(b) The Crawford circuit court has a standard small claims and misdemeanor division.

Chapter 14. Daviess County

Sec. 1. Daviess County constitutes the forty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Daviess superior court.

(b) The Daviess superior court is a standard superior court as described in IC 33-29-1.

(c) Daviess County comprises the judicial district of the superior court.

Sec. 3. The Daviess superior court has one (1) judge who shall hold sessions in the Daviess County courthouse in Washington or in other places in the county as the Daviess County executive may provide.

Sec. 4. The Daviess superior court has the same jurisdiction as the Daviess circuit court.

Sec. 5. The Daviess superior court has a standard small claims and misdemeanor division.

Chapter 15. Dearborn County

Sec. 1. Dearborn County and Ohio County constitute the seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Dearborn superior court.

(b) The Dearborn superior court is a standard superior court as described in IC 33-29-1.

(c) Dearborn County comprises the judicial district of the superior court.

Sec. 3. The Dearborn superior court has one (1) judge who shall hold sessions in the Dearborn County courthouse in Lawrenceburg or in other places in the county as the Dearborn County executive may provide.

Sec. 4. In addition to a bailiff and an official court reporter for the court appointed under IC 33-29-1-5, the judge may appoint a referee, a commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. The salary of a referee, a commissioner, or other person:

(1) shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court; and

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(2) shall be paid monthly out of the treasury of Dearborn County as provided by law.

Personnel appointed under this section or IC 33-29-1-5 continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Dearborn superior court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Dearborn superior court has a standard small claims and misdemeanor division.

Chapter 16. Decatur County

Sec. 1. Decatur County constitutes the sixty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Decatur superior court.

(b) The Decatur superior court is a standard superior court as described in IC 33-29-1.

(c) Decatur County comprises the judicial district of the superior court.

Sec. 3. The Decatur superior court has one (1) judge who shall hold sessions in:

(1) the Decatur County courthouse in Greensburg; or

(2) other places in the county that the Decatur County executive provides.

Sec. 4. The Decatur superior court has the same jurisdiction as the Decatur circuit court.

Sec. 5. The Decatur superior court has a standard small claims and misdemeanor division.

Chapter 17. DeKalb County

Sec. 1. DeKalb County constitutes the seventy-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the DeKalb superior court.

(b) The DeKalb superior court is a standard superior court as described in IC 33-29-1.

(c) DeKalb County comprises the judicial district of the superior court.

Sec. 3. The DeKalb superior court has one (1) judge who shall hold sessions in:

(1) the DeKalb County courthouse in Auburn; or

(2) other places in the county as the board of county

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commissioners of DeKalb County may provide.

Sec. 4. (a) If the transcript of the original papers in a civil action or proceeding received by the clerk of the circuit and superior courts of DeKalb County on change of venue from another county contains an order of the court from which venue was changed designating the circuit court or the superior court as the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

(b) If the transcript of the original papers in a civil action or proceeding does not contain an order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the circuit court and the docket of the superior court, depending on the order and sequence in which the papers of the cases reach the clerk, so that if the first case is assigned to the circuit court, the next must be assigned to the superior court.

Sec. 5. (a) In addition to the appointments made under IC 33-29-1-5, if the county executive establishes the position of small claims referee to serve the court, the judge of the DeKalb superior court may appoint a part-time small claims referee under IC 33-29-3 to assist the court in the exercise of its small claims jurisdiction.

(b) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) a year as recommended by the judge of the court to be paid by the county after the salary is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(c) The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment.

(d) The court shall employ administrative staff necessary to support the functions of the small claims referee.

(e) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

Sec. 6. The DeKalb superior court has the same jurisdiction as the DeKalb circuit court.

Sec. 7. The DeKalb superior court has a standard small claims and misdemeanor division.

Chapter 18. Delaware County

Sec. 1. Delaware County constitutes the forty-sixth judicial circuit.

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Sec. 2. (a) The Delaware circuit court is a court of general jurisdiction with five (5) judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, and No. 5. The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

(1) Small claims.

(2) Minor offenses and violations.

(3) Criminal.

(4) Juvenile.

(5) Civil.

(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.

Sec. 3. The judges of the Delaware circuit court shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months.

Sec. 4. When action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls.

Sec. 5. In accordance with rules adopted by the judges of the Delaware circuit court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially.

(2) Annually submit to the fiscal body of Delaware County a budget for the court, including amounts necessary for the following:

(A) Operation of the Delaware circuit court's probation department.

(B) Defense of indigents.

(C) Maintenance of an adequate law library.

(3) Make appointments or selections required of a circuit or superior court judge.

Sec. 6. (a) The judges of the Delaware circuit court shall adopt rules to provide for the administration of the court, including rules governing the following:

(1) Allocation of case load.

(2) Legal representation for indigents.

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(3) Budgetary matters of the court.
(4) Operation of the probation department.
(5) Term of administration of the presiding judge.
(6) Employment and management of court personnel.
(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 7. (a) Each judge of the Delaware circuit court may, subject to the budget approved for the court by the fiscal body of Delaware County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:
(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

(c) A commissioner is entitled to practice law in any division of the court in which the commissioner does not have appointive judicial authority. A commissioner has judicial authority only in the division of the court presided over by the judge who appointed the commissioner.

Sec. 8. (a) The Delaware circuit court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Delaware County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Chapter 19. Dubois County

Sec. 1. Dubois County constitutes the fifty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Dubois superior court.

(b) The Dubois superior court is a standard superior court as described in IC 33-29-1.

(c) Dubois County comprises the judicial district of the superior court.

Sec. 3. The Dubois superior court has one (1) judge who shall hold sessions in:
(1) the Dubois County courthouse in Jasper; or

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(2) other places in the county as the board of county commissioners of Dubois County may provide.

Sec. 4. The clerk of the Dubois circuit court shall serve as the clerk of the Dubois superior court, and the sheriff of Dubois County shall serve as the sheriff of the Dubois superior court. They shall attend the court and perform the same duties relating to their offices as they are required to do with respect to the Dubois circuit court.

Sec. 5. The Dubois superior court has the same jurisdiction as the Dubois circuit court.

Sec. 6. The Dubois superior court has a standard small claims and misdemeanor division.

Chapter 20. Elkhart County

Sec. 1. Elkhart County constitutes the thirty-fourth judicial circuit.

Sec. 2. (a) The judges of the Elkhart circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

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

Sec. 3. (a) There is established a court of record to be known as the Elkhart superior court.

(b) The Elkhart superior court is a standard superior court as described in IC 33-29-1.

(c) Elkhart County comprises the judicial district of the court.

Sec. 4. The Elkhart superior court has six (6) judges. Four (4) of the judges of the court shall hold sessions in the Elkhart County courts building in Elkhart. Two (2) of the judges of the court shall hold sessions in an appropriate place in Goshen selected by the county commissioners.

Sec. 5. The judges of the Elkhart superior court may make rules for conducting the business of the court.

Sec. 6. The Elkhart superior court has the same jurisdiction as the Elkhart circuit court.

Sec. 7. The Elkhart superior court has a standard small claims and misdemeanor division.

Chapter 21. Fayette County

Sec. 1. Fayette County constitutes the seventy-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Fayette superior court.

(b) The Fayette superior court is a standard superior court as

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described in IC 33-29-1.

(c) Fayette County comprises the judicial district of the court.

Sec. 3. The Fayette superior court has one (1) judge who shall hold sessions in:

(1) the Fayette County courthouse in Connersville; or

(2) other places in the county as the Fayette County executive may provide.

Sec. 4. The Fayette superior court has the same jurisdiction as the Fayette circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Fayette superior court has a standard small claims and misdemeanor division.

Chapter 22. Floyd County

Sec. 1. (a) Floyd County constitutes the fifty-second judicial circuit.

(b) The judges of the Floyd circuit court, Floyd superior court, and Floyd county court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit, superior, and county courts.

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

Sec. 2. (a) There is established a court of record to be known as the Floyd superior court.

(b) Except as provided in section 3 of this chapter, the Floyd superior court is a standard superior court as described in IC 33-29-1.

(c) Floyd County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Floyd superior court has one (1) judge, who shall be elected at the general election every six (6) years in Floyd County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 4. The Floyd superior court shall hold its sessions in:

(1) the Floyd County courthouse in New Albany; or

(2) other places in the county as the board of county commissioners of Floyd County may provide.

Sec. 5. The Floyd superior court has the same jurisdiction as the Floyd circuit court, except that only the circuit court has jurisdiction over juvenile, probate, and trust matters.

Chapter 23. Fountain County

Sec. 1. (a) Fountain County constitutes the sixty-first judicial

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circuit.

(b) The Fountain circuit court has a standard small claims and misdemeanor division.

Chapter 24. Franklin County

Sec. 1. (a) Franklin County constitutes the thirty-seventh judicial circuit.

(b) The Franklin circuit court has a standard small claims and misdemeanor division.

Chapter 25. Fulton County

Sec. 1. Fulton County constitutes the forty-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Fulton superior court.

(b) The Fulton superior court is a standard superior court as described in IC 33-29-1.

(c) Fulton County comprises the judicial district of the court.

Sec. 3. The Fulton superior court has one (1) judge who shall hold sessions in:

(1) the Fulton County courthouse in Rochester; or

(2) other places in the county as the Fulton County executive may provide.

Sec. 4. The Fulton superior court has the same jurisdiction as the Fulton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Fulton superior court has a standard small claims and misdemeanor division.

Chapter 26. Gibson County

Sec. 1. Gibson County constitutes the sixty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Gibson superior court.

(b) The Gibson superior court is a standard superior court as described in IC 33-29-1.

(c) Gibson County comprises the judicial district of the court.

Sec. 3. The Gibson superior court has one (1) judge who shall hold sessions in:

(1) the Gibson County courthouse in Princeton; or

(2) other places in the county as the board of county commissioners of Gibson County may provide.

Sec. 4. The Gibson superior court has the same jurisdiction as the Gibson circuit court, except that only the circuit court has juvenile and probate jurisdiction.

Sec. 5. The Gibson superior court has a standard small claims and misdemeanor division.

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Chapter 27. Grant County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Grant County constitutes the forty-eighth judicial circuit.

Sec. 3. Grant County constitutes the Grant superior court judicial district.

Sec. 4. (a) The term of the judge of the Grant superior court is six (6) years beginning on the first day of January following the judge's election.

(b) The voters of Grant County every six (6) years at a general election shall elect a person as judge of the court.

Sec. 5. The Grant superior court shall hold its sessions in Marion.

Sec. 6. The clerk of the Grant circuit court and the sheriff of Grant County shall serve as the clerk and sheriff of the Grant superior court.

Sec. 7. (a) The Grant superior court shall, during each calendar year, appoint two (2) persons of Grant County as jury commissioners. The law concerning jury commissioners appointed by the Grant circuit court govern the jury commissioners appointed by the Grant superior court.

(b) The jury commissioners shall prepare and draw the jury for the Grant superior court as is done by the jury commissioners for the Grant circuit court.

(c) The Grant superior court may order on what day jurors are summoned to attend the Grant superior court. The Grant superior court judge may order the selection and summoning of other jurors for the superior court when necessary. If, at any time, a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of Grant County jurors for the term, who shall be summoned and considered in all things as the regular panel of the superior court.

Sec. 8. The clerk of the Grant circuit court shall enter all judgments rendered in, executions issued from, and papers filed in the Grant superior court in the same judgment and execution dockets, lis pendens records, and other dockets and records, except order books, as are used for judgments and executions and proceedings of the Grant circuit court. The clerk shall note whether any judgment or proceeding is a judgment or proceeding of the Grant circuit or Grant superior court.

Sec. 9. The Grant superior court has the same jurisdiction as the Grant circuit court.

Chapter 27.2. Grant County Superior Court No. 2

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Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. The Grant superior court No. 2, is established as a court of record. The court consists of one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. Every six (6) years, the voters of Grant County shall elect at the general election a judge for the Grant superior court No. 2.

Sec. 3. Grant County constitutes the judicial district of the Grant superior court No. 2. The court shall have a seal containing the words "Grant Superior Court No. 2, of Grant County, Indiana".

Sec. 4. The judge of the Grant superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation as provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Grant County.

Sec. 5. (a) The Grant superior court No. 2, shall hold its sessions in a place to be determined by the county council of Grant County.

(b) The board of county commissioners of Grant County shall provide and maintain in the courthouse a suitable and convenient courtroom for the holding of court, together with a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court. The county council shall make the necessary appropriations from the general fund of the county to carry out this chapter.

Sec. 6. The Grant superior court No. 2 has the same jurisdiction as the Grant circuit court.

Sec. 7. The judge of the Grant superior court No. 2 may make and adopt rules and regulations for conducting the business of the Grant superior court No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries

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public.

Sec. 8. The judge of Grant superior court No. 2 shall, during the last term beginning in each calendar year, appoint for the next calendar year two (2) persons, one (1) of whom must be a resident of the city in which terms of the court are held, as jury commissioners. The persons must be freeholders and voters of Grant County, be from different political parties, and have good character for intelligence, morality, and integrity. The persons must take an oath or affirmation in open court, to be entered of record in the order book of the court, in the following form:

> **"You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for integrity and honesty, that you will select (none of whom you have been or may be requested to select), and that, in all of your selections, you will endeavor to promote only the impartial administration of justice.".**

The court shall instruct the jury commissioners concerning their duties.

Sec. 9. Laws governing the powers, duties, and procedure of jury commissioners in circuit courts, and the duties of the clerk of the court pertaining to the drawing and recording of names of prospective petit jurors, govern the jury commissioners appointed and the selection of petit jurors in the Grant superior court No. 2.

Chapter 27.3. Grant County Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) There is established a court of record to be known as the Grant superior court No. 3 (referred to as "the court" in this chapter).

(b) The court may have a seal containing the words "Grant Superior Court No. 3, Grant County, Indiana".

(c) Grant County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge who shall be elected at the general election every six (6) years in Grant 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 a judge of the court, a person must be:

> **(1) a resident of Grant County;**
>
> **(2) less than seventy (70) years of age at the time of taking**

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office; and

(3) admitted to the practice of law in Indiana.

Sec. 4. The court has the same jurisdiction as the Grant circuit court.

Sec. 5. The judge of the court:

(1) has the same powers relating to the conduct of the business of the court as the judges of the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 6. (a) The judge of the court shall appoint a bailiff and an official court reporter for the court.

(b) The salaries of the bailiff and the official court reporter shall be:

(1) fixed in the same manner as the salaries of the bailiff and official court reporter for the Grant circuit court, Grant superior court, and Grant superior court No. 2; and

(2) paid monthly out of the treasury of Grant County as provided by law.

Sec. 7. The clerk of the court, under the direction of the judge of the court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books for the court;

that shall be kept separately from the books and papers of other courts.

Sec. 8. (a) The court shall hold its sessions in:

(1) the Grant County courthouse in Marion; or

(2) other places in the county that the Grant County executive provides.

(b) The Grant County executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary.

(c) The Grant County fiscal body shall appropriate sufficient funds for the provision and maintenance of the rooms and facilities.

Sec. 9. (a) Each year the judge of the court shall appoint two (2) individuals who reside in Grant County to serve as jury commissioners for the court.

(b) Juries for the court shall be selected in the same manner as

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juries for the Grant circuit court.

(c) The grand jury selected for the Grant circuit court shall also serve as the grand jury for the court as may be necessary.

Sec. 10. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Grant circuit court, Grant superior court, or Grant superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, transfer any action or proceeding from the court to the Grant circuit court, Grant superior court, or Grant superior court No. 2.

Sec. 11. (a) The judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2, sit as a judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2 in any matter as if an elected judge of the Grant circuit court, Grant superior court, or Grant superior court No. 2.

Sec. 12. (a) The court has a standard small claims and misdemeanor division.

(b) Notwithstanding IC 33-29-2-3, the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars ($6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars ($6,000) in order to bring the claim within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars ($6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

Chapter 28. Greene County

Sec. 1. Greene County constitutes the sixty-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as

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the Greene superior court.

(b) The Greene superior court is a standard superior court as described in IC 33-29-1.

(c) Greene County comprises the judicial district of the court.

Sec. 3. The Greene superior court has one (1) judge who shall hold sessions in:

(1) the Greene County courthouse in Bloomfield; or

(2) other places in the county as the Greene County executive may provide.

Sec. 4. The Greene superior court has the same jurisdiction as the Greene circuit court.

Sec. 5. The Greene superior court has a standard small claims and misdemeanor division.

Chapter 29. Hamilton County

Sec. 1. Hamilton County constitutes the twenty-fourth judicial circuit.

Sec. 2. (a) There are established five (5) superior courts of record to be known as the Hamilton superior court No. 1, the Hamilton superior court No. 2, the Hamilton superior court No. 3, the Hamilton superior court No. 4, and the Hamilton superior court No. 5.

(b) Except as otherwise provided in this chapter, each Hamilton superior court is a standard superior court as described in IC 33-29-1.

(c) Hamilton County constitutes the judicial district of each court.

Sec. 3. Each Hamilton superior court has one (1) judge who shall hold sessions in:

(1) the Hamilton County courthouse in Noblesville; or

(2) another convenient and suitable place provided by the board of county commissioners.

Sec. 4. In addition to the personnel that may be appointed under IC 33-29-1-5, the judge of each Hamilton superior court may appoint other personnel necessary to facilitate and transact the business of the court. The other necessary personnel shall serve at the pleasure of the court, and the judge shall fix their compensation within the limits and in the manner provided by law concerning other personnel of the court. The compensation shall be paid monthly out of the treasury of Hamilton County in the manner provided by law.

Sec. 5. (a) The clerk of the Hamilton circuit court shall serve the Hamilton superior courts and shall be governed in all respects as

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provided by law.

(b) Jurors need not serve in the particular order in which they are drawn by the jury commissioners.

(c) Any judge of the Hamilton circuit or superior court may order the selection and summoning of other jurors for the circuit or superior court whenever necessary. Jurors shall serve all the Hamilton circuit and superior courts and shall serve any judge of the courts where juror service may be required.

Sec. 6. The judges of the Hamilton superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judges of the superior court.

Sec. 7. Each Hamilton superior court has concurrent jurisdiction, both original and appellate, with the Hamilton circuit court in all civil actions and proceedings at law and in equity, in all juvenile matters, and in all criminal and probate matters, actions, and proceedings of which the Hamilton circuit court has jurisdiction.

Sec. 8. The Hamilton superior court No. 4 and the Hamilton superior court No. 5 have a standard small claims and misdemeanor division.

Chapter 30. Hancock County

Sec. 1. Hancock County constitutes the eighteenth judicial circuit.

Sec. 2. (a) There are established two (2) superior courts of record to be known as the Hancock superior court No. 1 and the Hancock superior court No. 2.

(b) Except as otherwise provided in this chapter, each Hancock superior court is a standard superior court as described in IC 33-29-1.

(c) Hancock county comprises the judicial district of each court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) Each of court consists of one (1) judge who holds office for six (6) years, beginning on January 1 after the judge's election and until the judge's successor is elected and qualified. Every six (6) years, the voters of Hancock County shall elect at the general election a judge for each superior court.

Sec. 4. Hancock superior court No. 1 and Hancock superior court No. 2 shall each hold sessions in the Hancock County courthouse in Greenfield.

Sec. 5. In addition to the powers described in IC 33-29-1-4, the judges of Hancock superior court No. 1 and Hancock superior

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court No. 2 may make and adopt rules and regulations for conducting the business of Hancock superior court No. 1 and Hancock superior court No. 2 and have all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of the courts' orders. The judge of each superior court may make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 6. Notwithstanding the provisions of any statute applying generally to superior or circuit courts, a judge of the:

(1) Hancock circuit court;

(2) Hancock superior court No. 1; or

(3) Hancock superior court No. 2;

may transfer an action or proceeding from the Hancock circuit court or a Hancock superior court to the Hancock circuit court or another Hancock superior court with the consent of the judge of the court that would receive the action or proceeding.

Sec. 7. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hancock circuit court on change of venue from another county, the cause may be docketed in either the Hancock circuit court, Hancock superior court No. 1, or Hancock superior court No. 2, under rules adopted by the judges of the Hancock circuit court, Hancock superior court No. 1, and Hancock superior court No. 2, unless otherwise provided in the order, report of striking, or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry, report, or order.

Sec. 8. Each superior court shall, during each calendar year, appoint for the next calendar year two (2) persons who are residents of Hancock County as jury commissioners. The law concerning jury commissioners appointed by the circuit court govern the jury commissioners as appointed by each superior court in all things, conditions, and qualifications. The jury commissioners shall prepare and draw the petit jury for each superior court as the law directs the same to be done by the jury commissioners for the circuit court. Each superior court is governed by the law in the making of appointments of the jury commissioners, and the clerk in issuing process for the jury and the sheriff in serving the process is governed by the law made for petit

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jurors in the circuit court. Each superior court may order on what day of the term the jurors are summoned to attend court and the judge of each court may order the selection and summoning of other jurors for the court whenever it is necessary.

Sec. 9. Hancock superior court No. 1 and Hancock superior court No. 2 have the same jurisdiction as the Hancock circuit court.

Sec. 10. Hancock superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 31. Harrison County

Sec. 1. Harrison County constitutes the third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Harrison superior court.

(b) The Harrison superior court is a standard superior court as described in IC 33-29-1.

(c) Harrison County comprises the judicial district of the court.

Sec. 3. The Harrison superior court has one (1) judge who shall hold sessions in:

(1) the Harrison County courthouse in Corydon; or

(2) other places in the county as the Harrison County executive may provide.

Sec. 4. The Harrison superior court has the same jurisdiction as the Harrison circuit court.

Sec. 5. The Harrison superior court has a standard small claims and misdemeanor division.

Chapter 32. Hendricks County

Sec. 1. Hendricks County constitutes the fifty-fifth judicial circuit.

Sec. 2. (a) There are established three (3) superior courts of record to be known as Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3.

(b) Except as otherwise provided in this chapter, each Hendricks superior court is a standard superior court as described in IC 33-29-1.

(c) Hendricks County comprises the judicial district of each court.

Sec. 3. Each Hendricks superior court has one (1) judge who shall hold sessions in the Hendricks County courthouse in Danville.

Sec. 4. Notwithstanding IC 33-29-1-9, an action, a cause, a case, a proceeding, or other matter filed in the Hendricks circuit court or a Hendricks superior court established by this chapter may be transferred by the court in which it is filed to either of the other courts by transferring all original papers filed with the consent of

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the court to which it is transferred.

Sec. 5. (a) Change of venue from the judge or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a cause is received by the clerk of the Hendricks circuit court on change of venue from another county, the cause shall be docketed on a rotating basis and assigned alternately to the Hendricks circuit court, Hendricks superior court No. 1, Hendricks superior court No. 2, and Hendricks superior court No. 3 unless otherwise provided in the order or entry made in such cause in the county from which such change of venue was taken, in which case it shall be docketed as provided in the entry or order.

Sec. 6. In addition to the powers described in IC 33-29-1-4, the judge of each Hendricks superior court may make and adopt rules and regulations for continuing business of the court. Each judge has the powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. Each judge may make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 7. Notwithstanding IC 33-29-1-8, the judge of each Hendricks superior court may order the selection and summoning of other jurors for the judge's court when necessary. If at any time a jury shall for any reason be not drawn, then the clerk shall select from among the properly qualified residents of Hendricks County a jury, who shall be summoned and considered in all things as the regular panel of the court.

Sec. 8. (a) Each Hendricks superior court has original and concurrent jurisdiction with the Hendricks circuit court in all civil actions and proceedings at law and in equity, and actions for dissolution or annulment of marriage, and in all criminal cases and proceedings. However, none of the Hendricks superior courts have the jurisdiction of a juvenile court.

(b) Each Hendricks superior court has original and concurrent jurisdiction with the Hendricks circuit court in all appeals or reviews from boards of county commissioners or other executive or administrative agencies and all other appellate jurisdiction vested in the circuit court.

Sec. 9. Each Hendricks superior court has a standard small claims and misdemeanor division.

Chapter 33. Henry County

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Sec. 1. Henry County constitutes the fifty-third judicial circuit.

Sec. 2. (a) There are established two (2) superior courts of record to be known as Henry superior court No. 1 and Henry superior court No. 2.

(b) Except as otherwise provided in this chapter, each Henry superior court is a standard superior court as described in IC 33-29-1.

(c) Henry county comprises the judicial district of each court.

Sec. 3. Each Henry superior court has one (1) judge who shall hold sessions in:

(1) the Henry County courthouse in New Castle; or

(2) other places in the county as the Henry County executive may provide.

Sec. 4. (a) Change of venue from the judge of a Henry superior court or from the county may be had under the same terms, conditions, and procedure applicable to changes of venue from the judge or the county in circuit courts.

(b) If a case is received by the clerk of the Henry circuit court on change of venue from another county, the case shall be docketed in the Henry circuit court unless otherwise provided in the order or entry made in the cause in the county from which the change of venue was taken, in which case it shall be docketed as provided in the entry or order.

(c) The Henry circuit court may issue a general order transferring cases venued to the Henry circuit court from other counties to Henry superior court No. 1 or Henry superior court No. 2. A general order issued under this subsection may be amended by the circuit court.

Sec. 5. The judge of a Henry superior court may, with the consent of the judge of the other Henry superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

Sec. 6. The Henry superior courts have the same jurisdiction as the Henry circuit court.

Sec. 7. Henry superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 34. Howard County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Howard County constitutes the sixty-second judicial circuit.

Sec. 3. There is established a court of record to be known as the Howard superior court. The court consists of two (2) judges each

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of whom holds office for six (6) years and until the judge's successor is elected and qualified.

Sec. 4. The judge for this court shall be elected every six (6) years at the general election. The term of office begins the first day of January following the judge's election, and continues for six (6) years and until the judge's successor is elected and qualified.

Sec. 5. The Howard superior court shall have a seal consisting of a circular disk containing the words "Howard Superior Court," an impression of which shall be spread of record upon the order book of the court.

Sec. 6. (a) The Howard superior court shall hold its sessions in:

(1) the Howard County courthouse in Kokomo; or

(2) another convenient and suitable place as the board of county commissioners of Howard County provides.

(b) The board of county commissioners shall provide and maintain a suitable and convenient courtroom for the holding of the court, with a suitable and convenient jury room and offices for the judge and the official court reporter, and the county council shall meet and appropriate all necessary funds.

Sec. 7. The judges of the superior court:

(1) may make and adopt rules and regulations for conducting the business of the court;

(2) has all the powers in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders; and

(3) may administer oaths, solemnize marriages, take and certify acknowledgement of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 8. The judges of the superior court have the same power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, masters and commissioners to convey real property, to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts.

Sec. 9. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and such other books, papers, and records as are necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 10. Each judge shall appoint a bailiff and court reporter

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whose duties, salary, and term shall be regulated in the same manner as is provided for the circuit court.

Sec. 11. Before the commencement of any term of the court, the clerk of the court and jury commissioners appointed by the judge of the circuit court of the county shall select a petit jury to serve at the next term of court. The officers in selecting, the clerk in issuing process for the jury, and the sheriff in serving the process are governed by the rules and regulations prescribed for the selection of petit jurors in the circuit court. The court may order on what day of the term the jurors are summoned to attend the court. The judge of the court may order the selecting and summoning of other jurors for the court whenever it is necessary.

Sec. 12. Each judge may appoint additional officers and personnel as is necessary for the proper administration of the judge's duties as judge of the court.

Sec. 13. (a) The court shall adopt rules to provide for the operation and conduct of the court.

(b) The court shall designate one (1) of the judges as presiding judge who shall serve in that capacity for three (3) years, at the end of which another judge shall be selected to serve as presiding judge for the same period. The presiding judge shall ensure that the court operates efficiently and judicially.

Sec. 14. When any action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the presiding judge controls.

Sec. 15. The judge of the circuit court may, with the consent of this court, 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 the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with this court.

Sec. 16. Any 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 to be redocketed and disposed of as if originally filed with this court.

Sec. 17. The judge of the Howard circuit court may, with the court's permission, sit and act as a judge of this court in all matters pending before this court, without limitation and without any further order, in the same manner and stead as if the judge were a judge of this court, with all the rights and powers as if the judge

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were an elected judge of this court, including the right to act as presiding judge and otherwise participate in the organization and administration of this court.

Sec. 18. (a) The Howard superior court has original and concurrent jurisdiction with the circuit court in all civil actions and proceedings at law and in equity, probate and guardianship proceedings, actions for divorce, separation, annulment of marriage, and in all criminal cases and proceedings. However, the superior court does not have the jurisdiction of a juvenile court or judge, as described in IC 33-23-7.

(b) The Howard superior court has original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners, other executive or administrative agencies or inferior courts, and all other appellate jurisdictions vested in the circuit court.

Chapter 34.3. Howard County Superior Court No. 3

Sec. 1. (a) There is established a court of record to be known as the Howard superior court No. 3.

(b) Except as otherwise provided in this chapter, the Howard superior court No. 3 is a standard superior court as described in IC 33-29-1.

(c) Howard County comprises the judicial district of the court.

Sec. 2. The court has one (1) judge who shall hold sessions in:

(1) the Howard County courthouse in Kokomo; or

(2) other places in the county that the Howard County executive provides.

Sec. 3. The judge of the Howard superior court No. 3:

(1) has the same powers relating to the conduct of the business of the court as the judges of the Howard circuit court, Howard superior court, and Howard superior court No. 2; and

(2) may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 4. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the Howard circuit court, Howard superior court, or Howard superior court No. 2 to the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, transfer any action or proceeding from the court to the Howard circuit court, Howard superior court, or

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Howard superior court No. 2.

Sec. 5. (a) The judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter as if an elected judge of the court.

(b) The judge of the court may, with the consent of the judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2, sit as a judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2 in any matter as if an elected judge of the Howard circuit court, Howard superior court, or Howard superior court No. 2.

Sec. 6. The Howard superior court No. 3 has the same jurisdiction as the Howard circuit court.

Sec. 7. The Howard superior court No. 3 has a standard small claims and misdemeanor division.

Chapter 35. Huntington County

Sec. 1. Huntington County constitutes the fifty-sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Huntington superior court.

(b) Except as otherwise provided in this chapter, the Huntington superior court is a standard superior court as described in IC 33-29-1.

(c) Huntington County comprises the judicial district of the court.

Sec. 3. The Huntington superior court has one (1) judge who shall hold sessions in:

(1) the Huntington County courthouse in Huntington; or

(2) other places in the county as the Huntington County executive may provide.

Sec. 4. (a) In addition to the personnel appointed under IC 33-29-1-5, the Huntington superior court may appoint a referee and other personnel as the court determines necessary to facilitate and transact the business of the court.

(b) Salaries of the personnel described in this section shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Huntington circuit court. Their salaries shall be paid out of the treasury of Huntington County as provided by law.

Sec. 5. The Huntington superior court has the same jurisdiction as the Huntington circuit court, except that only the circuit court has juvenile jurisdiction.

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Sec. 6. The Huntington superior court has a standard small claims and misdemeanor division.

Chapter 36. Jackson County

Sec. 1. Jackson County constitutes the fortieth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jackson superior court.

(b) The Jackson superior court is a standard superior court as described in IC 33-29-1.

(c) Jackson County comprises the judicial district of the court.

Sec. 3. The Jackson superior court has one (1) judge who shall hold sessions in Seymour.

Sec. 4. The Jackson superior court has the same jurisdiction as the Jackson circuit court.

Sec. 5. The Jackson superior court has a standard small claims and misdemeanor division.

Chapter 37. Jasper County

Sec. 1. (a) Jasper County constitutes the thirtieth judicial circuit.

(b) The Jasper circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as Jasper superior court No. 1.

(b) Except as otherwise provided in this chapter, the Jasper superior court No. 1 is a standard superior court as described in IC 33-29-1.

(c) Jasper County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Jasper superior court has one (1) judge, who shall be elected at the general election every six (6) years in Jasper County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 4. The judge of the Jasper superior court No. 1 shall hold sessions in the Jasper County courthouse in Rensselaer or in other places in the county as the board of county commissioners of Jasper County may provide.

Sec. 5. (a) The judge of Jasper superior court No. 1 shall adopt rules to provide for the administration of the Jasper superior court, including rules governing the following:

(1) Legal representation for indigents.

(2) Budgetary matters of the Jasper superior court.

(3) Operation of the probation department.

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(4) Employment and management of court personnel.

(5) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The judge of the Jasper superior court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 6. (a) In addition to the personnel described in IC 33-29-1-5, the judge of the Jasper superior court No. 1 may, subject to the budget approved for the court by the fiscal body of Jasper County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and

(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 5 of this chapter.

Sec. 7. The Jasper superior court No. 1 has the same jurisdiction as the Jasper circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 8. The Jasper superior court No. 1 has a standard small claims and misdemeanor division.

Chapter 38. Jay County

Sec. 1. Jay County constitutes the fifty-eighth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jay superior court.

(b) The Jay superior court is a standard superior court as described in IC 33-29-1.

(c) Jay County comprises the judicial district of the court.

Sec. 3. The Jay superior court has one (1) judge who shall hold sessions in:

(1) the Jay County courthouse in Portland; or

(2) other places in the county as the Jay County executive may provide.

Sec. 4. The Jay superior court has the same jurisdiction as the Jay circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Jay superior court has a standard small claims and misdemeanor division.

Chapter 39. Jefferson County

Sec. 1. Jefferson County and Switzerland County constitute the

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fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Jefferson superior court.

(b) The Jefferson superior court is a standard superior court as described in IC 33-29-1.

(c) Jefferson County comprises the judicial district of the court.

Sec. 3. The Jefferson superior court has one (1) judge who shall hold sessions in Madison.

Sec. 4. The Jefferson superior court is a court of general jurisdiction.

Sec. 5. The Jefferson superior court has a standard small claims and misdemeanor division.

Chapter 40. Jennings County

Sec. 1. (a) Jennings County constitutes the eighty-sixth judicial circuit.

(b) The Jennings circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Jennings superior court.

(b) The Jennings superior court is a standard superior court as described in IC 33-29-1.

(c) Jennings County comprises the judicial district of the court.

Sec. 3. The Jennings superior court has one (1) judge who shall hold sessions in:

(1) the Jennings County courthouse in Vernon; or

(2) another place in the county as the Jennings County executive may provide.

Sec. 4. The Jennings superior court has the same jurisdiction as the Jennings circuit court.

Sec. 5. The Jennings superior court has a standard small claims and misdemeanor division.

Chapter 41. Johnson County

Sec. 1. Johnson County constitutes the eighth judicial circuit.

Sec. 2. (a) The judges of the Johnson circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve both the circuit and superior courts.

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

Sec. 3. (a) There are established three (3) courts of record to be known as the Johnson superior court No. 1, Johnson superior court No. 2, and Johnson superior court No. 3.

(b) Except as otherwise provided in this chapter, each Johnson

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superior court is a standard superior court as described in IC 33-29-1.

(c) Johnson County comprises the judicial district of each court.

Sec. 4. (a) The Johnson superior court No. 1 and Johnson superior court No. 2 each have one (1) judge who shall hold sessions in the Johnson County courthouse in Franklin.

(b) The Johnson superior court No. 3 has one (1) judge who shall hold sessions in a place to be determined and provided by the board of county commissioners of Johnson County.

Sec. 5. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, transfer any action or proceeding from the superior court to the other superior court.

Sec. 6. The judge of a Johnson superior court may, with the consent of the judge of another Johnson superior court, sit as the judge of the other superior court in any matter as if the judge of the superior court were an elected judge of the other superior court.

Sec. 7. Each Johnson superior court has concurrent jurisdiction, both original and appellate, with the Johnson circuit court in all civil actions and proceedings at law and in equity, and in all criminal and probate matters, actions, and proceedings of which the Johnson circuit court has jurisdiction.

Sec. 8. The Johnson superior court has a standard small claims and misdemeanor division.

Chapter 42. Knox County

Sec. 1. Knox County constitutes the twelfth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as Knox superior court No. 1 and Knox superior court No. 2.

(b) Except as otherwise provided in this chapter, each Knox superior court is a standard superior court as described in IC 33-29-1.

(c) Knox County constitutes the judicial district of the court.

Sec. 3. Each Knox superior court has one (1) judge who shall hold sessions:

(1) in the Knox County courthouse in Vincennes; or

(2) at other places in the county as the county executive may provide.

Sec. 4. The judge of the Knox circuit court may, with the consent of the judge of a superior court, transfer any action or proceeding from the circuit court to the superior court. The judge

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of a superior court may, with the consent of the judge of the circuit or other superior court, transfer any action or proceeding from that superior court to the circuit or other superior court.

Sec. 5. The judge of a superior court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if the judge of the superior court was an elected judge of the circuit or other superior court.

Sec. 6. (a) Except as provided in subsection (b), the Knox superior courts have the same jurisdiction as the Knox circuit court.

(b) The Knox superior courts have exclusive juvenile jurisdiction.

Sec. 7. Each Knox superior court has a standard small claims and misdemeanor division.

Chapter 43. Kosciusko County

Sec. 1. Kosciusko County constitutes the fifty-fourth judicial circuit.

Sec. 2. (a) There is established a court of record, which consists of three (3) judges, to be known as the "Superior Court of Kosciusko County". The court shall have a seal containing the words "Superior Court No. 1 of Kosciusko County, Indiana", "Superior Court No. 2 of Kosciusko County, Indiana", or "Superior Court No. 3 of Kosciusko County, Indiana".

(b) Except as otherwise provided in this chapter, the superior court of Kosciusko county is a standard superior court as described in IC 33-29-1.

(c) Kosciusko County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the superior court of Kosciusko county shall hold office for a term of six (6) years, beginning on the first day of January after election, and until a successor is elected and qualified. Every six (6) years, the voters of Kosciusko County shall elect at the general election judges for the superior court.

Sec. 4. The superior court of Kosciusko County shall hold its sessions:

(1) in the Kosciusko County courthouse in Warsaw; or

(2) at another place in Warsaw as the board of county commissioners may provide.

Sec. 5. Notwithstanding IC 33-29-1-8, the judges of the superior court of Kosciusko County may order on what day of the term the jurors are summoned to attend the superior court and may order

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the selecting and summoning of other jurors for the superior court whenever necessary.

Sec. 6. The superior court of Kosciusko County has the same jurisdiction as the circuit court.

Sec. 7. Superior court No. 2 of Kosciusko County and superior court No. 3 of Kosciusko County each have a standard small claims and misdemeanor docket.

Chapter 44. LaGrange County

Sec. 1. LaGrange County constitutes the thirty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the LaGrange superior court.

(b) The LaGrange superior court is a standard superior court as described in IC 33-29-1.

(c) LaGrange County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the LaGrange County courthouse in the city of LaGrange; or

(2) other places in the county as the LaGrange County executive may provide.

Sec. 4. The LaGrange superior court has the same jurisdiction as the LaGrange circuit court.

Sec. 5. The LaGrange superior court has a standard small claims and misdemeanor division.

Chapter 45. Lake County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. (a) Lake County constitutes the thirty-first judicial circuit.

(b) The judge of the Lake circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the Lake circuit court. One (1) of the magistrates shall serve the domestic relations counseling bureau established under IC 31-12-2. The judge shall specify the duties of a magistrate appointed under this subsection. A magistrate continues in office until removed by the judge of the circuit court.

Sec. 3. There is established a superior court in Lake County (referred to as "the court" in this chapter).

Sec. 4. The court shall be known as the superior court of Lake County.

Sec. 5. The court shall have a seal consisting of a circular disk containing the words "superior court of Lake County, Indiana" and "seal" and a design as the court may determine, an impression

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of which shall be spread of record upon the order book of the court.

Sec. 6. (a) The court has:

(1) the same jurisdiction as the Lake circuit court in all civil and probate cases and matters whether original or appellate;

(2) original exclusive jurisdiction of all felony cases;

(3) original concurrent jurisdiction of all misdemeanor cases, infraction cases, and ordinance violation cases;

(4) appellate jurisdiction in criminal cases as is vested in the circuit court; and

(5) original exclusive juvenile jurisdiction.

(b) Notwithstanding IC 31-30-1-2, the juvenile court has exclusive jurisdiction over a child who:

(1) has been taken into custody in the county; and

(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

Sec. 7. (a) The court is a court of record.

(b) The court's judgments, decrees, orders, and proceedings:

(1) have the same force and effect; and

(2) shall be enforced in the same manner;

as those of the Lake circuit court.

Sec. 8. (a) The court:

(1) may make and adopt rules and regulations for conducting the business of the court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 9. The court has the same power to grant restraining orders and injunctions, to issue writs of habeas corpus, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of the circuit courts in counties where there is no criminal court.

Sec. 10. (a) The judges of the criminal division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the criminal division. A magistrate appointed under this subsection continues in office until removed by the judges of the criminal division.

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(b) The judges of the civil division may appoint two (2) full-time magistrates under IC 33-23-5 to serve the civil division. A magistrate appointed under this subsection continues in office until removed by the judges of the civil division.

Sec. 11. (a) The judge of division No. 1, division No. 2, and division No. 3 of the court may each appoint one (1) full-time magistrate under IC 33-23-5 to serve as the court requires. A magistrate appointed under this section:

(1) must be a resident of the county; and

(2) continues in office until removed by the judge that the magistrate serves.

(b) The appointment of a magistrate under this section must be in writing.

(c) The judge may specifically determine the duties of the magistrate within the limits established under IC 33-23-5.

(d) The county executive shall provide and maintain suitable facilities for the use of the magistrate, including necessary furniture and equipment.

(e) The court shall employ administrative staff necessary to support the functions of the magistrates.

(f) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

(g) A magistrate is entitled to annual compensation as established under IC 33-23-5-10. The state shall pay the salary set under IC 33-23-5-10.

Sec. 12. (a) The senior judge of each division may appoint the number of bailiffs, court reporters, probation officers, and other personnel as the senior judge believes is necessary to judicially and efficiently facilitate and transact the business of the division. All appointments shall be made without regard to the political affiliation of the appointees. The salaries of the court personnel shall be fixed and paid as provided by law. The officers and persons appointed shall:

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

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

(b) The court shall appoint an administrative officer who has the duties the court determines are necessary to ensure the efficient operation of the court. The court may appoint the number of deputy administrative officers as the court considers necessary to facilitate and transact the business of the court. Any appointment of an administrative officer or deputy administrative officer shall

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be made without regard to the political affiliation of the appointees. The salaries of the administrative officer and any deputy administrative officer 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 entered of record. Any administrative officer or deputy administrative officer appointed by the court shall:

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

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

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

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

Sec. 13. The court shall hold continuous sessions in places in Lake County as the court periodically determines. The board of county commissioners of Lake County shall:

(1) provide and maintain:

(A) suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges and other court officers and personnel; and

(B) other facilities as may be necessary; and

(2) provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 14. The clerk of the Lake circuit court, under the direction of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records that are necessary for the court, and all books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 15. The court shall maintain an order book at each location of the court and the order books may be signed on behalf of the court by any of the judges of the court, and the signature constitutes authentication of the actions of each of the judges in the court.

Sec. 16. All Indiana laws and rules adopted by the supreme court governing the circuit courts apply to the superior court. However:

(1) a person other than a judge of the superior court of Lake County may not serve as a special judge when a change of judge is requested from the superior court of Lake County;

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(2) a judge of the superior court of Lake County may not receive compensation other than regular salary for serving as a special judge where the change of venue from the judge was granted by the superior court of Lake County;

(3) the statutes and rules governing the records, procedures, and practices of county courts apply to the county division of the court; and

(4) there is no change of venue from the county as of right in cases in the county division of the court.

Sec. 17. Any party may appeal from any order or judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 18. The process of the court shall have the seal affixed and be attested, directed, served, and returned, and be in the form as is provided for process issuing from the circuit court.

Sec. 19. (a) The court, by rules adopted by the court, shall designate one (1) of the judges as chief judge and shall fix the time that the chief judge presides. The chief judge is responsible for the efficient operation and conduct of the court.

(b) The judges of each division of the court, in accordance with the rules adopted by the judges of that division, shall designate a judge as the senior judge of that division and fix the time that the senior judge serves.

(c) The senior judge of each division shall report to the chief judge as to how the division should best judicially operate.

Sec. 20. When an action of the entire court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.

Sec. 21. (a) The court is divided into civil (including probate), criminal, county, and juvenile divisions. The work of the court shall be divided among the divisions by the rules of the court.

(b) Seven (7) judges comprise the civil division. Four (4) judges comprise the criminal division. Four (4) judges comprise the county division. One (1) judge comprises the juvenile division. However, the court by rule may alter the number of judges assigned to a division other than the county division of the court if the court determines that the change is necessary for the efficient operation of the court.

(c) The court by rule may reassign a judge of the court from one (1) division to another if the court determines that the change is

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

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

Sec. 22. The judge of the Lake circuit court may, with the consent of the court, transfer any action, cause, or proceeding filed and docketed in the Lake circuit court to the court by transferring all original papers and instruments filed in the action, cause, or proceeding and without further transcript, to be redocketed and disposed of as if originally filed with the court.

Sec. 23. Any judge of the court may, with the consent of the judge of the Lake circuit court, transfer any civil action, cause or proceeding filed and docketed in the court to the Lake 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 Lake circuit court.

Sec. 24. The judge of the Lake circuit court may sit as a judge of the court, with the court's permission, in the civil division, without limitation and without any further order, in the same manner as if the circuit court judge were a judge of the court with all the rights and powers as if the circuit court judge were a duly appointed judge of the court.

Sec. 25. (a) Unless the judge is a judge of the county division, at the general election immediately preceding the expiration of a judge's extended term the question of that judge's retention in office or rejection shall be submitted to the electorate of Lake County under section 42 of this chapter. Thereafter, unless rejected by the electorate, each judge shall serve successive terms as provided in section 41(b) of this chapter.

(b) A judge of the county division may serve a successive term if elected to serve a successive term under section 43 of this chapter.

Sec. 26. The superior court of Lake County consists of sixteen

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(16) judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

Sec. 27. (a) There is established a judicial nominating commission for the superior court of Lake County, the functions, responsibilities, and procedures of which are set forth in sections 28 through 37 of this chapter.

(b) The board of county commissioners of Lake County shall provide all facilities, equipment, supplies, and services as may be necessary for the administration of the duties imposed upon the commission. The members of the commission shall serve without compensation. However, the board of county commissioners of Lake County shall reimburse members of the commission for actual expenses incurred in performing their duties.

Sec. 28. (a) The judicial nominating commission (referred to in this chapter as the commission) consists of nine (9) members, the majority of whom form a quorum. The chief justice of the supreme court (or a justice of the supreme court or judge of the court of appeals designated by the chief justice) shall be a member and shall act as chairman.

(b) Under sections 30 and 31 of this chapter, those admitted to the practice of law and residing in Lake County shall elect four (4) of their members to serve on the commission, subject to the following:

(1) At least one (1) attorney member must be a minority individual (as defined in IC 20-12-21.7-4).

(2) Two (2) attorney members must be women.

(3) Two (2) attorney members must be men.

(c) The Lake County board of commissioners shall appoint four (4) nonattorney citizens to the commission, subject to the following:

(1) Each of the three (3) county commissioners shall appoint one (1) nonattorney member who is a resident of the appointing commissioner's district.

(2) After each county commissioner has had the opportunity to make the county commissioner's appointment, the fourth nonattorney member must be appointed by a majority vote of the Lake County board of commissioners.

(3) At least one (1) nonattorney member must be a minority individual (as defined in IC 20-12-21.7-4).

(4) Two (2) nonattorney members must be women.

(5) Two (2) nonattorney members must be men.

(6) Not more than two (2) of such appointees may be from the same political party.

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The appointees must reflect the composition of the community. If the Lake County board of commissioners fails to appoint any of the nonattorney commission members within the time required to do so in section 29 of this chapter, the appointment shall be made by the chief justice of the supreme court.

(d) A member of the commission, other than a judge or justice, may not hold any other elected public office. A member may not hold an office in a political party or organization. A nonattorney member of the commission may not hold an elected or salaried public office. A nonattorney member may not be an employee of the state or of a political subdivision of the state.

(e) A member of the commission is not eligible for appointment to a judicial office in Lake County if the member is a member of the commission and for three (3) years thereafter.

(f) If any member of the commission, other than a judge or justice, terminates the member's residence in Lake County, the member is considered to have resigned from the commission.

Sec. 29. (a) The Lake County board of commissioners shall appoint the four (4) nonattorney members of the commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, an appointment or reappointment shall be made in accordance with section 28 of this chapter. All appointments made by the Lake County board of commissioners shall be certified to the secretary of state, the clerk of the supreme court, and the clerk of Lake circuit court within ten (10) days after the appointment.

(c) Each nonattorney member shall be appointed for a term of four (4) years.

(d) Whenever a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the Lake County board of commissioners in writing of such fact. Vacancies in the office of nonattorney commissioners shall be filled by appointment of the Lake County board of commissioners within sixty (60) days after notice of the vacancy is received. The term of the nonattorney commissioner appointed is for the unexpired term of the member whose vacancy the new member has filled.

Sec. 30. (a) Those admitted to the practice of law and residing in Lake County (referred to in this chapter as attorney electors) shall elect four (4) of their number to the commission. To be eligible for the office of attorney commissioner, a person must be on the current annual list of attorneys certified to the clerk of the

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supreme court and must be a resident of Lake County. The term of office of each elected attorney member is four (4) years, commencing on the first day of October following the attorney member's election. The election day is the date on which the ballots are counted and, for purposes of this section, is the first Tuesday in September 1995, and every four (4) years thereafter. Thereafter, during the month before the expiration of each attorney commissioner's term of office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

Sec. 31. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the Lake circuit court shall, at least ninety (90) days before the date of election, notify all attorneys in Lake County of the upcoming election by mail, informing them that nominations must be made to the clerk of the circuit court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing, accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by any attorney elector or group of attorney electors residing in Lake County, by mail or otherwise, in the office of the clerk of the Lake circuit court at least sixty (60) days before the election.

(3) The clerk of the Lake circuit court shall prepare and print ballots containing the names and residential addresses of all attorney nominees whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(A) The ballot shall read:

"SUPERIOR COURT OF LAKE COUNTY
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in Lake County and admitted to the practice of law in Indiana. Vote for not more than four (4) of the following candidates for the term commencing _____.

(Name)(Address)
(Name)(Address)

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(etc.) (etc.)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of the Lake circuit court not later than _____.

DESTROY BALLOT IF NOT USED".

(B) The four (4) nominees receiving the most votes whose election does not conflict with the requirements of section 28(b) of this chapter shall be elected.

(4) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting such ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, that the attorney elector resides in Lake County, and that the attorney elector voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(5) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope shall not be opened until the counting of the ballots.

(6) The clerk of the Lake circuit court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

(7) Upon receiving the completed ballots and the accompanying certificate, the clerk shall ensure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(8) The clerk of the Lake circuit court, with the assistance of the Lake County election board, shall open and canvass all ballots after 4 p.m. on the day of election in the office of the clerk of the Lake circuit court. Ballots received after 4 p.m. may not be counted unless the chairman of the judicial nominating commission orders an extension of time because of extraordinary circumstances. Upon canvassing the ballots, the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk shall permit no one to inspect them except upon an order of the supreme court.

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(9) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give the nominee a plurality, the canvasser shall resolve the tie by lot and the winner of the lot is considered to be elected.

Sec. 32. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state, clerk of the supreme court, and clerk of the Lake circuit court as this chapter provides;

the clerk of the Lake circuit court shall by regular mail notify the members of the commission of their election or appointment and shall notify the chairman of the judicial nominating commission of the same.

Sec. 33. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for more than two (2) successive reelections or reappointments.

Sec. 34. (a) When a vacancy occurs in the superior court of Lake County, not including its county division, the clerk of the court shall promptly notify the chairman and each member of the commission of the vacancy. The chairman shall call a meeting of the commission within ten (10) days following the notice. The commission shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor as promptly as possible, and not later than sixty (60) days after 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 chairman and each member of the commission immediately of the forthcoming vacancy and the commission may within fifty (50) days of the notice of the vacancy make its nominations and submit to the governor the names of three (3) persons nominated for the forthcoming vacancy.

(b) Meetings of the commission shall be called by its chairman, or if the chairman fails to call a necessary meeting, upon the call of any five (5) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any five (5) members of the commission for a meeting, shall give

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each member of the commission at least five (5) days written notice by mail of the date, time, and place of every meeting unless the commission at its previous meeting designated the date, time, and place of its next meeting.

(c) Meetings of the commission are to be held at the Lake County government center in Crown Point or another place, as the circuit court clerk of Lake County may arrange, at the direction of the chairman of the commission.

(d) The commission may act only at a public meeting. IC 5-14-1.5 applies to meetings of the commission. The commission may not meet in executive session under IC 5-14-1.5-6.1 for the consideration of a candidate for judicial appointment.

(e) The commission may act only by the concurrence of a majority of its members attending a meeting. Five (5) members constitute a quorum at a meeting.

(f) The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties. These rules must provide for the receipt of public testimony concerning the qualifications of candidates for nomination to the governor.

Sec. 35. In selecting the three (3) nominees to be submitted to the governor, the commission shall comply with the following requirements:

(1) The commission shall submit only the names of the three (3) most highly qualified candidates from among all those eligible individuals considered. To be eligible for nomination as a judge of the superior court of Lake County, a person must be domiciled in the county of Lake, a citizen of the United States, and admitted to the practice of law in Indiana.

(2) In abiding by the mandate in subdivision (1), the commission shall evaluate in writing each eligible individual on the following factors:

(A) Law school record, including any academic honors and achievements.

(B) Contribution to scholarly journals and publications, legislative drafting, and legal briefs.

(C) Activities in public service, including:

(i) writings and speeches concerning public or civic affairs that are on public record, including but not limited to campaign speeches or writings, letters to newspapers, and testimony before public agencies;

(ii) government service;

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(iii) efforts and achievements in improving the administration of justice; and

(iv) other conduct relating to the individual's profession.

(D) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(E) Probable judicial temperament.

(F) Physical condition, including age, stamina, and possible habitual intemperance.

(G) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate, patience, decisiveness, and dedication.

(H) Membership on boards of directors, financial interests, and any other consideration that might create conflict of interest with a judicial office.

(I) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(3) These written evaluations shall not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(4) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the superior court of Lake County.

(5) In determining which eligible candidates are recommended to the governor, the commission shall consider that racial and gender diversity enhances the quality of the judiciary.

Sec. 36. (a) The commission shall submit with the list of three (3) nominees to the governor its written evaluation of the qualifications of each candidate.

(b) The names of the nominees and the written evaluations are public records that may be inspected and copied under IC 5-14-3.

(c) Every eligible candidate whose name was not submitted to the governor shall have access to any evaluation on the candidate by the commission and the right to make such evaluation public.

(d) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1 are excepted from public disclosure, unless the records are prepared for use in the consideration of a candidate for judicial

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appointment.

Sec. 37. (a) After the commission has nominated and submitted to the governor the names of three (3) persons for appointment to fill a vacancy of the superior court of Lake County:

(1) any name may be withdrawn for cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted;

before the appointment is made to fill the vacancy.

(b) If a nominee dies or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If two (2) or more vacancies exist, the commission shall nominate and submit to the governor a list of three (3) different persons for each of the vacancies. The commission may, before an appointment is made, withdraw the lists of nominations, change the names of any persons nominated from one (1) list to another, and resubmit them as changed, or may substitute a new name for any of those previously nominated.

Sec. 38. (a) A vacancy occurring on the court shall be filled by appointment of the governor from a list of three (3) nominees presented to the governor by the judicial nominating commission. If the governor fails to make an appointment from the list within sixty (60) days after the day it is presented to the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list, or altered list as provided for in section 37 of this chapter.

(b) The governor shall make all appointments to the court without regard to the political affiliation of any of the three (3) nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 35 of this chapter.

Sec. 39. A vacancy occurring on the superior court county division must be filled by appointment of the governor. In the interests of justice, the governor shall consider only those qualifications listed in section 35 of this chapter.

Sec. 40. An appointment by the governor or chief justice, as required by section 38 or 39 of this chapter, to the superior court of Lake County takes effect immediately if a vacancy exists at the date of the appointment. The appointment takes effect on the date the vacancy is created if a vacancy does not exist at the date of appointment.

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Sec. 41. (a) Each judge appointed under section 38 of this chapter serves an initial term, which begins on the effective date of the appointment of the judge and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Unless rejected by the electorate of Lake County under section 42 of this chapter, a judge of the civil division, criminal division, and juvenile division shall serve successive six (6) year terms.

(c) The term of office of a judge of the county division of the superior court is six (6) years. A judge appointed under section 39 of this chapter to fill a vacancy in the county division of the Lake superior court serves for the unexpired term of the vacating judge and until the appointed judge's successor is elected and qualified.

(d) Each six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term, as the case may be, and continues for six (6) years.

Sec. 42. (a) The question of the retention in office or rejection of each judge of the following divisions of the superior court of Lake County shall be submitted to the electorate of Lake County at the general election immediately preceding expiration of the term of the judge:

(1) Civil division.

(2) Criminal division.

(3) Juvenile division.

(b) At the general election, the question of the retention in office or rejection of a judge described in subsection (a) shall be submitted to the electorate of Lake County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the superior court of Lake County be retained in office for an additional term?".

(c) If a majority of the ballots cast by the electors voting on any question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 41(b) of this chapter.

(d) If a majority of the ballots cast by the electors voting on any question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

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(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office becomes vacant at the expiration of the term.

Sec. 43. A judge of the county division of the Lake superior court shall be elected under IC 3-10-2-11 by the electorate of Lake County.

Sec. 44. (a) A judge of the superior court may not during a term of office as judge of the superior court do any of the following:

(1) Engage in the practice of law.

(2) Run for elective office, unless the elective office is that of judge of the county division of the Lake superior court.

(3) Take part in any political campaign, unless the judge is running for election as judge of the county division and the political campaign is conducted for that office.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications to recommend to the supreme court that the judge be censured or removed.

(c) A political party may not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.

Sec. 45. (a) The clerk of the Lake circuit court and the jury commissioners appointed by the Lake circuit court shall serve as jury commissioners for the court. The issuing and servicing of process shall be governed by the procedure specified in IC 33-28-4-3 for the circuit court. The selection of jurors may be made either:

(1) as specified for the circuit court in IC 33-28-4-3; or

(2) from a list of persons in the county who are at least eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) Jurors need not serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary.

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Jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Lake County shall, not later than January 1 of each year, provide to the jury commissioners of the Lake superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

Chapter 46. LaPorte County

Sec. 1. (a) LaPorte County constitutes the thirty-second judicial circuit.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

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

Sec. 2. (a) There are established four (4) courts of record to be known as the LaPorte superior courts No. 1, No. 2, No. 3, and No. 4.

(b) Except as otherwise provided in this chapter, the LaPorte superior courts are standard superior courts as described in IC 33-29-1.

(c) LaPorte County comprises the judicial district of the courts.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) Each LaPorte superior court has one (1) judge, who shall be elected at the general election every six (6) years in LaPorte County. Each judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

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

(1) be a resident of LaPorte County; and

(2) be admitted to the bar of Indiana.

Sec. 4. LaPorte superior court No. 1 shall hold its sessions in Michigan City. LaPorte superior courts No. 2, No. 3, and No. 4 shall hold sessions in places in the county as the LaPorte County executive may provide.

Sec. 5. (a) The judges of the court may, by a vote of the majority of the judges, appoint one (1) full-time magistrate under IC 33-23-5.

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(b) The magistrate appointed under subsection (a) continues in office until removed by the vote of a majority of the judges of the court.

Sec. 6. Notwithstanding IC 33-29-1-9, the judge of the LaPorte circuit court may, with the consent of the judge of the receiving court, transfer any action or proceeding from the circuit court to any of the LaPorte superior courts. The judge of any of the LaPorte superior courts may, with consent of the judge of the circuit or another LaPorte superior court, transfer any action or proceeding from the LaPorte superior court to the circuit court or to another LaPorte superior court. However, a judge of LaPorte superior courts No. 3 and No. 4 may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the LaPorte circuit court or LaPorte superior court No. 1 or No. 2.

Sec. 7. The courts have the same jurisdiction as the LaPorte circuit court.

Sec. 8. LaPorte superior courts No. 3 and No. 4 each have a standard small claims and misdemeanor division.

Chapter 47. Lawrence County

Sec. 1. Lawrence County constitutes the eighty-first judicial circuit.

Sec. 2. (a) There is established a court of record in Lawrence County to be known as the Lawrence superior court.

(b) The Lawrence superior court has two (2) judges.

(c) Except as otherwise provided in this chapter, the Lawrence superior court is a standard superior court as described in IC 33-29-1.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the Lawrence superior court shall be elected every six (6) years at the general election. The term of office begins the first day of January following the judge's election and continues for six (6) years and until the judge's successor is elected and qualified.

Sec. 4. The Lawrence superior court shall hold its sessions in:

(1) the Lawrence County courthouse in Bedford; or

(2) another convenient and suitable place as the board of county commissioners of Lawrence County provides.

Sec. 5. Each judge of the court may make and adopt rules and regulations for conducting the business of the court.

Sec. 6. In addition to the personnel appointed under IC 33-29-1-5, each judge may appoint additional officers and

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personnel necessary for the proper administration of the judge's duties as judge of the Lawrence superior court.

Sec. 7. Notwithstanding IC 33-29-1-8, the Lawrence superior court may order the day of the term jurors are summoned to attend the court. The judge of the Lawrence superior court may order the selecting and summoning of other jurors when necessary.

Sec. 8. (a) Except as provided in subsection (b), the Lawrence superior court has original and concurrent jurisdiction with the Lawrence circuit court in the following:

(1) All civil actions and proceedings at law and in equity.

(2) Actions for divorce, separation, or annulment of marriage.

(3) All criminal cases and proceedings.

(b) The Lawrence superior court does not have the following:

(1) Jurisdiction of a juvenile court.

(2) Jurisdiction in probate and other matters provided for by IC 29-1. However, the court has concurrent jurisdiction with the circuit court as to civil actions by or against personal representatives.

(c) The Lawrence superior court has original and concurrent jurisdiction in all appeals or reviews from boards of county commissioners or other executive or administrative agencies or inferior courts and other appellate jurisdiction vested in the circuit court.

Sec. 9. The Lawrence superior court has a standard small claims and misdemeanor division.

Chapter 48. Madison County

Sec. 1. Madison County constitutes the fiftieth judicial circuit.

Sec. 2. (a) There is established a court of record in Madison County to be known as the Madison superior court.

(b) The Madison superior court has three (3) judges.

(c) Except as otherwise provided in this chapter, the Madison superior court is a standard superior court as described in IC 33-29-1.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) A judge of the Madison superior court shall hold office for six (6) years and until the judge's successor has been elected and qualified.

Sec. 4. The Madison superior court may designate by rule one (1) of the judges as chief judge and fix the time the chief judge presides. The chief judge shall be responsible for the operation and conduct of the court.

Sec. 5. The Madison superior court shall hold its sessions in the

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Madison County courthouse or its replacement in Anderson.

Sec. 6. The judges of the Madison superior court may make rules for conducting the business of the court.

Sec. 7. In addition to the personnel appointed under IC 33-29-1-5, the Madison superior court may appoint probation officers and other personnel, including an administrative officer, necessary to transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of the 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 appointed shall perform duties as prescribed by the court. Personnel appointed by the court serve at the pleasure of the court.

Sec. 8. Notwithstanding IC 33-29-1-8, any judge of the Madison superior court may order the selection and summoning of jurors for the court whenever necessary. Jurors shall serve the entire court and before any judge of the court where their service may be required.

Sec. 9. (a) The Madison superior court shall provide that all cases filed in the court be assigned to a particular docket, such as civil, probate, criminal, juvenile, or small claims. The responsibility for processing the cases on each of these dockets shall be assigned to the judges of the court under the rules adopted by the court.

(b) The chief judge may reassign the court dockets from one (1) judge to another and may alter the number of judges responsible for the various dockets where efficiency demands.

Chapter 49. Marion County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Marion County constitutes the nineteenth judicial circuit.

Sec. 3. As used in this chapter, "city-county council" refers to the Indianapolis, Marion County city-county council.

Sec. 4. As used in this chapter, "clerk" refers to the clerk of the Marion superior court.

Sec. 5. As used in this chapter, "court" refers to the Marion superior court.

Sec. 6. (a) There is established a superior court in Marion County. The court consists of thirty-two (32) judges.

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

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(1) a resident of Marion County; and

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

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

Sec. 7. The court must be named the Marion superior court.

Sec. 8. The court must have a seal consisting of a circular disk containing the words, "Marion Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which must be spread of record upon the order book of the court.

Sec. 9. The court has the following jurisdiction:

(1) Concurrent and coextensive jurisdiction with the Marion circuit court in all cases and upon all subject matters, including civil, criminal, juvenile, probate, and statutory cases and matters, whether original or appellate.

(2) Original and exclusive jurisdiction in all matters pertaining to the following:

(A) The probate and settlement of decedents' estates, trusts, and guardianships.

(B) The probate of wills.

(C) Proceedings to resist the probate of wills.

(D) Proceedings to contest wills.

(E) The appointment of guardians, assignees, executors, administrators, and trustees.

(F) The administration and settlement of:

(i) estates of protected persons (as defined in IC 29-3-1-13) and deceased persons;

(ii) trusts, assignments, adoptions, and surviving partnerships; and

(iii) all other probate matters.

(3) Original jurisdiction of all violations of Indiana law. Whenever jurisdiction is by law conferred on a small claims court, the court has the appellate jurisdiction provided by law.

(4) Original and exclusive juvenile jurisdiction.

Sec. 10. The court is a court of record. The court's judgments, decrees, orders, and proceedings have the same effect and shall be enforced in the same manner as those of the circuit court.

Sec. 11. (a) The court may adopt rules for conducting the business of the court. Except as provided in subsection (b), in all matters action of the court may only be taken by a vote of a majority of the judges sitting at the time the vote is taken.

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(b) Action of the court to remove the presiding judge or either associate presiding judge may only be taken by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken.

(c) The court has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempts, and enforcement of the court's orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgments of deeds and all legal instruments, and to give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. The court may do the following:

(1) Grant restraining orders and injunctions.

(2) Issue writs of habeas corpus.

(3) Appoint receivers, masters, and commissioners to:

(A) convey real property;

(B) grant commissions for the examination of witnesses; and

(C) appoint other officers necessary to transact the business of the court.

Sec. 13. (a) Each judge of the court shall be elected for a term of six (6) years that begins January 1 after the year of the judge's election and continues through December 31 in the sixth year. The judge shall hold office for the six (6) year term or until the judge's successor is elected and qualified. A candidate for judge shall run at large for the office of judge of the court and not as a candidate for judge of a particular room or division of the court.

(b) Beginning with the primary election held in 2000 and every six (6) years thereafter, a political party may nominate not more than nine (9) candidates for judge of the court. The candidates shall be voted on at the general election. Other candidates may qualify under IC 3-8-6 to be voted on at the general election.

(c) The names of the party candidates nominated and properly certified to the Marion County election board, along with the names of other candidates who have qualified, shall be placed on the ballot at the general election in the form prescribed by IC 3-11-2. Beginning with the 2000 general election and every six (6) years thereafter, persons eligible to vote at the general election may vote for seventeen (17) candidates for judge of the court.

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

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Sec. 14. (a) Not more than thirty (30) days after taking the oath of office, the judges shall meet and designate three (3) of the judges as the executive committee for administrative purposes. The executive committee shall be selected by a vote of two-thirds (2/3) of the judges sitting at the time the vote is taken. If all vacancies cannot be filled by a two-thirds (2/3) vote, vacancies may be filled by such other method as provided by court rule. The executive committee is responsible for the operation and conduct of the court. A member of the executive committee shall serve in the capacity provided by rules adopted by the court under section 11 of this chapter. A member of the executive committee serves for a term of two (2) years beginning on the date of the member's election. Any or all of the members elected to the executive committee may be reelected. Of the three (3) judges elected to the executive committee, not more than two (2) may be members of the same political party.

(b) One (1) of the three (3) judges elected to the executive committee shall be elected as presiding judge and two (2) of the three (3) judges elected to the executive committee shall be elected as associate presiding judges. Each judge who is a member of the executive committee has an equal vote in all matters pertaining to the business of the court when an action requires a majority vote. Any action taken by the executive committee may be overruled by a vote of two-thirds (2/3) of all the judges sitting at the time the vote is taken. The physical reassignment of a judge to a different courtroom requires a unanimous vote of the executive committee. The executive committee shall assign cases, offices, and courtrooms for trial judges or reassignment of newly filed cases in the interests of the speedy, economical, and uniform disposition of cases. All matters of trial dates, continuances, and subpoenas used for trial shall be determined by the trial judge in accordance with rules of the superior court. The executive committee shall perform other duties as determined by rules of the court.

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following:

(1) Civil.

(2) Criminal.

(3) Probate.

(4) Juvenile.

(d) The work of each division shall be allocated by the rules of the court.

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(e) The judges shall be assigned to various divisions or rooms as provided by rules of the court. Whenever possible, an incumbent judge shall be allowed the option of remaining in a particular room or division. Whenever any action of the court is required, the judges of the court shall act in concert, by a vote under section 11 of this chapter. The court shall keep appropriate records of rules, orders, and assignments of the court.

Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

Sec. 16. (a) An appointed probate hearing judge or probate commissioner shall be vested by the judge of the probate division with suitable powers for the handling of all probate matters of the court, including the following:

(1) Fixing of all bonds.

(2) Auditing accounts of estates, guardianships, and trusts.

(3) Accepting reports, accounts, and settlements filed in the court.

(4) Appointing personal representatives, guardians, and trustees.

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(5) Probating wills.

(6) Taking or hearing evidence on or concerning matters described in this subsection or any other probate, guardianship, or trust matters in litigation before the court.

(7) Enforcing court rules.

(8) Making reports to the court concerning the judge's or commissioner's doings in the proceedings described in this subsection, including reports concerning the commissioner's findings and conclusions regarding the proceedings.

However, all matters handled by a hearing judge or commissioner under this subsection are under the final jurisdiction and decision of the judge of the probate division.

(b) A juvenile referee appointed by the judge of the juvenile division shall have all suitable powers for the handling of the juvenile matters of the court, including the following:

(1) Fixing of bonds.

(2) Taking and hearing evidence on or concerning juvenile matters in litigation before the court.

(3) Enforcing court rules.

(4) Making reports to the court concerning the juvenile referee's handling of proceedings of the juvenile division of the court.

However, all matters handled by a juvenile referee under this subsection are under final jurisdiction and decision of the judge or judges of the juvenile division designated by rules of the court.

(c) A bail commissioner may fix bonds, including the following:

(1) Determining whether an individual is to be released on the individual's own recognizance in criminal cases and proceedings.

(2) Making reports to the court concerning the bail commissioner's activities.

All matters handled by a bail commissioner under this subsection are under the final jurisdiction and decision of the judge or judges of the criminal division as designated by rules of the court.

(d) For any of the purposes specified in this section, a probate hearing judge, probate commissioner, referee, or bail commissioner may do the following:

(1) Summon witnesses to testify before the probate hearing judge, probate commissioner, referee, or bail commissioner.

(2) Administer oaths and take acknowledgments in connection with duties.

(3) Administer oaths and take acknowledgments generally.

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(e) A master commissioner appointed by the court under this section has the powers and duties prescribed for a magistrate under IC 33-23-5-5 through IC 33-23-5-9. A master commissioner shall report the findings in each of the matters before the master commissioner in writing to the judge or judges of the division to which the master commissioner is assigned or as designated by rules of the court.

Sec. 17. (a) The court shall hold sessions in:

(1) the city-county building in Indianapolis; and

(2) other places in Marion County as the court determines.

(b) The city-county council shall:

(1) provide and maintain in the building and at other places in Marion County as the court may determine suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, and offices for the judges, other court officers and personnel, and other facilities as are necessary; and

(2) provide all necessary furniture and equipment for rooms and offices of the court.

Sec. 18. The clerk, under the direction of the court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as are necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 19. The court shall maintain a single order book for each division or room of the court that may be signed on behalf of the court by the judge of that division or room of the court. The signature of the judge authenticates the actions of the court.

Sec. 20. All laws of Indiana and rules adopted by the supreme court governing the circuit court in matters of pleadings, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court apply to and govern the court.

Sec. 21. (a) The clerk of the Marion circuit court and the jury commissioners appointed by the Marion circuit court shall serve

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as clerk and as jury commissioners for the court and shall be governed in all respects as provided by law.

(b) Jurors do not have to serve in the order in which the jurors are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever other jurors may be necessary. Jurors shall serve the entire court and before any judge of the court where the jurors' services may be required.

Sec. 22. A party may appeal an order or a judgment of the court in any case where an appeal may be had from a similar order or judgment of the circuit court.

Sec. 23. The process of the court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as provided for process issuing from the circuit court.

Sec. 24. The judge of the Marion circuit court may, with the consent of the court acting through the superior court presiding judge under rules adopted by the court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the court by transferring all original papers and instruments filed in that action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the court.

Sec. 25. The presiding judge may, with the consent of the judge of the Marion circuit court and under rules adopted by the court, transfer any action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the Marion circuit court.

Sec. 26. The judge of the Marion circuit court may sit as a judge of the court, with the court's permission, in all matters pending before the court, without limitation and without any further order, in the same manner as a judge of the court with all the rights and powers of an elected judge of the court.

Sec. 27. Each judge, before entering upon the duties of office, shall take and subscribe the following oath or affirmation:

> **"I solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Indiana and that I will faithfully discharge the duties of judge of the superior court of Marion County to the best of my ability.".**

The oath shall be filed with the clerk of the county.

Sec. 28. The court shall take judicial notice of all matters of which courts of general jurisdiction of Indiana are required to take judicial notice. The court shall also take judicial notice of all

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general ordinances of each city or municipality located in the county.

Sec. 29. (a) When an appeal is taken from the court in criminal cases or proceedings under IC 34-28-5 (or IC 34-4-32 before its repeal), the amount of costs charged must be certified as a part of the transcript and charged as part of the costs in the court to which the appeal or proceeding is taken. The costs are in addition to any other clerk's service fee required by law.

(b) All costs charged in the court hearing or in the court trying an appeal must be charged and adjudged upon the hearing or trial in the appeal against a defendant who is convicted or who pleads guilty.

(c) In an appeal under this section, the defendant shall pay a transcript fee of thirty-five dollars ($35) before the appeal may be transferred from the superior court.

Sec. 30. (a) A judge remains qualified to hold office as long as the judge:

(1) remains fair and impartial in judicial functions;

(2) maintains a high standard of morality in dealings, public and private;

(3) remains physically and mentally capable of performing all the functions and duties of the office of judge; and

(4) continues to reside in Marion County.

(b) Complaints against a judge must be forwarded to the commission on judicial qualifications as provided in IC 33-38-13 by any judge of the superior court.

(c) A judge of the court must retire upon becoming seventy-five (75) years of age. If the judge wishes to retire before the judge's term has ended or upon reaching the mandatory retirement age, the judge shall provide written notice to the presiding judge of the court. The judge shall continue to hold office until a successor has been appointed and qualified.

(d) When a vacancy occurs in the court by death, removal, retirement, or for any other reason, the governor shall appoint a successor judge who serves the balance of the term of the vacating judge. The successor judge must be a member of the same political party as the judge who is to be succeeded.

Sec. 31. (a) The presiding judge may appoint one (1) full-time magistrate under IC 33-23-5.

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

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

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presiding judge.

Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint four (4) full-time magistrates under IC 33-23-5.

(b) Not more than two (2) of the magistrates appointed under this section may be of the same political party.

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

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

Sec. 33. (a) The executive committee elected under section 14 of this chapter shall employ a court administrator to administer the business activities of the court. A court administrator is subject to rules of the court and oversight by the executive committee.

(b) The salary of the court administrator shall be set by the executive committee but may not be more than eighty percent (80%) of the salary of a superior court judge.

Sec. 34. (a) The clerk of the superior court shall furnish the following:

(1) All blanks, forms, and papers required for use in all criminal cases and in all civil actions involving actions by a city or town for violations of municipal penal ordinances.

(2) All books, papers, stationery, furniture, and other equipment and supplies necessary for keeping the records of the proceedings in all rooms of the superior court and for the transaction of all business of the court.

(3) Necessary computerization of court records.

(b) The materials required under this section shall be furnished at the expense of the county.

(c) The presiding judge of the court, by an order entered on the court records signed by the presiding judge, shall determine and prescribe the forms of the following:

(1) All summonses, notices, subpoenas, warrants, affidavits, complaints, writs, and all other papers and anything else required to be used in the cases relating to violations of criminal statutes or municipal ordinances.

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(2) All other books, records, papers, and documents to be used by the court and by the officers of the court and the prosecutors.

In the absence of an order under this subsection, those charged with the duty of prosecuting cases involving either criminal offenses or the violation of municipal ordinances may adopt, change, order, and use all necessary forms and instruments as conform substantially to the practice and procedure applicable.

Chapter 50. Marshall County

Sec. 1. Marshall County constitutes the seventy-second judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as the Marshall superior court No. 1 and the Marshall superior court No. 2.

(b) The Marshall superior courts are standard superior courts as described in IC 33-29-1.

(c) Marshall County comprises the judicial district of each court.

Sec. 3. The Marshall superior court No. 1 has one (1) judge who shall hold sessions in the Marshall County courthouse in Plymouth. The Marshall superior court No. 2 has one (1) judge who shall hold sessions in a place in the county as the board of county commissioners may provide.

Sec. 4. The Marshall superior courts have the same jurisdiction as the Marshall circuit court.

Sec. 5. The Marshall superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 51. Martin County

Sec. 1. (a) Martin County constitutes the ninetieth judicial circuit.

(b) The Martin circuit court has a standard small claims and misdemeanor division.

Chapter 52. Miami County

Sec. 1. Miami County constitutes the fifty-first judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Miami superior court.

(b) The Miami superior court is a standard superior court as described in IC 33-29-1.

(c) Miami County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the Miami County courthouse in Peru; or

(2) other places in the county as the board of county

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commissioners of Miami County may provide.

Sec. 4. The Miami superior court has the same jurisdiction as the Miami circuit court.

Sec. 5. The Miami superior court has a standard small claims and misdemeanor division.

Chapter 53. Monroe County

Sec. 1. (a) Monroe County constitutes the tenth judicial circuit.

(b) There are seven (7) judges of the Monroe circuit court.

Sec. 2. (a) The Monroe circuit court is a court of general jurisdiction and shall maintain the following dockets:

(1) Small claims.

(2) Minor offenses and violations.

(3) Criminal.

(4) Juvenile.

(5) Civil.

(6) Probate.

(b) The assignment of judges of the court to the dockets specified in subsection (a) must be by rule of the court.

Sec. 3. The judges of the Monroe circuit court shall select from among themselves a presiding judge of the court.

Sec. 4. When any action of the entire court is required, including selection of a presiding judge under section 3 of this chapter and adoption of rules under section 6 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls. If the judges are evenly divided, the decision joined by the presiding judge controls.

Sec. 5. In accordance with rules adopted by the judges of the court under section 6 of this chapter, the presiding judge shall do the following:

(1) Ensure that the court operates efficiently and judicially under rules adopted by the court.

(2) Annually submit to the fiscal body of Monroe County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents; and

(C) maintaining an adequate law library.

(3) Make the appointments or selections required of a circuit or superior court judge under the following statutes:

IC 8-4-21-2

IC 11-12-2-2

IC 16-22-2-4

IC 16-22-2-11

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IC 16-22-7
IC 20-4-1
IC 20-4-8
IC 20-4-15-2
IC 20-5-20-4
IC 20-5-23-1
IC 20-14-10-10
IC 21-5-11-8
IC 21-5-12-8
IC 36-9
IC 36-10.

(4) Make appointments or selections required of a circuit or superior court judge by any other statute, if the appointment or selection is not required of the court because of an action before the court.

Sec. 6. (a) The judges of the court shall adopt rules to provide for the administration of the court, including rules governing the following:

(1) Allocation of case load.
(2) Legal representation for indigents.
(3) Budgetary matters of the court.
(4) Operation of the probation department.
(5) Term of administration of the presiding judge.
(6) Employment and management of court personnel.
(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 7. (a) Each judge of the court may, subject to the budget approved for the court by the fiscal body of Monroe County, employ personnel necessary for the proper administration of the court.

(b) Personnel employed under this section:

(1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
(2) are subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Sec. 8. (a) The court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Monroe County.

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(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 6 of this chapter.

Chapter 54. Montgomery County

Sec. 1. Montgomery County constitutes the twenty-second judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Montgomery superior court.

(b) The Montgomery superior court is a standard superior court as described in IC 33-29-1.

(c) Montgomery County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the Montgomery County courthouse in Crawfordsville; or

(2) other places in the county as the Montgomery County executive may provide.

Sec. 4. The Montgomery superior court has the same jurisdiction as the Montgomery circuit court.

Chapter 55. Morgan County

Sec. 1. The following do not apply to this chapter:

(1) IC 33-29-1-3.

(2) IC 33-29-1-4.

(3) IC 33-29-1-8.

(4) IC 33-29-1-9.

(5) IC 33-29-1-10.

Sec. 2. Morgan County constitutes the fifteenth judicial circuit.

Sec. 3. There is established a court of record to be known as the Morgan superior court.

Sec. 4. (a) Except as otherwise provided in this chapter, the Morgan superior court is a standard superior court as described in IC 33-29-1.

(b) Morgan County constitutes the judicial district of the court.

Sec. 5. (a) The Morgan superior court has three (3) judges. Each judge holds office for a term of six (6) years beginning on the first day of January after election and until the judge's successor is elected and qualified.

(b) Every six (6) years, the voters of Morgan County shall elect at the general election the judges for the superior court.

Sec. 6. The Morgan superior court shall hold its sessions in the Morgan County courthouse in Martinsville.

Sec. 7. (a) Each judge of the Morgan superior court may make and adopt rules and regulations for conducting the business of the

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Morgan superior court.

(b) Each judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders.

(c) Each judge of the court may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 8. The judges of the Morgan circuit and Morgan superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judges of the circuit and superior courts.

Sec. 9. The Morgan superior court concurrent jurisdiction, both original and appellate, with the Morgan circuit court in all civil actions and proceedings at law and in equity and in all criminal and probate matters, actions, and proceedings of which the Morgan circuit court has jurisdiction. However, the Morgan circuit court and one (1) judge of the Morgan superior court have exclusive jurisdiction in all juvenile matters, actions, and proceedings.

Sec. 10. The Morgan superior court has a standard small claims and misdemeanor division.

Chapter 56. Newton County

Sec. 1. (a) Newton County constitutes the seventy-ninth judicial circuit.

(b) The Newton circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Newton superior court.

(b) The Newton superior court is a standard superior court as described in IC 33-29-1.

(c) Newton County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Newton superior court has one (1) judge, who shall be elected at the general election every six (6) years in Newton County. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

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

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(1) be a resident of Newton County; and

(2) be admitted to the bar of Indiana.

Sec. 4. The Newton superior court shall hold its sessions in:

(1) the Newton County courthouse in Kentland; or

(2) other places in the county as the board of county commissioners of Newton County may provide.

Sec. 5. The Newton superior court has the same jurisdiction as the Newton circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 6. The Newton superior court has a standard small claims and misdemeanor division.

Chapter 57. Noble County

Sec. 1. Noble County constitutes the thirty-third judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Noble superior court.

(b) The Noble superior court is a standard superior court as described in IC 33-29-1.

(c) Noble County comprises the judicial district of the courts.

Sec. 3. The Noble superior court has two (2) judges who shall hold sessions in:

(1) the Noble County courthouse in Albion; or

(2) other places in the county as the board of county commissioners of Noble County may provide.

Sec. 4. The Noble superior court has the same jurisdiction as the Noble circuit court.

Sec. 5. The Noble superior court has a standard small claims and misdemeanor division.

Chapter 58. Ohio County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Dearborn County and Ohio County constitute the seventh judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the Ohio and Switzerland superior court.

(b) The court may have a seal containing the words "Ohio and Switzerland Superior Court, Ohio and Switzerland Counties, Indiana".

(c) Ohio and Switzerland counties comprise the judicial district of the court.

Sec. 4. The Ohio and Switzerland superior court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. The judge's term begins January 1 following the judge's election and ends December 31

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following the election of the judge's successor.

Sec. 5. The judge of the Ohio and Switzerland superior court has the same powers relating to the conduct of the business of the court as a judge of a circuit court under IC 33-28-1.

Sec. 6. The judge of the Ohio and Switzerland superior court is entitled to the salary set out in IC 33-38-5. The salary shall be paid in the same manner as the salary of a circuit court judge, and the part of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal amounts.

Sec. 7. The Ohio and Switzerland superior court shall hold its sessions in the courthouse in Rising Sun and in Vevay or in other places in the county as the board of county commissioners of Ohio County or Switzerland County may provide. Each board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

Sec. 8. The judge of the Ohio and Switzerland superior court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

Sec. 9. The clerk of the Ohio and Switzerland superior court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which must be kept separately from the books and papers of other courts.

Sec. 10. The Ohio and Switzerland superior superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. The jury commissioners shall:

(1) be appointed by a judge of the superior court;

(2) be qualified to act as jury commissioners; and

(3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the

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same manner as for those circuit courts. The superior court may order the time when jurors must attend court and may order the selection and summoning of other jurors for the superior court whenever necessary.

Sec. 11. The judge of the circuit courts in Ohio or Switzerland counties may, with the consent of the judge of the Ohio and Switzerland superior court, transfer any action or proceeding from the circuit court that originated in Ohio County or Switzerland County to the Ohio and Switzerland superior court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of such a circuit court, transfer any action or proceeding from the Ohio and Switzerland superior court to the circuit court in the county where that action or proceeding originated.

Sec. 12. The judge of the circuit court in Ohio County or Switzerland County may, with the consent of the judge of the Ohio and Switzerland superior court, sit as a judge of the court in any matter over which the judge would have had jurisdiction as circuit court judge, as if the judge was an elected judge of the court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of such a circuit court, sit as a judge of a circuit court in Ohio County or Switzerland County in any matter over which the judge would have jurisdiction as superior judge, as if the judge was an elected judge of that circuit court.

Sec. 13. The Ohio and Switzerland superior court has the same jurisdiction as a circuit court under IC 33-28-3 and IC 33-28-1-2.

Sec. 14. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 59. Orange County

Sec. 1. Orange County constitutes the eighty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Orange superior court.

(b) Except as otherwise provided in this chapter, the Orange superior court is a standard superior court as described in IC 33-29-1.

(c) Orange County comprises the judicial district of the court.

Sec. 3. The Orange superior court has one (1) judge who shall hold sessions in:

(1) the Paoli Office Complex in Paoli; or

(2) other places in the county as the Orange county executive may provide.

Sec. 4. In addition to the personnel that may be appointed under

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IC 33-29-1-5, the judge of the Orange superior may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries must be fixed in the same manner as the salaries of the personnel for the Orange circuit court. Their salaries must be paid monthly out of the treasury of Orange County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

Sec. 5. (a) Except as provided in subsection (b), the Orange superior court has the same jurisdiction as the Orange circuit court.

(b) The Orange circuit court has exclusive juvenile jurisdiction.

Sec. 6. The Orange superior court has a standard small claims and misdemeanor division.

Chapter 60. Owen County

Sec. 1. (a) Owen County constitutes the seventy-eighth judicial circuit.

(b) The Owen circuit court has a standard small claims and misdemeanor division.

Chapter 61. Parke County

Sec. 1. (a) Parke County constitutes the sixty-eighth judicial circuit.

(b) The Parke circuit court has a standard small claims and misdemeanor division.

Chapter 62. Perry County

Sec. 1. (a) Perry County constitutes the seventieth judicial circuit.

(b) The Perry circuit court has a standard small claims and misdemeanor division.

Chapter 63. Pike County

Sec. 1. (a) Pike County constitutes the eighty-third judicial circuit.

(b) The Pike circuit court has a standard small claims and misdemeanor division.

Chapter 64. Porter County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Porter County constitutes the sixty-seventh judicial circuit.

Sec. 3. (a) There is established a court of record to be known as Porter superior court. The Porter superior court has five (5) judges, who hold office for six (6) years, beginning on the first day of January after their election and until their successors are elected

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and qualified. Every six (6) years the voters of Porter County shall elect at the general election the judges for the superior court.

(b) The judges of the Porter superior court are designated as follows:

(1) Two (2) judges are judges of the superior court, superior division.

(2) Three (3) judges are judges of the superior court, county division.

Sec. 4. (a) The Porter superior court's superior division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, Superior Division", an impression of which shall be spread of record upon the order book of the court.

(b) The Porter superior court's county division shall have a seal consisting of a circular disk containing the words "Porter Superior Court, County Division", an impression of which shall be imprinted upon the order book of the court.

Sec. 5. (a) Except as provided in subsection (b), the Porter superior court has the following jurisdiction:

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

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

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

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

(b) All matters in which a child is alleged to be a delinquent child or a child in need of services exclusively resides in the jurisdiction of the circuit court of the county.

Sec. 6. The judges of the Porter superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 7. The judges of the Porter superior court have the same

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power to grant restraining orders and injunctions, to issue writs of habeas corpus and of mandate and prohibition, to appoint receivers, masters, and commissioners to convey real property, and to grant commissions for the examination of witnesses, and to appoint other officers necessary to facilitate and transact the business of the court as is conferred on circuit courts or the judges of circuit courts.

Sec. 8. (a) The Porter superior court, superior division, shall hold sessions in the Porter County courthouse in Valparaiso.

(b) One (1) judge of the Porter superior court, county division, shall hold sessions of the court in Valparaiso and two (2) judges shall hold sessions of the court principally in Portage Township and may sit periodically in Westchester Township in the discretion of the judges in Porter County.

(c) The board of county commissioners of Porter County shall:

(1) provide and maintain suitable and convenient courtrooms for the holding of the court, together with suitable and convenient jury rooms and offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

The county council shall appropriate sufficient funds to implement this section.

Sec. 9. The clerk, under the direction of a Porter superior court judge, shall provide order books, judgment dockets, execution dockets, fee books and other books, papers, and records as necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 10. (a) The Porter superior court shall maintain a single order book for the Porter superior court, superior division, that may be signed on behalf of the court by any of the sitting judges of the superior division. A judge's signature constitutes authentication of the actions of each judge in the court.

(b) The Porter superior court shall maintain an order book for the judge of the Porter superior court, county division, located in Valparaiso and a separate order book for the judge of the Porter superior court, county division, located in Portage Township. The signature of a judge of the Porter superior court, county division, constitutes authentication of the actions of the judge taken on behalf of the superior court holding sessions in that location.

Sec. 11. Each judge of the Porter superior court shall appoint a

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bailiff for the court whose salary shall be fixed by the court and paid as provided by law.

Sec. 12. Each judge of the Porter superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of the circuit court.

Sec. 13. The process of the Porter superior court must have the seal affixed. The process must be attested, directed, served, returned, and be in the form as provided for process issuing from the circuit court.

Sec. 14. Each Porter superior judge may appoint additional officers and personnel necessary for the proper administration of the judge's duties as judge of the court.

Sec. 15. (a) The Porter superior court by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the judge presides.

(b) The presiding judge shall be responsible for the operation and conduct of the court and for seeing that the court operates efficiently and judicially.

(c) If an agreement is not reached, the judge with the most seniority as a judge of a court of record shall act as presiding judge.

Sec. 16. When any action of the entire Porter superior court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.

Sec. 17. The Porter superior court shall, when it believes it is necessary, appoint 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 judge.

Sec. 18. The judge of the circuit court may, with the consent of the court 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 the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with this court.

Sec. 19. Any judge of the Porter superior court may, with the consent of the judge of the Porter circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in such action, cause, or proceeding without further transcript

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to be redocketed and disposed of as if originally filed with the superior court. However, a judge of the Porter superior court, county division, may not transfer any action or proceeding docketed in the small claims and misdemeanor division to the Porter circuit court or to the Porter superior court, superior division.

Sec. 20. The judge of the Porter circuit court may, with the Porter superior court's permission, sit and act as a judge of the Porter superior court in all matters pending before the superior court, without limitation and without any further order, in the same manner and stead as if the judge were a judge of the Porter superior court with all the rights and powers as if the judge were an elected judge of the Porter superior court, including the right to act as presiding judge and otherwise participate in the organization and administration of the superior court.

Sec. 21. The judges of the Porter superior court shall be commissioned by the governor in the same manner as a judge of the circuit court and any vacancy occurring in the office of judge of the superior court shall be filled by appointment by the governor in the same manner as vacancies in the office of the judge of the circuit court.

Sec. 22. The Porter superior court, county division, located in Valparaiso, has a standard small claims and misdemeanor division and the Porter superior court, county division, located in Portage Township has a standard small claims and misdemeanor division.

Sec. 23. The judges of the Porter superior court may jointly appoint two (2) full-time magistrates under IC 33-23-5. The magistrates continue in office until removed by the judges of the superior court.

Chapter 65. Posey County

Sec. 1. Posey County constitutes the eleventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Posey superior court.

(b) The Posey superior court is a standard superior court as described in IC 33-29-1.

(c) Posey County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the Posey County courthouse in Mount Vernon; or

(2) other places in the county that the Posey County executive provides.

Sec. 4. The Posey superior court has a standard small claims and misdemeanor division.

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Sec. 5. The Posey superior court has a standard small claims and misdemeanor division.

Chapter 66. Pulaski County

Sec. 1. Pulaski County constitutes the fifty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Pulaski superior court.

(b) The Pulaski superior court is a standard superior court as described in IC 33-29-1.

(c) Pulaski County comprises the judicial district of the court.

Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the Pulaski County courthouse in Winamac; or

(2) other places in the county that the Pulaski County executive provides.

Sec. 4. The Pulaski superior court has the same jurisdiction as the Pulaski circuit court, except that only the circuit court has juvenile jurisdiction.

Sec. 5. The Pulaski superior court has a standard small claims and misdemeanor division.

Chapter 67. Putnam County

Sec. 1. Putnam County constitutes the sixty-fourth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Putnam superior court.

(b) Except as otherwise provided in this chapter, the Putnam superior court is a standard superior court as described in IC 33-29-1.

(c) Putnam County comprises the judicial district of the court.

Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) The Putnam superior court has one (1) judge who shall be elected at the general election every six (6) years in Putnam County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

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

(1) a resident of Putnam County; and

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

Sec. 4. The Putnam superior court shall hold sessions in:

(1) the Putnam County courthouse in Greencastle; or

(2) other places in the county that the Putnam County executive provides.

Sec. 5. The Putnam superior court has the same jurisdiction as

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the Putnam circuit court.

Sec. 6. The Putnam superior court has a standard small claims and misdemeanor division.

Chapter 68. Randolph County

Sec. 1. Randolph County constitutes the twenty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Randolph superior court.

(b) The Randolph superior court is a standard superior court as described in IC 33-29-1.

(c) Randolph County comprises the judicial district of the court.

Sec. 3. The Randolph superior court has one (1) judge who shall hold sessions in:

(1) the Randolph County courthouse in Winchester; or

(2) other places in the county that the Randolph County executive provides.

Sec. 4. The Randolph superior court has the same jurisdiction as the Randolph circuit court.

Sec. 5. The Randolph superior court has a standard small claims and misdemeanor division.

Chapter 69. Ripley County

Sec. 1. (a) Ripley County constitutes the eightieth judicial circuit.

(b) The Ripley circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Ripley superior court.

(b) The Ripley superior court is a standard superior court as described in IC 33-29-1.

(c) Ripley County comprises the judicial district of the court.

Sec. 3. The Ripley superior court has one (1) judge who shall hold sessions in:

(1) the Ripley County courthouse in Versailles; or

(2) other places in the county that the Ripley County executive provides.

Sec. 4. The Ripley superior court has the same jurisdiction as the Ripley circuit court.

Sec. 5. The Ripley superior court has a standard small claims and misdemeanor division.

Chapter 70. Rush County

Sec. 1. Rush County constitutes the sixty-fifth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as

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the Rush superior court.

(b) The Rush superior court is a standard superior court as described in IC 33-29-1.

(c) Rush County comprises the judicial district of the court.

Sec. 3. The Rush superior court has one (1) judge who shall hold sessions in:

(1) the Rush County courthouse in Rushville; or

(2) other places in the county that the Rush county executive provides.

Sec. 4. The Rush superior court has the same jurisdiction as the Rush circuit court.

Sec. 5. The Rush superior court has a standard small claims and misdemeanor division.

Chapter 71. St. Joseph County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. St. Joseph County constitutes the sixtieth judicial circuit.

Sec. 3. The judge of the St. Joseph circuit court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the circuit court. A magistrate continues in office until removed by the judge.

Sec. 4. Notwithstanding any other provision of this title, the jury commissioners, the superior court, and the circuit court of St. Joseph County may use a computerized jury selection system. However, the system used for the selection of jurors must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors.

Sec. 5. There is established a superior court in St. Joseph County. The court consists of eight (8) judges.

Sec. 6. The superior court shall be known as the St. Joseph superior court.

Sec. 7. The superior court shall have a seal consisting of a circular disk containing the words "St. Joseph Superior Court", an impression of which shall be spread of record upon the order book of the court.

Sec. 8. The St. Joseph superior court has the following jurisdiction:

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

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

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

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

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

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

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

Sec. 9. The St. Joseph superior court has a standard small claims and misdemeanor division.

Sec. 10. The St. Joseph superior court is a court of record, and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 11. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. The judges of the superior court may:

(1) grant restraining orders and injunctions;

(2) issue writs of habeas corpus and of mandate and prohibition;

(3) appoint receivers, masters, and commissioners to convey real property;

(4) grant commissions for the examination of witnesses; and

(5) appoint other officers necessary to facilitate and transact the business of the court;

the same as circuit courts or circuit court judges.

Sec. 13. (a) The St. Joseph superior court shall hold its sessions in:

(1) the St. Joseph County courthouse in South Bend; and

(2) at least one (1) appropriate place in Mishawaka.

The superior court in Mishawaka shall be full time and shall

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exercise full superior court jurisdiction in that city. The board of county commissioners of St. Joseph County shall provide and maintain in the courthouse in South Bend and in an appropriate place in Mishawaka court facilities that include suitable and convenient courtrooms, jury rooms, and offices for the judges, secretaries, and official court reporters, and other necessary facilities, including all the necessary furniture and equipment for the rooms and offices of the court for the conduct of all criminal and civil business, including the necessary facilities for jury trials.

(b) The judges of the court have all jurisdiction and authority granted them by law regardless of the city in which they are located.

Sec. 14. The clerk, under the direction of the judge, shall provide order books, judgment dockets, execution dockets, fee books, and other books, papers, and records as necessary for the court, and all books, papers, and proceedings of the superior court shall be kept distinct and separate from those of other courts.

Sec. 15. The superior court shall maintain a single order book for the entire court that may be signed on behalf of the court by any of the sitting judges of the court, and the signature constitutes authentication of the actions of each judge in the court.

Sec. 16. Each judge of the superior court shall appoint a bailiff for the court whose salary shall be fixed by the court and paid as provided by law.

Sec. 17. Each judge of the superior court shall appoint a court reporter whose duties, salary, and term shall be regulated in the same manner as the court reporter of circuit court.

Sec. 18. All laws and rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court shall be applicable to and govern the superior court.

Sec. 19. (a) The superior court shall, in each calendar year, appoint for the next calendar year two (2) persons as jury commissioners. The law with reference to jury commissioners appointed by the circuit court governs the jury commissioners as appointed by the superior court in all things, conditions, and qualifications. The jury commissioners shall prepare and draw the jury for the superior court, both petit and grand, as the law directs the same to be done by the jury commissioners for the circuit

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court. The superior court is governed by this law in making appointments of the jury commissioners. The clerk of the circuit court in issuing process for the jury and the sheriff of the county in serving the same, are governed, in all things, by the law made for petit juries in the circuit court. However, the superior court may order the day the jurors are summoned to attend the court, and any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. The jury drawn by the jury commissioners shall be the jurors, either petit or grand, for the superior court, and shall serve the entire court and before any judge of the court where their services may be required. However, they do not have to serve in any particular order in which they were drawn by the jury commissioners. In the selection of jurors to serve before any judge, the selection must be on a fair and impartial basis.

(b) If at any time a jury is not drawn, the clerk of the court shall select from among the properly qualified residents of the county a jury that shall be summoned and considered in all things as a regular panel of the court. The court may call one (1) or more juries during any calendar year and may by rule provide for how long any jury shall sit.

Sec. 20. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where, under Indiana law, an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law governing appeals from the circuit court to the court of appeals and the supreme court.

Sec. 21. The process of the superior court must have the seal affixed. The process must be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 22. Each judge of the superior court may appoint additional officers and personnel as necessary for the proper administration of the judge's duties as judge of the court.

Sec. 23. (a) The superior court, by rules duly adopted by the court, shall designate one (1) of the judges as chief judge and fix the time the chief judge presides.

(b) The chief judge shall be responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

(c) The chief judge shall do the following:

(1) Assign cases to a judge of the court or reassign cases from

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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 establishing and administering shared programs and facilities.

Sec. 24. When any action of the entire superior court is required, the judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the judges controls. However, if the judges are evenly divided, the decision joined by the chief judge controls.

Sec. 25. The superior court shall, when it believes it is necessary, appoint additional personnel for the proper administration of the court, including an administrative officer who shall operate under the jurisdiction of the chief judge.

Sec. 26. The judge of the circuit court may, with the consent of the chief judge, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court.

Sec. 27. The chief judge of the superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 28. The judge of the St. Joseph circuit court at the circuit court judge's discretion, may sit as a judge of the superior court, with the chief judge's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge of the circuit court were a judge of the superior court with all the rights and powers as if the judge of the circuit court were an elected judge of the superior court.

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Sec. 29. (a) There is established a judicial nominating commission for the St. Joseph superior court, the functions, responsibilities, and procedures of which are set forth in sections 30 through 40 of this chapter.

(b) The board of county commissioners of St. Joseph County shall provide all facilities, equipments, supplies, and services necessary for the administration of the duties imposed upon the commission. The members of this commission shall serve without compensation. However, the board of county commissioners of St. Joseph County shall reimburse members of this commission for their actual expenses incurred in performing their duties.

Sec. 30. (a) The judicial nominating commission (referred to as the "commission" in this chapter) consists of seven (7) members, the majority of whom shall form a quorum. The chief justice shall appoint a justice of the supreme court or a judge of the 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 Indiana and residing in St. Joseph County or maintaining their principal law office in St. Joseph County shall elect, under sections 32 and 33 of this chapter, three (3) of their number to serve as attorney members of the commission. If any attorney member of the commission terminates residence in St. Joseph County or discontinues the maintenance of a principal law office in St. Joseph County, the member shall be considered to have resigned from the commission. The three (3) remaining members of the commission must be persons not admitted to the practice of law (referred to as "nonattorney members" in this chapter) and residents of St. Joseph County. However, not more than two (2) of the nonattorney members may be from the same political party and that the appointment of the nonattorney members of the commission shall be made under section 31 of this chapter. Not more than four (4) commission members may be from the same political party.

(b) A member of the commission may not hold any other salaried public office nor an office in a political party organization. A member of the commission is not eligible for appointment to a judicial office in St. Joseph County who has, within four (4) years immediately preceding an appointment, served on the commission. If any nonattorney member of the commission terminates residence in St. Joseph County, the member is considered to have resigned from the commission.

Sec. 31. (a) The appointment to membership on the commission

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of the nonattorney members shall be made by a selection committee consisting of the judge of the St. Joseph circuit court, the president of the board of St. Joseph County commissioners, and mayors in each of the two (2) cities having the largest populations in St. Joseph County. These appointments shall be made by a majority vote of the selection committee. If a vacancy occurs on the commission among the nonattorney members, that fact shall be reported to the judge of the St. Joseph circuit court by the commission. Upon notification, the judge of the St. Joseph circuit court shall call into session the selection committee, which shall, by majority vote, select a person or persons not admitted to the practice of law, who shall serve the unexpired term of the vacant commission membership position and that this selection and appointment by the selection committee shall be made within sixty (60) days after the date the St. Joseph circuit court is notified of the creation of the vacancy. If the selection committee fails to act to fill an unexpired term of a nonattorney member of the commission within sixty (60) days after the notification that the vacancy exists, the vacancy shall be filled by a majority vote of the remaining members of the commission.

(b) Not less than sixty (60) days before the expiration of the term of a nonattorney member of the commission, the judge of the St. Joseph circuit court shall call into session the selection committee that shall appoint, by a majority vote, a person to the commission to serve a new term. If the selection committee fails to act to fill an expired term of a nonattorney member of the commission by the date of expiration of the term of a nonattorney member of the commission, the remaining members on the commission shall, by majority vote, appoint a person to serve for the succeeding term. All appointments made to the commission shall be certified within ten (10) days to the clerk of the St. Joseph superior court.

(c) Each appointee of a nonattorney member to the commission, except those who fill a vacancy, shall serve for four (4) years.

Sec. 32. (a) Each year in which an attorney member's term expires, those admitted to the practice of law in Indiana and residing in St. Joseph County (referred to as "attorney electors" in this chapter) shall elect three (3) of their number to serve on the commission. Each attorney member of the commission shall serve for four (4) years. The term of each attorney member begins on the first day of October following the member's election. The election day is the date on which the ballots are counted. During the month before the expiration of each attorney commissioner's term of

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office, an election shall be held to fill the succeeding four (4) year term of office.

(b) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the commission shall be filled for the unexpired term of the member creating the vacancy by a special election.

Sec. 33. The attorney members of the commission shall be elected by the following process:

(1) The clerk of the St. Joseph superior court shall at least ninety (90) days before the date of election notify all attorneys in St. Joseph County of the upcoming election by mail, informing them that nominations must be made to the clerk of the superior court at least sixty (60) days before the election. The clerk shall secure a list of all attorneys in the county and their correct addresses from the clerk of the supreme court.

(2) A nomination in writing accompanied by a signed petition of ten (10) attorney electors, and the written consent of the qualified nominee shall be filed by an attorney elector or group of attorney electors residing in St. Joseph County, by mail or otherwise, in the office of the clerk of St. Joseph superior court at least sixty (60) days before the election.

(3) The clerk of St. Joseph superior court shall prepare and print ballots containing the names and residence addresses of all attorney nominees whose written nominations, petitions and written statements of consent have been received sixty (60) days before the election.

The ballot must read:

"ST. JOSEPH SUPERIOR COURT
NOMINATING COMMISSION BALLOT

To be cast by individuals residing in St. Joseph County and admitted to the practice of law in Indiana. Vote for one (1) of the following candidates for the term commencing:

(Insert Date)

( )	**(Name)**	**(Address)**
( )	**(Name)**	**(Address)**
( )	**(etc.)**	**(etc.)**

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the clerk of St. Joseph superior court not later than _____ (insert date).

DESTROY BALLOT IF NOT USED".

Copy

(4) The nominee receiving the most votes is elected.

(5) The clerk shall also supply with each ballot distributed by the clerk a certificate, to be completed and signed and returned by the attorney elector voting that ballot, certifying that the attorney elector is admitted to the practice of law in Indiana, resides in St. Joseph County, and voted the ballot returned. A ballot not accompanied by the signed certificate of the voter may not be counted.

(6) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot is to be placed. This envelope may not be opened until the counting of the ballots.

(7) The clerk of St. Joseph superior court shall mail a ballot and its accompanying material to all qualified attorney electors at least two (2) weeks before the date of election.

(8) Upon receiving the completed ballots and the accompanying certificates, the clerk shall insure that the certificates have been completed in compliance with this chapter. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(9) The clerk of St. Joseph superior court, with the assistance of the St. Joseph County election board, shall open and canvass all ballots at 4 p.m. on the day of election in the office of the clerk of St. Joseph superior court. Ballots received after 4 p.m. may not be counted. Upon canvassing the ballots the clerk shall place all ballots back in their package. These, along with the certificates, shall be retained in the clerk's office for six (6) months. The clerk may not allow a person to inspect them except upon an order of the court of appeals.

(10) In any election held for selection of attorney members of the commission, in case two (2) or more nominees are tied so that one (1) additional vote cast for one (1) of them would give that nominee a plurality, the canvassers shall resolve the tie by lot, and the winner of the lot is considered elected.

Sec. 34. After:

(1) the attorney members of the commission have been elected; and

(2) the names of the nonattorney commissioners appointed by the selection committee have been certified to the secretary of state, clerk of the supreme court, and the clerk of St. Joseph

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superior court under this chapter;

the clerk of St. Joseph superior court shall by regular mail notify the members of the commission of their election or appointment, and shall notify the chairman of the commission of the same.

Sec. 35. A person who has been elected or appointed to a full four (4) year term upon the commission may not succeed himself or herself or be eligible for election or appointment to the commission for four (4) years after the expiration of the term to which the person was elected or appointed.

Sec. 36. (a) When a vacancy occurs in the St. Joseph superior court, the clerk of the court shall 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 not later than sixty (60) days after the vacancy occurs. When it is known that a vacancy will occur at a definite future date within the term of the serving governor, but the vacancy has not yet occurred, the clerk shall notify the commission immediately. 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 the chairman or, if the chairman fails to call a necessary meeting, upon the call of any four (4) members of the commission. The chairman, whenever the chairman considers a meeting necessary, or upon the request by any four (4) 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 must be held at a place in the St. Joseph County courthouse in South Bend 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) members are required to constitute a quorum at a meeting. The commission may adopt reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties.

Sec. 37. (a) The commission shall submit only the names of the

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five (5) most highly qualified candidates from among those eligible individuals considered. To be eligible for nomination as a judge of the St. Joseph superior court, a person must be domiciled in the county of St. Joseph, a citizen of the United States, and admitted to the practice of law in the courts of Indiana.

(b) In abiding by the mandate in subsection (a), the commission shall evaluate in writing each eligible individual on the following factors:

(1) Law school record, including any academic honors and achievements.

(2) Contribution to scholarly journals and publications, legislative draftings, and legal briefs.

(3) Activities in public service, including:

(A) writings and speeches concerning public or civic affairs which are on public record, including but not limited to campaign speeches or writing, letters to newspapers, and testimony before public agencies;

(B) efforts and achievements in improving the administration of justice; and

(C) other conduct relating to the individual's profession.

(4) Legal experience, including the number of years of practicing law, the kind of practice involved, and reputation as a trial lawyer or judge.

(5) Probable judicial temperament.

(6) Physical condition, including age, stamina, and possible habitual intemperance.

(7) Personality traits, including the exercise of sound judgment, ability to compromise and conciliate patience, decisiveness, and dedication.

(8) Membership on boards of directors, financial interest, and any other consideration that might create conflict of interest with a judicial office.

(9) Any other pertinent information that the commission feels is important in selecting the best qualified individuals for judicial office.

(c) Written evaluations may not be made on an individual until the individual states in writing that the individual desires to hold a judicial office that is or will be created by vacancy.

(d) The political affiliations of any candidate may not be considered by the commission in evaluating and determining which eligible candidates shall be recommended to the governor for a vacancy on the St. Joseph superior court.

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Sec. 38. The commission shall submit with the list of five (5) nominees to the governor its written evaluation of the qualifications of each candidate, and the names and written evaluations shall be publicly disclosed. Every eligible candidate whose name was not submitted to the governor is entitled to access to any evaluation of the cnadidate by the commission and the right to make the evaluation public. Otherwise, the evaluation, including the names of the candidates applying for the office, shall remain confidential. If the commission determines that there are less than five (5) persons qualified under section 40 of this chapter, the commission must submit a lesser number under section 40 of this chapter.

Sec. 39. (a) After the commission has nominated and submitted to the governor the names of five (5) persons for appointment to fill a vacancy of the St. Joseph superior court:

(1) any name may be withdrawn for a cause considered by the commission to be of a substantial nature affecting the nominee's qualifications to hold office; and

(2) another name may be substituted at any time before the appointment is made to fill the vacancy.

(b) If a nominee dies, or requests in writing that the nominee's name be withdrawn, the commission shall nominate another person to replace the nominee.

(c) If there are existing at the same time two (2) or more vacancies on the court, the commission shall nominate and submit to the governor a list of five (5) different persons for each of the vacancies. The commission may before an appointment is made:

(1) withdraw the lists of nominations;

(2) change the names of any persons nominated from one (1) list to another; and

(3) resubmit the lists as changed or substitute a new name for any of those previously nominated.

Sec. 40. (a) A vacancy occurring in the St. Joseph superior court shall be filled by appointment of the governor from a list of nominees presented to the governor 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 the governor, the appointment shall be made by the chief justice or the acting chief justice of the supreme court from the same list presented to the governor.

(b) The governor shall make all appointments to the St. Joseph superior court without regard to the political affiliation of any of

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the nominees submitted to the governor. In the interest of justice, the governor shall consider only those qualifications of the nominees included in section 37 of this chapter.

(c) If the St. Joseph County judicial nominating commission, by a vote of any five (5) of its members, determines 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, the commission shall certify that determination to the governor together with the name or names of the person or persons found to be qualified under this chapter. In that event, the governor, chief justice, or acting chief justice shall make the selection or, if only one (1) name is submitted, make the appointment.

Sec. 41. An appointment by the governor, chief justice, or acting chief justice, as required by section 40 of this chapter, to the St. Joseph County superior court shall take effect immediately if a vacancy exists at the date of the appointment. The appointment shall take effect on the date the vacancy is created if a vacancy does not exist on the date of the appointment.

Sec. 42. (a) Each judge appointed serves an initial term that begins on the effective date of the judge's appointment and continues through December 31 in the year of the general election that follows the expiration of two (2) years after the effective date of the judge's appointment.

(b) Thereafter, unless rejected by the electorate of St. Joseph County under this chapter, each judge of the St. Joseph superior court serves successive six (6) year terms. Each successive six (6) year term begins on the first day of January following the expiration of the preceding initial term or the preceding six (6) year term and continues for six (6) years.

Sec. 43. (a) The question of the retention in office or rejection of each judge of the St. Joseph superior court shall be submitted to the electorate of St. Joseph County at the general election immediately preceding expiration of the term of that judge.

(b) If a judge subject to this chapter does not desire to serve a further term, the judge shall notify the judge's intention in writing to the clerk of the St. Joseph circuit court at least sixty (60) days before the general election immediately preceding expiration of the judge's term in which case the question of the judge's retention in office or rejection may not be submitted to the electorate, and the office is vacant at the expiration of the term.

(c) The St. Joseph County election board shall submit the

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question of the retention in office or rejection of any judge to the electorate of St. Joseph County. The submission of this question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(d) At the general election, the question of the retention in office or rejection of a judge shall be submitted to the electorate of St. Joseph County in the form prescribed by IC 3-11-2 and must state "Shall Judge (insert name) of the St. Joseph superior court be retained in office for an additional term?".

(e) If a majority of the ballots cast by the electors voting on the question is "No", the judge whose name appeared on such question is rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment of the governor under section 40 of this chapter. The name of the rejected judge may not be included among those submitted to the governor. However, the judge's rejection does not disqualify a rejected judge from being considered for another judicial office that becomes vacant.

Sec. 44. (a) During a term of office, a judge of the St. Joseph superior court may not engage in the practice of law, run for an elective office other than a judicial office, or directly or indirectly make any contributions to or hold any office in a political party or organization. A judge may not take part in any political campaign except as a candidate for retention in judicial office and, in that event, the judge's campaign participation must be absolutely devoid of partisan association and be limited to activities designed to acquaint the electorate with the judge's judicial record.

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications established by section 45 of this chapter to recommend to the supreme court that the judge be censured or removed from office.

Sec. 45. There is established a commission on judicial qualifications for the St. Joseph superior court, whose membership is the same as that of the judicial nominating commission under section 29 of this chapter. The commission on judicial qualifications may employ special counsel in any proceedings it undertakes under the responsibilities imposed upon it by this chapter.

Sec. 46. (a) On recommendation of the commission on judicial qualifications, the supreme court may suspend a judge of the St. Joseph superior court from office without salary when in any court in the United States the judge enters a plea of guilty or nolo

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contendere to, or is found guilty of, any crime punishable as a felony under the laws of Indiana or of the United States, or of any other crime that involves moral turpitude under that law. If the judge's conviction is reversed, suspension terminates, and the judge shall be paid the judge's salary for the period of suspension. If the judge is suspended and the judge's conviction is affirmed or otherwise becomes final, the supreme court shall remove the judge from office.

(b) On recommendation of the commission on judicial qualifications, the supreme court may:

(1) retire a judge of the St. Joseph superior court for disability that seriously interferes with the performance of the judge's duties and is likely to become permanent; and

(2) censure or remove a judge of the St. Joseph superior court for conduct occurring not more than six (6) years before the commencement of the judge's current term, when the conduct constitutes willful misconduct in office, willful and persistent failure to perform the judge's duties, habitual intemperance, or conduct prejudicial to the administration of justice or that brings or tends to bring judicial office into disrepute.

(c) When the supreme court receives any recommendation from the commission on judicial qualifications, it shall hold a hearing, at which the affected judge is entitled to attend, and shall make a determination as is required. The supreme court shall make rules regarding the convening and conduct of hearings, which shall, upon request of the judge whom it concerns, be public.

Sec. 47. (a) The commission on judicial qualifications shall meet periodically as necessary to discharge its statutory responsibilities. Meetings of the commission on judicial qualifications shall be called in the same manner as prescribed for the judicial nominating commission. A quorum for the transaction of business is four (4) members.

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

(c) The commission on judicial qualifications may act only at a meeting. The commission on judicial qualifications may adopt reasonable and proper rules and regulations for the conduct of its meetings and discharge of its duties.

Sec. 48. (a) All papers filed with and proceedings had before the commission on judicial qualifications before the institution of formal proceedings are confidential unless the judge against whom

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a complaint has been filed elects to have the information divulged or unless the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission on judicial qualifications at the time of or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission on judicial qualifications are open to the public.

Sec. 49. The filing of papers with or the giving of testimony before the commission on judicial qualifications under this chapter are absolutely privileged in any action for defamation.

Sec. 50. Complaints directed to the commission on judicial qualifications do not have to be in writing. A specified form of complaint may be required if presented in writing.

Sec. 51. (a) Any citizen of Indiana may complain to the commission on judicial qualifications with reference to the activities, fitness, or qualifications of any judge of the St. Joseph superior court. Upon receiving a complaint or request, the commission on judicial qualifications shall make an initial inquiry to determine if a complaint is founded and not frivolous. The commission on judicial qualifications, without receiving a complaint, may make an initial inquiry on its own motion.

(b) If the commission on judicial qualifications considers it necessary as a result of its initial inquiry to conduct further investigation, the judge involved may then be notified of the investigation, the nature of the charge, the complaint that must be in writing, the name of the person making the complaint, if any, or that the investigation is on the commission's own motion and the judge shall be afforded reasonable opportunity in the course of the investigation to present matters as the judge may choose. When this notice is given, it must be by prepaid registered or certified mail addressed to the judge at the judge's chambers and at the judge's last known address. If the investigation does not disclose sufficient cause to warrant further proceedings, the judge may be so notified. The commission on judicial qualifications may make investigations by members of the commission or by special investigators employed by the commission, hold confidential hearings with the person filing the complaint or with the person's agents or attorneys, and hold confidential hearings with the judge involved in the complaint.

(c) If the commission on judicial qualification's initial inquiry or

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investigation does not disclose sufficient cause to warrant further proceedings and if the complainant subsequently issues any statement or statements of any kind for public dissemination relating to the activities or actions of the commission, the commission may answer that statement by reference to as much of the record of its proceedings or results of its investigation as it considers necessary.

Sec. 52. (a) After the investigation is completed and if the commission on judicial qualifications concludes that formal proceedings should be instituted, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against the judge. These proceedings shall be entitled:

"BEFORE THE ST. JOSEPH COUNTY JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge, No. _____ .".

(b) The notice must be issued in the name of the commission on judicial qualifications, specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based, and advise the judge of the judge's right to file a written answer to the charges against the judge within twenty (20) days after service of the notice upon the judge. A charge is not sufficient if it merely recites the general language of the original complaint. The charge must specify the facts relied upon to support a particular charge. A copy of the notice shall be filed in the office of the commission on judicial qualifications.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and the judge's last known address.

Sec. 53. Within twenty (20) days after service of the notice of formal proceedings, the judge may file with the commission on judicial qualifications a signed original and one (1) copy of an answer, and shall serve a copy on the counsel by mail.

Sec. 54. Upon filing an answer or upon the expiration of the time for its filing, the commission on judicial qualifications shall order a hearing to be held before it concerning the discipline, retirement, or removal of the judge. The commission on judicial qualifications shall set an approximate date, time, and place for a hearing and shall give notice of the hearing by registered or certified mail to the judge and to the counsel at least twenty (20) days before the date set.

Sec. 55. (a) At the date, time, and place set for hearing, the

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commission on judicial qualifications may proceed with the hearing whether or not the judge has filed an answer or appears at the hearing.

(b) The failure of the judge to answer or to appear at the hearing, standing alone, may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In any proceeding for involuntary retirement for disability, the failure of the judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission on judicial qualifications may be considered, unless the failure to appear was due to circumstances beyond the judge's control.

(c) The proceedings at the hearing shall be reported verbatim.

(d) At least four (4) members of the commission on judicial qualifications must be present when the evidence is produced.

Sec. 56. At a hearing before the commission on judicial qualifications the evidentiary rules of the courts of Indiana apply.

Sec. 57. (a) In formal proceedings involving the judge's discipline, retirement, or removal, a judge has the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. The judge has the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

(b) When a transcript of the testimony has been prepared at the expense of the commission on judicial qualifications, a copy shall be furnished without cost to the judge. The judge has the right, without any order or approval, to have all or any part of the testimony in the proceedings transcribed at the judge's expense.

(c) Except as otherwise provided in this chapter, whenever provision is made for giving notice or sending any matter to the judge, that notice or matter must be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing, and a copy is mailed to the judge's attorney of record.

(d) If the judge has been adjudged incapacitated under IC 29-3, the guardian may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, a copy of the notice or matter also shall be served, given, or sent to the guardian.

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Sec. 58. At any time before determination of the issues, the commission on judicial qualifications may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. If an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present the judge's defense against the matters charged thereby.

Sec. 59. The commission on judicial qualifications may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order must set the date, time, and place of the hearing in St. Joseph County and must indicate the matters on which the evidence is to be taken. A copy of the order shall be sent by registered or certified mail to the judge and to the counsel at least ten (10) days before the date of the hearing.

Sec. 60. If the commission on judicial qualifications finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of the judge. The affirmative vote of four (4) members of the commission on judicial qualifications, 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.

Sec. 61. Upon making a determination recommending the censure, retirement, or removal of a judge, the commission on judicial qualifications shall promptly file a copy of the recommendation certified by the chairman or secretary of the commission, together with the transcript and findings and conclusions, with the clerk of the supreme court and shall promptly mail to the judge and to the counsel notice of the filing, together with a copy of the recommendation, finding, and conclusions.

Sec. 62. (a) A petition to the supreme court to modify or reject the recommendation of the commission on judicial qualifications for censure, retirement, or removal of a judge may be filed by the judge within thirty (30) days after the filing with the clerk of the supreme court of the certified copy of the commission's recommendation. The petition must:

(1) be verified;

(2) be based on the record;

(3) specify the grounds relied on; and

(4) be accompanied by petitioner's brief together with proof of service on the commission of two (2) copies, and on the

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counsel of one (1) copy, of the petition and the brief. Within twenty (20) days after service of petitioner's brief the commission on judicial qualifications shall file a respondent's brief and serve a copy of the respondent's brief on the judge. Within twenty (20) days after service of the respondent's brief, the petitioner may file a reply brief, two (2) copies of which shall be served on the commission on judicial qualifications and one (1) copy shall be served on the counsel.

(b) Failure to file a petition within the time provided is considered a consent to the determination on the merits based upon the record filed by the commission on judicial qualifications.

(c) To the extent necessary to implement this section and if not inconsistent with this section, the Indiana Rules of Appellate Procedure are applicable to reviews by the supreme court of commission on judicial qualifications proceedings.

Sec. 63. The commission on judicial qualifications has jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or hearing, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of witnesses, and to order the production of books, records, or other documentary evidence. Any member of the commission on judicial qualifications may administer oaths and affirmations to witnesses in any matter within the jurisdiction of the commission.

Sec. 64. Subpoenas for the attendance of witnesses and the production of documentary evidence between the commission on judicial qualifications or for discovery shall be issued by the chairman of the commission and shall be served in the manner provided by law for the service of process.

Sec. 65. If in any proceeding before the commission on judicial qualifications, any witness fails or refuses to attend upon subpoena issued by the commission or any of the commission's representatives, or appearing, refuses to testify or refuses to produce any books and papers the production of which is called for by the subpoena, the attendance of any witness and the giving of the witness's testimony and the production of the books and papers required shall be enforced by the St. Joseph circuit court.

Sec. 66. All papers and pleadings filed with the chairman of the commission on judicial qualifications at the chairman's office shall be considered filed with the commission.

Sec. 67. (a) In all formal proceedings, discovery shall be available to the commission on judicial qualifications and to the

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judge in accordance with the Indiana Rules of Civil Procedure. Any motions requesting court orders for discovery shall be made to the St. Joseph circuit court.

(b) In all formal proceedings before the commission on judicial qualifications, the counsel shall furnish to the judge not less than twenty (20) days before any hearing the following:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing together with copies of all written statements and transcripts of testimony of the witnesses in the possession of the counsel or the commission that are relevant to the subject matter of the hearing and that have not previously been furnished the judge.

(2) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing. The testimony of any witness, except if offered in rebuttal or for impeachment, whose name and address have not been furnished to the judge, and documentary evidence, copies of which have not been furnished to the judge, as provided in this subsection, are not admissible in evidence at the hearing over the objection of the judge. After formal proceedings have been instituted, the judge may request in writing that the counsel furnish to the judge the names and addresses of all witnesses then or thereafter known to the counsel who have information that may be relevant to any charge against the judge and to any defense of the judge with respect to the charge. The counsel shall also furnish copies of such written statements, transcripts of testimony, and documentary evidence as are then or thereafter known to the counsel and are then or thereafter in the possession of the counsel or the commission that are relevant to any charges or defense and that have not previously been furnished the judge. The counsel shall comply with a request within ten (10) days after receipt of the request and thereafter within ten (10) days after any information or evidence becomes known to the counsel.

(c) During the course of an investigation by the commission on judicial qualifications, the judge whose conduct is being investigated may demand in writing that the commission either institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe that the judge is guilty of any misconduct. The commission on judicial qualifications shall within sixty (60) days after the judge's demand comply with the demand. A copy of the demand must be filed with the supreme

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court and is a matter of public record. If, after a demand, the commission on judicial qualifications finds that there is not probable cause, that finding must be filed with the supreme court and is a matter of public record.

Sec. 68. (a) Whenever a judge of a St. Joseph County court is retired by the supreme court under this chapter and on the grounds set forth in sections 44 and 46 of this chapter, the judge is considered to have retired voluntarily. In these situations, this chapter may not be construed to authorize any encroachment upon or impairment of any rights of the judge or the judge's surviving spouse under any constitutional or statutory retirement program.

(b) A judge of a St. Joseph County court who is removed from office by the supreme court on those grounds set forth in sections 44 and 46 of this chapter, is ineligible for judicial office and, pending further order of the supreme court, shall be suspended from the practice of law in Indiana.

Sec. 69. (a) The court may appoint two (2) full-time magistrates under IC 33-23-5 to serve the court using the selection method provided by IC 36-1-8-10(b)(1) or IC 36-1-8-10(b)(2). Not more than one (1) of the magistrates appointed under this section may be a member of the same political party.

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

(c) The powers of a magistrate appointed under this section include the powers provided in IC 33-23-5 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-3 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

Chapter 72. Scott County

Sec. 1. Scott County constitutes the sixth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Scott superior court.

(b) The Scott superior court is a standard superior court as described in IC 33-29-1.

(c) Scott County comprises the judicial district of the court.

Sec. 3. The Scott superior court has one (1) judge who shall hold sessions in Scottsburg.

Sec. 4. The Scott superior court has the same jurisdiction as the Scott circuit court.

Sec. 5. The Scott superior court has a standard small claims and misdemeanor division.

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Chapter 73. Shelby County

Sec. 1. Shelby County constitutes the sixteenth judicial circuit.

Sec. 2. (a) There are established two (2) courts of record to be known as the Shelby superior court No. 1 and the Shelby superior court No. 2.

(b) Except as otherwise provided in this chapter, each Shelby superior court is a standard superior court as described in IC 33-29-1.

(c) Shelby County comprises the judicial district of the courts.

Sec. 3. Each Shelby superior court has one (1) judge who shall hold sessions in the Shelby County courthouse in Shelbyville.

Sec. 4. (a) This section does not apply to criminal cases.

(b) If the transcript of the original papers in a civil action or proceeding received by the clerk of the Shelby circuit court and Shelby superior courts on change of venue from another county contains an order of the court from which venue was changed designating the court to which the case is to be transferred, the clerk shall file the action or proceeding on the docket of the designated court.

(c) If the transcript of the original papers in a civil action or proceeding does not contain an order designating the court to which the case is to be transferred, the clerk shall alternately file each action or proceeding on the docket of the Shelby circuit court and the docket of the Shelby superior courts depending on the order and sequence in which the papers of the cases reach the clerk.

Sec. 5. (a) This section does not apply to criminal cases.

(b) Notwithstanding IC 33-29-1-9, after any action or proceeding is docketed in a Shelby superior court or the Shelby circuit court on change of venue, all parties who have appeared in the case in person or by counsel may agree on and request a transfer from a superior court to the circuit court or from the circuit court to a superior court.

(c) Upon the agreement of all parties, the court in which the action is pending shall order the case transferred to the other court. The clerk shall transmit the original papers of the case to the other court and docket the case in the other court without any transcript being required.

(d) All further proceedings in the case shall take place in the court to which the case is transferred. If the case is one in which the prosecuting attorney is required to appear and defend and a party fails to appear or to employ counsel, the prosecuting attorney

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has the right to agree to the transfer instead of the nonappearing party or counsel.

Sec. 6. The Shelby superior courts have the same jurisdiction as the Shelby circuit court, except that Shelby superior court No. 1 has exclusive juvenile jurisdiction in the county.

Sec. 7. Shelby superior court No. 2 has a standard small claims and misdemeanor division.

Chapter 74. Spencer County

Sec. 1. (a) Spencer County constitutes the eighty-fourth judicial circuit.

(b) The Spencer circuit court has a standard small claims and misdemeanor division.

Chapter 75. Starke County

Sec. 1. (a) Starke County constitutes the forty-fourth judicial circuit.

(b) The Starke circuit court has a standard small claims and misdemeanor division.

Sec. 2. The judge of the Starke circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Sec. 3. All inherent powers of judicial mandate in Starke County remain vested solely in the judge of the Starke circuit court.

Chapter 76. Steuben County

Sec. 1. (a) Steuben County constitutes the eighty-fifth judicial circuit.

(b) The judges of the Steuben circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

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

Sec. 2. (a) There is established a court of record to be known as the Steuben superior court.

(b) The Steuben superior court is a standard superior court as described in IC 33-29-1.

(c) Steuben County comprises the judicial district of the court.

Sec. 3. The Steuben superior court has one (1) judge who shall hold sessions in:

(1) the Steuben County courthouse in Angola; or

(2) other places in the county that the Steuben County executive may provide.

Sec. 4. The Steuben superior court has the same jurisdiction as the Steuben circuit court.

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Sec. 5. The Steuben superior court has a standard small claims and misdemeanor division.

Chapter 77. Sullivan County

Sec. 1. (a) Sullivan County constitutes 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 33-23-5 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.

Sec. 2. (a) There is established a court of record to be known as the Sullivan superior court.

(b) The Sullivan superior court is a standard superior court as described in IC 33-29-1.

(c) Sullivan County comprises the judicial district of the court.

Sec. 3. The Sullivan superior court has one (1) judge who shall hold sessions in:

(1) the Sullivan County courthouse in Sullivan; or

(2) other places in the county that the Sullivan County executive provides.

Sec. 4. The Sullivan superior court has the same jurisdiction as the Sullivan circuit court.

Sec. 5. The Sullivan superior court has a standard small claims and misdemeanor division.

Chapter 78. Switzerland County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Jefferson County and Switzerland County constitute the fifth judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the Ohio and Switzerland superior court.

(b) The court may have a seal containing the words "Ohio and Switzerland Superior Court, Ohio and Switzerland Counties, Indiana". Ohio and Switzerland counties comprise the judicial district of the court.

Sec. 4. The Ohio and Switzerland superior court has one (1) judge, who shall be elected at the general election every six (6) years in Ohio and Switzerland counties. The judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

Sec. 5. The judge of the Ohio and Switzerland superior court

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has the same powers relating to the conduct of the business of the court as a judge of a circuit court under IC 33-28-1.

Sec. 6. The judge of the Ohio and Switzerland superior court is entitled to the salary set out in IC 33-38-5. The salary shall be paid in the same manner as the salary of a circuit court judge, and the part of the salary to be paid by the counties shall be paid by Ohio and Switzerland counties in equal amounts.

Sec. 7. (a) The Ohio and Switzerland superior court shall hold its sessions in:

(1) the courthouse in Rising Sun and in Vevay; or

(2) other places in the county as the board of county commissioners of Ohio County or Switzerland County may provide.

(b) Each board of county commissioners shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. Each county council shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities.

Sec. 8. The judge of the Ohio and Switzerland superior court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for a circuit court. Their salaries shall be paid monthly out of the treasuries of Ohio and Switzerland counties as provided by law.

Sec. 9. The clerk of the Ohio and Switzerland superior court, under the direction of the judge of the 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. 10. The Ohio and Switzerland superior court shall, during each calendar year, appoint one (1) resident of Ohio County and one (1) resident of Switzerland County to act as jury commissioners for the superior court. These jury commissioners shall:

(1) be appointed by a judge of the superior court;

(2) be qualified to act as jury commissioners; and

(3) prepare and draw the jury for the superior court;

in the same manner as is required for jury commissioners of circuit courts in Ohio and Switzerland counties. The clerks of the circuit courts of Ohio and Switzerland counties and the sheriffs of Ohio and Switzerland counties shall issue and serve process for the superior court in relation to jury selection and summoning in the

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same manner as for those circuit courts. The superior court may order the time when jurors must attend court, and may order the selection and summoning of other jurors for the superior court whenever necessary.

Sec. 11. The judge of the circuit courts in Ohio and Switzerland counties may, with the consent of the judge of the Ohio and Switzerland superior court, transfer any action or proceeding from the circuit court that originated in Ohio County or Switzerland County to the Ohio and Switzerland superior court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of such a circuit court, transfer any action or proceeding from the Ohio and Switzerland superior court to the circuit court in the county where that action or proceeding originated.

Sec. 12. The judge of the circuit court in Ohio County or Switzerland County may, with the consent of the judge of the Ohio and Switzerland superior court, sit as a judge of the court in any matter over which the judge would have had jurisdiction as circuit court judge, as if the judge was an elected judge of the court. The judge of the Ohio and Switzerland superior court may, with consent of the judge of a circuit court, sit as a judge of a circuit court in Ohio County or Switzerland County in any matter over which the judge would have jurisdiction as superior judge, as if the judge were an elected judge of that circuit court.

Sec. 13. The Ohio and Switzerland superior court has the same jurisdiction as a circuit court under IC 33-28-3 and IC 33-28-1-2.

Sec. 14. The Ohio and Switzerland superior court has a standard small claims and misdemeanor division.

Chapter 79. Tippecanoe County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Tippecanoe County constitutes the twenty-third judicial circuit.

Sec. 3. (a) There is established a court of record to be known as the superior court of Tippecanoe County.

(b) The superior court has one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

Sec. 4. The judge of the superior court shall cause to be provided a seal for the court. The seal must contain on its face the words "Superior Court of Tippecanoe County". A description and impression of the seal shall be spread upon the order book of the

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court.

Sec. 5. The superior court shall hold its sessions at the Tippecanoe County courthouse or at any other convenient place as the board of county commissioners or the judge of the court may provide in Lafayette.

Sec. 6. The superior court has the same original and appellate jurisdiction possessed by the Tippecanoe circuit court in civil and criminal cases, but not in matters of probate or juvenile jurisdiction.

Sec. 7. The process of the superior court must have the seal affixed, and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 8. The superior court is a court of record and of general jurisdiction, and its judgments, decrees, orders, and proceedings have the same force and effect as those of the circuit court and shall be enforced in the same manner.

Sec. 9. The superior court may:

(1) issue and direct all process to courts of inferior jurisdiction, corporations, and individuals necessary in exercising the court's jurisdiction and for the regular execution of the law;

(2) make all proper judgments, sentences, decrees, orders, and injunctions;

(3) issue all process and executions; and

(4) perform other acts necessary to implement this chapter;

in conformity with the Constitution of the State of Indiana and Indiana law.

Sec. 10. The judge of the court may grant restraining orders and injunctions; issue writs of habeas corpus and of mandate and prohibition; appoint receivers, master commissioners, and commissioners to convey real property; grant commissions for the examination of witnesses; and appoint other officers necessary to facilitate and transact the business of said court, conferred on circuit courts or circuit court judges.

Sec. 11. (a) The judge of the court:

(1) may make and adopt rules and regulations for conducting the business of the court; and

(2) has the power incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

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(2) solemnize marriages;
(3) take and certify acknowledgments of deeds; and
(4) give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 12. If the judge of the court is interested, or in the progress of the cause becomes interested, in an action or a matter pending in the court, the action or matter shall be removed for hearing and determination to the Tippecanoe circuit court.

Sec. 13. (a) When an affidavit for a change of venue is filed in the superior court for any of the causes described in IC 34-35-1-1(1), IC 34-35-1-1(2), IC 34-35-1-1(6), or IC 34-35-1-1(7), a judge of the circuit or a superior court shall be called to hear and determine the cause as provided by law for changes of venue in causes pending in the circuit court.

(b) If the causes are alleged in the affidavit and described in IC 34-35-1-1(3), IC 34-35-1-1(4), and IC 34-35-1-1(5), the change of venue shall be granted and the cause directed to the circuit court of some other county, as provided in cases of changes of venue from the circuit court. The court to which the case is sent has jurisdiction to hear and determine the cause and render judgment.

Sec. 14. The clerk shall, under the direction of the judge, provide for the court, order books, judgment dockets, execution dockets, fee books, and other books as necessary, and all the books, papers, and proceedings of the court shall be kept distinct and separate from those of other courts.

Sec. 15. In a case where, under state law, a person has the right of appeal from the circuit court to the supreme court, an appeal may be had from the superior court.

Chapter 79.2. Tippecanoe Superior Court No. 2

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is created a court of record to be known as the Superior Court No. 2. of Tippecanoe County. The court has one (1) judge, who holds office for a term of six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor is elected and qualified. The judge shall be elected every six (6) years at the general election.

Sec. 3. Tippecanoe County constitutes the judicial district of superior court No. 2.

Sec. 4. (a) The clerk of the Tippecanoe circuit court shall be the clerk of superior court No. 2 of Tippecanoe County and the sheriff of Tippecanoe County shall be the sheriff of superior court No. 2 of Tippecanoe County. The clerk and sheriff shall attend court and

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discharge all the duties pertaining to their respective office as they are required to do by law with reference to the Tippecanoe circuit court.

(b) The judge of superior court No. 2 of Tippecanoe County shall appoint a bailiff and an official reporter for the court to serve during the court. The judge shall fix their compensation within the limits and in the manner provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Tippecanoe County, in the manner provided by law.

Sec. 5. (a) Superior court No. 2 of Tippecanoe County shall hold sessions in a place to be determined by the county council of Tippecanoe County.

(b) The board of county commissioners of Tippecanoe County shall provide and maintain in the courthouse or at another convenient place as the board of commissioners or the judge of the court may provide at the county seat:

(1) a suitable and convenient courtroom for the holding of court; and

(2) a suitable and convenient jury room and offices for the judge and the official court reporter.

(c) The board of county commissioners shall provide all necessary furniture and equipment for the rooms and offices of the court and all necessary dockets, books, and records for the court.

(d) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 6. Superior court No. 2 of Tippecanoe County has the same original and appellate jurisdiction possessed by the Tippecanoe circuit court in civil and criminal cases, but not in matters of probate or juvenile jurisdiction.

Sec. 7. (a) The judge of superior court No. 2 of Tippecanoe County may make and adopt rules and regulations for conducting the business of superior court No. 2 of Tippecanoe County.

(b) The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders. The judge may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgments of deeds;

(4) give all necessary certificates for the authentication of

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records and proceedings of the court; and

(5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 8. (a) The judge of the Superior Court No. 2 of Tippecanoe County may, with the consent of the judge of the superior court of Tippecanoe County, transfer any action, cause, or proceeding pending in superior court No. 2 of Tippecanoe County to the superior court of Tippecanoe County by transferring all original papers, instruments and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court of Tippecanoe County, if:

(1) the action, cause, or proceeding could have been originally filed and docketed in the superior court of Tippecanoe County; and

(2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.

(b) The judge of the superior court of Tippecanoe County may, with the consent of the judge of the superior court No. 2 of Tippecanoe County, transfer any action, cause, or proceeding pending in the superior court of Tippecanoe County to the superior court No. 2 of Tippecanoe County by transferring all original papers, instruments, and orders filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court No. 2 of Tippecanoe County if:

(1) the action, cause, or proceeding could have been originally filed and docketed in the superior court No. 2 of Tippecanoe County; and

(2) both judges believe the transfer will expedite the disposition of the case, expedite the work of either court, or equalize the work load between the two (2) courts.

Chapter 79.3. Tippecanoe Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record to be known as the Tippecanoe superior court No. 3 (referred to as the court in this chapter). The court may have a seal containing the words "Tippecanoe Superior Court No. 3, Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge, who shall be elected at

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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:

(1) be a resident of Tippecanoe County;

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

(3) be admitted to the bar of Indiana.

Sec. 4. The court has the same jurisdiction as the Tippecanoe circuit court except that the court does not have probate jurisdiction.

Sec. 5. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Tippecanoe circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 6. The judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Tippecanoe circuit court. Their salaries shall be paid monthly out of the treasury of Tippecanoe County as provided by law.

Sec. 7. The clerk of the court, under the direction of the judge of the 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. The court shall hold its sessions in:

(1) the Tippecanoe County courthouse in Lafayette; or

(2) other places in the county as 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 necessary. The Tippecanoe County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 9. The judge of the Tippecanoe circuit court or Tippecanoe superior court No. 1 or No. 2 may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court or superior court No. 1 or No. 2 to the court and the judge of the court may, with consent of the judge of the circuit or other superior court, transfer any action or proceeding from the court to

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the circuit or other superior court, if the action or proceeding could have been originally filed in the receiving court.

Sec. 10. The judge of the Tippecanoe circuit or other superior court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit or other superior court, sit as a judge of the circuit or other superior court in any matter as if an elected judge of the circuit or other superior court.

Sec. 11. The jury commissioners appointed by the judge of the Tippecanoe circuit court shall serve as the jury commissioners for the court. Juries shall be 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 the court as necessary.

Sec. 12. The judge of the court may adopt rules for conducting the business of the court, consistent with the laws and court rules of Indiana. However, when adopting local rules to govern in all the courts of record in the county, the judges of the circuit and superior courts shall act in concert. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

Chapter 79.4. Tippecanoe Superior Courts No. 4, No. 5, and No. 6

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There are established three (3) courts of record 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. <u>(Insert Court Division Number)</u>, Tippecanoe County, Indiana". Tippecanoe County comprises the judicial district of each court.

Sec. 3. (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:

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(1) a resident of Tippecanoe County;

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

(3) admitted to the bar of Indiana.

Sec. 4. (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. 5. 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. 6. 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. 7. The judges of Tippecanoe superior court No. 4, No. 5, and No. 6 shall jointly appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until jointly removed by the judges of the courts.

Sec. 8. 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. 9. Each court shall hold its sessions in the Tippecanoe County courthouse in Lafayette 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.

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Sec. 10. 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 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. 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, 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 the 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. 12. 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. 13. Tippecanoe superior court No. 4, No. 5, and No. 6 each has a standard small claims and misdemeanor division.

Sec. 14. (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. If there is a disagreement, the decision of a majority of the judges controls. If there is a tie, the decision joined by the circuit court judge controls.

(d) The judges of Tippecanoe superior court No. 4, No. 5, and

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No. 6 shall jointly adopt rules to provide for the coordination and conduct of the standard small claims and misdemeanor divisions in the courts.

Sec. 15. (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.

Chapter 80. Tipton County

Sec. 1. (a) Tipton County constitutes the thirty-sixth judicial circuit.

(b) The Tipton circuit court has a standard small claims and misdemeanor division.

Chapter 81. Union County

Sec. 1. (a) Union County constitutes the eighty-ninth judicial circuit.

(b) The Union circuit court has a standard small claims and misdemeanor division.

Chapter 82. Vanderburgh County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Vanderburgh County constitutes the first judicial circuit.

Sec. 3. The judge of the Vanderburgh circuit court may appoint one (1) full-time magistrate under IC 33-23-5. The magistrate continues in office until removed by the judge.

Sec. 4. All inherent powers of judicial mandate in Vanderburgh County remain vested in the judges of the county.

Sec. 5. There is established a superior court in Vanderburgh County that consists of seven (7) judges who hold office for six (6) years and until their successors are elected and qualified.

Sec. 6. (a) The judges of the Vanderburgh superior court may jointly appoint not more than four (4) full-time magistrates under IC 33-23-5.

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

Sec. 7. The court shall be known as the Vanderburgh Superior Court.

Sec. 8. The court shall have a seal consisting of a circular disk containing the words "Vanderburgh Superior Court", "Indiana", and "Seal", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

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Sec. 9. (a) The superior court has:

(1) original, appellate, concurrent, and coextensive jurisdiction with the circuit court in all civil cases and criminal cases;

(2) jurisdiction concurrent and coextensive with the circuit court in all cases of appeal from boards of county commissioners and city courts, and

(3) all other appellate jurisdiction vested in the circuit court.

(b) The superior court has original and exclusive jurisdiction in all matters pertaining to:

(1) the probate and the settlement of decedents' estates, trusts, and guardianships;

(2) the probate of wills, proceedings to resist probate of wills, and proceedings to contest wills;

(3) the appointment of guardians, assignees, executors, administrators, and trustees;

(4) the administration and settlement of estates of protected persons (as defined in IC 29-3-1-13) and deceased persons, and of trusts, assignments, adoptions, and surviving partnerships; and

(5) all other probate matters.

Sec. 10. The superior court has exclusive juvenile jurisdiction in Vanderburgh County.

Sec. 11. The superior court is a court of record and its judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 12. (a) The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders.

(b) The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all necessary certificates for the authentication of the records and proceedings in the court.

Sec. 13. The judges of the superior court have the same powers to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and transact the business of the court as conferred on circuit courts or

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the judges of the circuit court; and to appoint officers necessary to facilitate the business of the superior court.

Sec. 14. (a) The Vanderburgh superior court shall hold sessions in the Vanderburgh County courthouse in Evansville or its replacement.

(b) The board of county commissioners of Vanderburgh County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

Sec. 15. The clerk, under the direction of the superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records necessary for the court.

All books, papers and proceedings of the court shall be kept distinct and separate from those of other records.

Sec. 16. The superior court shall maintain order books as the court determines necessary for the entire court. An order book may be signed on behalf of the court by any of the sitting judges of the court and the signature constitutes authentication of the actions of each of the judges in the court.

Sec. 17. Each judge of the superior court shall appoint a court reporter, a bailiff, and a riding bailiff for the court whose salaries shall be fixed by the court and paid as provided by law and who serves at the pleasure of the judge making the appointment.

Sec. 18. The superior court may appoint additional officers and personnel as necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.

Sec. 19. The court shall appoint probation officers who shall perform the same duties and receive the same compensation as is provided by law.

Sec. 20. All laws of the state and all rules adopted by the supreme court governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the

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appointment of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior court.

Sec. 21. (a) The clerk of the Vanderburgh circuit court and the jury commissioners appointed by the Vanderburgh circuit court shall serve as jury commissioners for the superior court. The issuing and servicing of process shall be governed by the procedure specified in IC 33-28-4-3 for the circuit court. The selection of jurors may be made either:

(1) as specified for the circuit court in IC 33-28-4-3; or

(2) from a list of persons in the county who are at least eighteen (18) years of age and who hold a valid license issued by the bureau of motor vehicles under IC 9-24.

(b) The jurors do not have to serve in any particular order in which they are drawn by the jury commissioners.

(c) Any judge of the court may order the selection and summoning of other jurors for the court whenever necessary. The jurors summoned under this subsection shall serve the entire court and before any judge of the court where their service may be required.

(d) The contractor operating a license branch under IC 9-16 for Vanderburgh County shall, not later than January 1 of each year, provide to the jury commissioners of the Vanderburgh superior courts a list of all persons at least eighteen (18) years of age who hold a valid license issued by the bureau of motor vehicles.

Sec. 22. Any party may appeal to the supreme court or the court of appeals from any order or judgment of the superior court in any case where an appeal may be had from a similar order or judgment of the circuit court. The appeal is governed by the law and rules governing appeals to the court of appeals and the supreme court.

Sec. 23. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 24. The superior court, by rules adopted by the court, shall designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and to seeing that the court operates efficiently and judicially.

Sec. 25. When any action of the entire court is required, the

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sitting judges of the court shall act in concert. If there is a disagreement, the decision of the majority of the sitting judges controls.

Sec. 26. The judge of the circuit court may, with the consent of the superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the superior court.

Sec. 27. Any judge of the superior court may, with the consent of the judge of the circuit court transfer any action, cause, or proceeding filed and docketed in the superior court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding without further transcript to be redocketed and disposed of as if originally filed with the circuit court.

Sec. 28. The judge of the Vanderburgh circuit court may sit as a judge of the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were a judge of the superior court with all the rights and powers as if the judge were an elected judge of the superior court.

Sec. 29. The superior court shall submit its budget estimates annually to the auditor of the county for presentment and approval by the county council, as provided in IC 36-2-5.

Sec. 30. The Vanderburgh superior court has a standard small claims and misdemeanor division.

Sec. 31. (a) The judge of the Vanderburgh circuit court and each of the seven (7) judges of the Vanderburgh superior court shall be elected in nonpartisan elections every six (6) years.

(b) During the period under IC 3-8-2-4 in which a declaration of candidacy may be filed for a primary election, any person desiring to become a candidate for any one (1) of the eight (8) judgeships affected by this chapter shall file with the election division a declaration of candidacy adapted from the form prescribed under IC 3-8-2, signed by the candidate and designated which judgeship the candidate seeks. Any petition without the designation shall be rejected by the election division (or by the Indiana election commission under IC 3-8-1-2). To be eligible for election, a candidate must be:

(1) domiciled in the county of Vanderburgh;

(2) a citizen of the United States; and

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(3) admitted to the practice of law in Indiana.

(c) If an individual who files a declaration under subsection (b) ceases to be a candidate after the final date for filing a declaration under subsection (b), the election division may accept the filing of additional declarations of candidacy for that judgeship not later than noon August 1.

(d) All candidates for each respective judgeship shall be listed on the general election ballot in the form prescribed by IC 3-11-2, without party designation. The candidate receiving the highest number of votes for each judgeship shall be elected to that office.

(e) IC 3, where not inconsistent with this chapter, applies to elections under this chapter.

Chapter 83. Vermillion County

Sec. 1. (a) Vermillion County constitutes the forty-seventh judicial circuit.

(b) The Vermillion circuit court has a standard small claims and misdemeanor division.

Chapter 84. Vigo County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Vigo County constitutes the forty-third judicial circuit.

Sec. 3. There is established a court of record to be known as the Vigo superior court. The superior court has four (4) judges who shall hold their office for six (6) years and until their successors have been elected and qualified.

Sec. 4. The superior court shall have a seal consisting of a circular disk containing the words "Vigo Superior Court of Indiana", and a design as the court may determine, an impression of which shall be spread of record upon the order book of the court.

Sec. 5. The superior court has the same jurisdiction as the Vigo circuit court.

Sec. 6. The judgments, decrees, orders, and proceedings of the superior court have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 7. The judges of the superior court may make and adopt rules and regulations for conducting the business of the court and have all the powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, and the enforcement of its orders. The judges may administer oaths, solemnize marriages, take and certify acknowledgment of deeds, and give all records and proceedings in the court.

Sec. 8. The judges of the superior court have the same powers

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to grant restraining orders and injunctions; to issue writs of habeas corpus; to appoint receivers, masters, and commissioners to convey real property; to grant commissions for the examination of witnesses; to appoint other officers necessary to facilitate and transact the business of the court as conferred on circuit courts or the circuit court judges; and to appoint such officers necessary to facilitate the business of the court.

Sec. 9. (a) The superior court may appoint commissioners, probate commissioners, referees, juvenile referees, bailiffs, court reporters, probation officers, and other personnel, including an administrative officer, as the court believes are necessary to facilitate and transact the business of the court. The salaries of the personnel shall be fixed and paid as provided by law. However, if the salaries of any of the personnel are not provided by law, the amount and time of payment of the 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 on record. The officers and persons appointed shall perform the duties as are prescribed by the court. Any such commissioners, probate commissioners, referees, juvenile referees, probation officers, and other personnel appointed by the court serve at the pleasure of the court.

(b) Any probate commissioner appointed by the court may be vested by the 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 the 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 the court, the enforcement of court rules and regulations, and making of reports to the court, including the taking and hearing of evidence together with the commissioner's findings and conclusions, under the final jurisdiction and decision of the judges of the court.

(c) Any juvenile referee appointed by the court may be vested by the 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 the referee's doings under final jurisdiction

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and decision of the judges of the court.

(d) A probate commissioner and juvenile referee may summon witnesses to testify before the commissioner and juvenile referee, administer oaths, and take acknowledgments in connection with and in furtherance of their duties and powers.

Sec. 10. (a) The Vigo superior court shall hold its sessions in the Vigo County courthouse or its replacement in Terre Haute.

(b) The board of county commissioners of Vigo County shall:

(1) provide and maintain in the courthouse suitable and convenient courtrooms for the holding of the court, suitable and convenient jury rooms, offices for the judges, secretaries, and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of the court.

Sec. 11. The clerk, under the direction of the superior court, shall provide:

(1) order books;

(2) judgment dockets;

(3) execution dockets;

(4) fee books; and

(5) other books, papers, and records;

as may be necessary for the court. All books, papers, and proceedings of the court shall be kept distinct and separate from those of other records.

Sec. 12. The superior court shall maintain order books as the court may determine necessary for the entire court, which may be signed on behalf of the court by any of the sitting judges of the court. The signature constitutes authentication of the actions of each of the judges in the court.

Sec. 13. Each judge of the superior court shall appoint a court reporter, a bailiff, and a secretary for the court whose salaries shall be fixed by the court and paid as provided by law, and who serve at the pleasure of the judge making the appointment.

Sec. 14. The superior court may appoint additional officers and personnel as may be necessary for the proper administration of the duties of the court, whose salaries shall be fixed by the court and who serve at the pleasure of the court.

Sec. 15. The superior court shall appoint probation officers who shall perform the same duties and receive the same compensation as is provided by law.

Sec. 16. The clerk of the Vigo circuit court and the jury

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commissioners appointed by the Vigo circuit court shall serve as jury commissioners for the superior court and shall be governed in all respects as provided for the selection of jurors and the issuing and servicing of process. However, the jurors need not serve in any particular order in which they are drawn by the jury commissioners. In addition, any judge of the superior court may order the selection and summoning of other jurors for the court whenever necessary and the jurors shall serve the entire court and before any judge of the court where their service is required.

Sec. 17. The process of the superior court must have the seal affixed and be attested, directed, served, returned, and in the form as is provided for process issuing from the circuit court.

Sec. 18. The superior court, by rules adopted by the court, may designate one (1) of the judges as presiding judge and fix the time the presiding judge presides. The presiding judge is responsible for the operation and conduct of the court and seeing that the court operates efficiently and judicially.

Sec. 19. The judges of the superior court may sit en banc and act in concert. The judge of the circuit court may also sit en banc with the judges of the superior court. If there is a disagreement while sitting en banc, the decision of the majority of the judges controls. However, in the absence of a majority, the decision of the presiding judge controls.

Sec. 20. The judge of the Vigo circuit court may sit as a judge of the superior court, with the court's permission, in all matters pending before the superior court, without limitation and without any further order, in the same manner as if the judge were an elected judge of the superior court.

Sec. 21. Vigo superior court has a standard small claims and misdemeanor division.

Chapter 85. Wabash County

Sec. 1. Wabash County constitutes the twenty-seventh judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Wabash superior court.

(b) The Wabash superior court is a standard superior court as described in IC 33-29-1.

(c) Wabash County comprises the judicial district of the court.

Sec. 3. The Wabash superior court has one (1) judge who shall hold sessions in:

(1) the Wabash County courthouse in Wabash; or

(2) other places in the county that the Wabash County

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executive provides.

Sec. 4. The Wabash superior court has the same jurisdiction as the Wabash circuit court.

Sec. 5. The Wabash superior court has a standard small claims and misdemeanor division.

Chapter 86. Warren County

Sec. 1. (a) Warren County constitutes the twenty-first judicial circuit.

(b) The Warren circuit court has a standard small claims and misdemeanor division.

Chapter 87. Warrick County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Warrick County constitutes the second judicial circuit.

Sec. 3. There are established two (2) courts of record to be known as "Warrick superior court No. 1" and "Warrick superior court No. 2".

Sec. 4. Each superior court shall have a seal consisting of a circular disk containing the words "Warrick Superior Court No. 1" or "Warrick Superior Court No. 2" and a design as each court may determine.

Sec. 5. Each superior court's judgments, decrees, orders, and proceedings have the same force and effect and shall be enforced in the same manner as those of the circuit court.

Sec. 6. Each superior court has the same jurisdiction as the Warrick circuit court.

Sec. 7. (a) The judge of the circuit court may, with the consent of a superior court, transfer any action, cause, or proceeding filed and docketed in the circuit court to the superior court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the court.

(b) The judge of a superior court may, with the consent of the judge of the circuit court, transfer any action, cause, or proceeding filed and docketed in the court to the circuit court by transferring all original papers and instruments filed in the action, cause, or proceeding, without further transcript, to be redocketed and disposed of as if originally filed with the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, transfer any action, cause, or proceeding filed and docketed in the court to the other court to be redocketed and disposed of as if originally filed with the other court.

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Sec. 8. (a) The judge of the Warrick circuit court may, with a superior court's permission, sit and act as a judge of the superior court in all matters before the court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were an elected judge of the superior court.

(b) The judge of the Warrick superior court No. 1 or Warrick superior court No. 2 may, with the circuit court's permission, sit and to act as a judge of the circuit court in all matters pending before the circuit court, without limitation and without any further order in the same manner and with all the rights and powers as if the judge were the elected judge of the circuit court.

(c) The judge of a superior court may, with the consent of the judge of the other superior court, sit as a judge of the other court in any manner as if elected as the judge of the other court.

Sec. 9. (a) The Warrick superior court No. 1 or Warrick superior court No. 2 may make rules for conducting the business of the court.

(b) The Warrick superior court No. 1 or the Warrick superior court No. 2 may issue warrants and issue and direct all processes that are necessary in exercising the jurisdiction conferred under this chapter. The Warrick superior court No. 1 or Warrick superior court No. 2 may make all proper judgments, sentences, decrees, and orders, issue all process, and do all acts necessary or proper to carry the jurisdiction conferred under this chapter into effect.

(c) The Warrick superior court No. 1 or the Warrick superior court No. 2 has the same power as the circuit court or a judge of the circuit court in relation to the attendance of witnesses, the punishment of contempts, and the enforcing of a court's orders. The Warrick superior court No. 1 or Warrick superior court No. 2 may administer oaths and give all necessary certificates for the authentication of the records and proceedings of the court.

Sec. 10. There shall be one (1) judge of the Warrick superior court No. 1 and one (1) judge of the Warrick superior court No. 2 who shall hold office for six (6) years, beginning on the first day of January after a judge's election and until the judge's successor is elected and qualified.

Sec. 11. The judge of the Warrick superior court No. 1 and the Warrick superior court No. 2 shall be subject to all disciplinary rules promulgated by the supreme court.

Sec. 12. The voters of Warrick County shall elect every six (6)

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years a judge for the Warrick superior court No. 1 and a judge for the Warrick superior court No. 2 at the general election.

Sec. 13. To be eligible to hold office as a superior court judge, a person must:

(1) be a resident of Warrick County;

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

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

Sec. 14. Any vacancy occurring in the office of the judge of the superior court shall be filled by appointment by the governor in the same manner as are vacancies in the office of the judge of the circuit court.

Sec. 15. Warrick superior court No. 1 has a standard small claims and misdemeanor division. Warrick superior court No. 2 has a standard small claims and misdemeanor division.

Sec. 16. (a) All laws and rules adopted by the supreme court enacted governing the circuit court in matters of pleading, practice, the issuing and service of process, the giving of notice, the appointing of judges pro tempore and special judges, changes of venue from the judge and from the county, adjournments by the court and by the clerk in the absence of the judge, and the selection of jurors for the court are applicable to and govern the superior courts.

(b) Notwithstanding subsection (a), in cases on the civil small claims docket, the following exceptions to the laws and rules described in subsection (a) apply:

(1) A defendant is considered to have complied with the statute and rule requiring the filing of an answer upon entering the defendant's appearance personally or by attorney. An appearance is considered a general denial and preserves all defenses and compulsory counterclaims that may then be presented at the trial of the cause.

(2) If at the trial of the cause the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiff's claim or that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated, the court shall grant a continuance.

(3) The trial must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and may not be bound by the statutory provisions or rules of practice, procedure, pleadings,

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or evidence except provisions relating to privileged communications and offers of compromise.

Sec. 17. Whenever a trial by jury is demanded, a judge of the superior court may call a jury from the list provided and used by the circuit court, although the filing of a small claim shall be considered a waiver of trial by jury by the plaintiff. The defendant may, not later than ten (10) days after being served, make demand for a trial by jury by affidavit stating that there are questions of fact requiring a trial by jury, specifying them, and stating that the demand is intended in good faith. The court shall then cause the claim to be transferred to the regular docket and the defendant shall pay the filing fee charged for filing civil actions in circuit court. Upon transfer a claim loses its status as a small claim and is subject to all ordinary rules and procedure.

Sec. 18. When the judgment or order in the small claims division of the superior court is against the defendant, the defendant shall pay the judgment or order immediately or at any time and upon such terms and conditions as the judge prescribes. If the judge orders that the judgment shall be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during compliance with the order. The stay may be modified or vacated by the court.

Sec. 19. All judgments rendered in the small claims division of a superior court shall be properly recorded in the judgment docket book of the court. The judgments are liens on real estate in the same manner as judgments in a court of general jurisdiction become liens on real estate under IC 34-55-9.

Sec. 20. An appeal of a judgment from a standard small claims and misdemeanor division of a superior court shall be taken in the same manner and under the same rules and statutes and with the same assessment of costs as cases appealed from the circuit courts. The appeal in a small claims case must be commenced and perfected within thirty (30) days after the entry of judgment or the right to appeal is waived.

Sec. 21. Each superior court shall appoint a bailiff, a court reporter, and the additional personnel necessary to carry out the business of the court. The duties, salaries, and terms of the bailiff and recorder shall be regulated in the same manner as provided for the circuit court.

Sec. 22. (a) Warrick superior court No. 1 and Warrick superior court No. 2 shall hold sessions in:

(1) the Warrick County courthouse in Boonville; or

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(2) any other place in Warrick County as the board of county commissioners may provide.

(b) The board of county commissioners of Warrick County shall:

(1) provide and maintain a suitable and convenient courtroom for the holding of a superior court, suitable and convenient jury rooms, offices for the judges and official court reporters, and other facilities as may be necessary; and

(2) provide all the necessary furniture and equipment for the rooms and offices of a court.

(c) The county council shall appropriate sufficient funds for the rooms, facilities, furniture, and equipment.

Chapter 88. Washington County

Sec. 1. (a) Washington County constitutes the forty-second judicial circuit.

(b) The Washington circuit court has a standard small claims and misdemeanor division.

Sec. 2. (a) There is established a court of record to be known as the Washington superior court.

(b) The Washington superior court is a standard superior court as described in IC 33-29-1.

(c) Washington County comprises the judicial district of the court.

Sec. 3. The Washington superior court has one (1) judge who shall hold sessions in:

(1) the Washington County courthouse in Salem; or

(2) other places in the county that the Washington County executive may provide.

Sec. 4. The Washington superior court has the same jurisdiction as the Washington circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 5. The Washington superior court has a standard small claims and misdemeanor division.

Chapter 89. Wayne County

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. Wayne County constitutes the seventeenth circuit.

Sec. 3. There is established a court of record to be known as the Wayne superior court No. 1. The court consists of one (1) judge, who shall hold office for six (6) years, beginning on the first day of January after the judge's election, and until the judge's successor has been elected and qualified. The judge shall be elected every six (6) years at the general election.

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Sec. 4. Wayne County constitutes the judicial district of the Wayne superior court No. 1.

Sec. 5. The judge of the superior court shall appoint a bailiff and an official court reporter for the court, to serve during the pleasure of the court. The judge shall fix their per diem or salary within the limits and in the manner as provided by law concerning bailiffs and official court reporters. The bailiff and court reporter shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

Sec. 6. (a) The superior court shall hold its sessions in the Wayne County courthouse in Richmond.

(b) The board of commissioners of Wayne County shall:

(1) provide and maintain in the courthouse:

(A) a suitable and convenient courtroom for the holding of the court; and

(B) a suitable and convenient jury room and offices for the presiding judge and the official court reporter; and

(2) shall provide all necessary furniture and equipment for the rooms and offices and all necessary dockets, books, and records for the court.

Sec. 7. The Wayne superior court No. 1 has the same jurisdiction as the Wayne circuit court.

Sec. 8. (a) The judge of the Wayne superior court No. 1:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court; and

(2) has all the powers incident to a court of record in relation to the attendance of witnesses, punishment of contempt, and the enforcement of its orders.

(b) The judge of the court may:

(1) administer oaths;

(2) solemnize marriages;

(3) take and certify acknowledgment of deeds;

(4) give all necessary certificates for the authentication of records and proceedings of the court; and

(5) make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Chapter 89.2. Wayne Superior Court No. 2

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record to be known as the Wayne superior court No. 2. The court has one (1) judge, who shall hold office for a term of six (6) years, beginning on the first day of

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January after the judge's election and until the judge's successor is elected and qualified. The judge of the court shall be elected every six (6) years at the general election.

Sec. 3. Wayne County constitutes the judicial district of the Wayne superior court No. 2. The court shall have a seal containing the words "Wayne Superior Court No. 2, of Wayne County, Indiana.".

Sec. 4. The judge of the Wayne superior court No. 2 shall appoint a bailiff and an official court reporter for the court, to serve at the pleasure of the court. The judge shall fix their compensation within the limits and in the manner as may be provided by law concerning bailiffs and official court reporters. The compensation shall be paid monthly out of the treasury of Wayne County in the manner provided by law.

Sec. 5. The terms of the Wayne Superior Court No. 2 shall be held in a judicial district under IC 33-23-2.

Sec. 6. (a) The Wayne superior court No. 2 shall hold its sessions in a place to be determined by the county council of Wayne County.

(b) The board of county commissioners of Wayne County:

(1) shall provide and maintain in the courthouse:

(A) a suitable and convenient courtroom for the holding of court; and

(B) suitable and convenient jury room and offices for the judge and the official court reporter; and

(2) shall provide all necessary furniture and equipment for the rooms and offices of the court, and all necessary dockets, books, and records for the court.

(c) The county council shall make the necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 7. The Wayne superior court No. 2 has the same jurisdiction as the Wayne circuit court.

Sec. 8. The judge of the Wayne superior court No. 2:

(1) may make and adopt rules and regulations for conducting the business of the Wayne superior court No. 2;

(2) has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt and the power to enforce the judge's orders; and

(3) may administer oaths, solemnize marriages, take and certify acknowledgments of deeds, give all necessary certificates for the authentication of records and proceedings

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of the court, and make and execute certificates of qualification and moral character of persons petitioning to be commissioned as notaries public.

Sec. 9. Jury commissioners for Wayne superior court No. 2 shall be selected in the same manner, to the same effect, and subject to the same limitations as those selected for the Wayne superior court No. 1.

Sec. 10. All laws governing the powers, duties, and procedure of jury commissioners in circuit courts and the duties of the clerk of the court pertaining to selection of juries and other laws pertaining to the drawing and recording of names of prospective petit jurors, govern the jury commissioners appointed and the selection of petit jurors in the Wayne superior court No. 2.

Chapter 89.3. Wayne Superior Court No. 3

Sec. 1. IC 33-29-1 does not apply to this chapter.

Sec. 2. There is established a court of record having general jurisdiction to be known as the Wayne superior court No. 3 (referred to as "the court" in this chapter). The court may have a seal containing the words "Wayne Superior Court No. 3, Wayne County, Indiana". Wayne County comprises the judicial district of the court.

Sec. 3. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Wayne County. The judge's term begins January 1 following the judge's 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:

(1) be a resident of Wayne County;

(2) be less than seventy (70) years of age at the time the person takes office;

(3) be admitted to the bar of Indiana; and

(4) have practiced law at least five (5) years.

Sec. 4. The court has the same jurisdiction as the Wayne circuit court and Wayne superior courts No. 1 and No. 2.

Sec. 5. The judge of the court has the same powers relating to the conduct of business of the court as the judge of the Wayne circuit court and the judges of Wayne superior courts No. 1 and No. 2. The judge has all powers incident to a court of record in relation to the attendance of witnesses and punishment for contempt, and the power to enforce the judge's orders. The judge may administer oaths, solemnize marriages, take and certify acknowledgements of deeds, and give all necessary certificates for

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the authentication of records and proceedings of the judge's court.

Sec. 6. The judge of the court may appoint a bailiff, official court reporter, referee, commissioner, and any other personnel as the judge considers necessary to facilitate and transact the business of the court. The judge of the court shall fix their compensation within the limits and in the manner as provided by law concerning these officers and employees. These personnel serve at the pleasure of the court and are paid monthly in the manner of payment for officers and employees of Wayne circuit court and Wayne superior courts No. 1 and No. 2.

Sec. 7. The clerk, under the direction of the judge of the 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. (a) The court shall hold its sessions in a place to be determined and provided by the county council of Wayne County.

(b) The board of county commissioners of Wayne County:

(1) shall provide and maintain in the courthouse a suitable and convenient courtroom for holding the court and suitable and convenient jury room and offices for the judge, official court reporter, and staff of the court; and

(2) shall provide all necessary furniture and equipment for the rooms, offices, and employees of the court and all necessary dockets, books, and records for the court.

(c) The county council shall make all necessary appropriations from the general fund of the county for the purpose of carrying out this chapter.

Sec. 9. Jury commissioners for the Wayne circuit court shall be jury commissioners for the court.

Sec. 10. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, sit as judge of the court in any matter in the small claims and minor offenses division of the court, as if the judge were an elected judge of the court.

Sec. 11. The judges of the Wayne circuit court and Wayne superior courts No. 1 and No. 2 may, with the consent of the judge of the court, transfer any action, cause, or proceeding filed and docketed in the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, to the court by transferring all original papers and instruments filed in such an action, cause, or proceeding. The action, cause, or proceeding shall be treated as if originally filed with the court. The judge of the court may, with the

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consent of the judge of the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, transfer any action, cause, or proceeding filed and docketed in the court, except a cause properly docketed in the small claims or minor offenses division of the court, to the Wayne circuit court, Wayne superior court No. 1, or Wayne superior court No. 2, by transferring all original papers and instruments filed in the action, cause, or proceeding. The action, cause, or proceeding shall be treated as if originally filed with the transferee court. However, if any cause, action, or proceeding transferred under this section is later transferred on change of venue to a court of another county or if any cause is appealed to the court of appeals or supreme court of Indiana, then the party taking the change of venue or appeal may have a transcript made of the proceedings in each court, certified by the clerk of that court. The transcript has the same force and effect and gives the court to which it is taken on change of venue or appeal the same jurisdiction, as though this transcript had been originally made when the cause was transferred to the transferee court.

Sec. 12. The Wayne superior court No. 3 has a standard small claims and misdemeanor division.

Chapter 90. Wells County

Sec. 1. Wells County constitutes the twenty-eighth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Wells superior court.

(b) The Wells superior court is a standard superior court as described in IC 33-29-1.

(c) Wells County comprises the judicial district of the court.

Sec. 3. The Wells superior court has one (1) judge who shall hold sessions in:

(1) the Wells County courthouse in Bluffton; or

(2) other places in the county that the Wells County executive may provide.

Sec. 4. The Wells superior court has the same jurisdiction as the Wells circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 5. The Wells superior court has a standard small claims and misdemeanor division.

Chapter 91. White County

Sec. 1. White County constitutes the thirty-ninth judicial circuit.

Sec. 2. (a) There is established a court of record to be known as

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the White superior court.

(b) The White superior court is a standard superior court as described in IC 33-29-1.

(c) White County comprises the judicial district of the court.

Sec. 3. The White superior court has one (1) judge who shall hold sessions in:

(1) the White County courthouse in Monticello; or

(2) other places in the county that the board of county commissioners of White County may provide.

Sec. 4. The White superior court has the same jurisdiction as the White circuit court.

Sec. 5. The White superior court has a standard small claims and misdemeanor division.

Chapter 92. Whitley County

Sec. 1. Whitley County constitutes the eighty-second judicial circuit.

Sec. 2. (a) There is established a court of record to be known as the Whitley superior court.

(b) The Whitley superior court is a standard superior court as described in IC 33-29-1.

(c) Whitley County comprises the judicial district of the court.

Sec. 3. The Whitley superior court has one (1) judge who shall hold sessions in:

(1) the Whitley County courthouse in Columbia City; or

(2) other places in the county that the board of county commissioners of Whitley County may provide.

Sec. 4. (a) If the Whitley county executive establishes the position of small claims referee to serve the Whitley superior court, the judge of the Whitley superior court may appoint a part-time small claims referee under IC 33-29-3 to assist the court in the exercise of its small claims jurisdiction.

(b) The small claims referee is entitled to reasonable compensation not exceeding twenty thousand dollars ($20,000) as recommended by the judge of the Whitley superior court to be paid by the county after the compensation is approved by the county fiscal body. The state shall pay fifty percent (50%) of the salary set under this subsection and the county shall pay the remainder of the salary.

(c) The Whitley County executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including furniture and equipment, as necessary.

(d) The Whitley superior court shall employ administrative staff

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necessary to support the functions of the small claims referee.

(e) The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this section.

Sec. 5. The Whitley superior court has the same jurisdiction as the Whitley circuit court, except that the circuit court has juvenile jurisdiction.

Sec. 6. The Whitley superior court has a standard small claims and misdemeanor division.

SECTION 13. IC 33-34 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 34. MARION COUNTY SMALL CLAIMS COURTS

Chapter 1. Establishment and General Provisions

Sec. 1. As used in this article, "judge" means the judge of a small claims court established under this chapter unless otherwise indicated.

Sec. 2. (a) There are established township small claims courts in each county containing a consolidated city.

(b) The name of each court shall be the "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

Sec. 3. The small claims court is not a court of record.

Sec. 4. The small claims court shall meet in continuous session.

Sec. 5. The judge of the circuit court shall extend aid and assistance to the judges in the conduct of the township small claims courts.

Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following the hearing provided for in section 7 of this chapter.

Sec. 7. In 1975, a hearing was conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public on the question of whether a small claims court division should be established in the township, in each township with a population of less than fifteen thousand (15,000) persons, whether the division should be full time or part time, the location of the division courtroom and offices, and other relevant matters.

Sec. 8. The township trustee shall give ten (10) days notice of all hearings held under section 7 of this chapter in one (1) or more newspapers of general circulation in the county.

Sec. 9. Not more than two (2) weeks following a hearing held under section 7 of this chapter, the township board shall, after

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considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order as to:

(1) whether a small claims court division shall be established in the township if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the division, if any, shall function full time or part time;

(3) the location of the division courtroom and offices under IC 33-34-6-1; and

(4) other relevant matters.

Chapter 2. Judges

Sec. 1. A judge shall be elected at the general election every four (4) years by the registered voters residing within the township in which the division of the small claims court is located.

Sec. 2. A judge must meet the qualifications prescribed by IC 3-8-1-30.

Sec. 3. The term of office of a judge is four (4) years, beginning January 1 after election and continuing until a successor is:

(1) elected; and

(2) qualified.

Sec. 4. (a) The circuit court judge may establish a regular hourly schedule for the performance of duties by full-time or part-time township small claims courts and each judge shall maintain that schedule.

(b) If the circuit court judge does not establish a regular hourly schedule, the judge shall perform the judge's duties at regular, reasonable hours.

(c) Regardless of whether a regular hourly schedule has been established as set forth in subsection (a), a judge shall hold sessions in addition to the judge's regular schedule whenever the business of the judge's court requires.

Sec. 5. (a) The salary of a judge who serves full time must be in an amount determined by the township board of the township in which the small claims court is located.

(b) The salary of each judge who serves part time must be in an amount determined by the township board and approved by the city-county council.

(c) The salary of a judge may not be reduced during the judge's term of office.

(d) At any other time, salaries of any full-time or part-time judge may be increased or decreased by the township board of the township in which the small claims court is located.

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Sec. 6. (a) The annual salary of a judge shall be paid in twelve (12) equal monthly installments by the township trustee.

(b) The judge may not receive remuneration other than a salary set under section 5 of this chapter for the performance of the judge's official duties except payments for performing marriage ceremonies.

Sec. 7. (a) A judge serving part-time may participate in other gainful employment if the employment does not:

(1) interfere with the exercise of the judge's judicial office; or

(2) involve any conflict of interest in the performance of the judge's judicial duties.

(b) A judge serving full time may practice law if the practice does not conflict in any way with the judge's official duties and does not:

(1) cause the judge to be unduly absent from the court; or

(2) interfere with the ready and prompt disposal of the judge's judicial duties.

Sec. 8. The:

(1) judge of a small claims court; and

(2) employees of the court;

may be eligible to participate in the public employees' retirement fund as provided in IC 5-10.3, but a judge is not eligible to participate as a member in the judges' retirement fund under IC 33-38.

Sec. 9. (a) A vacation of one (1) month per year shall be provided for a judge who serves in a full-time capacity.

(b) The circuit court judge may authorize the appointment of a judge pro tempore to handle the judicial business of the vacationing judge, if the circuit court judge considers it necessary.

Sec. 10. (a) A judge is subject to disciplinary action for the grounds and in the manner set forth in IC 33-38-14.

(b) The commission on judicial qualifications for judges of the superior and probate courts is the commission on judicial qualifications for the judges of the small claims courts.

Sec. 11. Before assuming the duties of a judge, a judge must take an oath to:

(1) faithfully perform the duties of the judge's office; and

(2) support and defend to the best of the judge's ability the constitution and laws of Indiana and the United States.

Sec. 12. (a) A judge shall:

(1) furnish a bond in a sum required by the circuit court judge to provide for the:

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(A) faithful discharge of the duties of the office; and

(B) payment or delivery to the proper persons of whatever money or other property may come into the judge's hands when acting as judge; and

(2) file the bond with the county recorder.

The bond must also extend to cover a person that is appointed to act as judge under IC 33-34-5-4.

Sec. 13. (a) A judge shall procure a seal that will stamp upon paper a distinct impression of words and letters. The seal must contain the words "_____ Township of Marion County Small Claims Court" (insert the name of the township in the blank).

(b) Deeds, mortgages, powers of attorney, state warrants, and all other instruments of writing pertaining to the judge's official duty, attested by the seal and signature of the judge, are presumptive evidence of the official character of the court or judge in all courts in Indiana without further authentication.

Sec. 14. (a) The resignation of a judge shall be delivered to the clerk of the circuit court. The clerk shall advise the circuit court and appropriate township board.

(b) A vacancy occurring in a judgeship must be filled under IC 3-13-10.

Chapter 3. Jurisdiction, Rules, and Procedure

Sec. 1. (a) Except for a claim between landlord and tenant, a case within the jurisdiction of a small claims court may be:

(1) venued;

(2) commenced; and

(3) decided;

in any township small claims court within the county. However, upon a motion for change of venue filed by the defendant within ten (10) days of service of the summons, the township small claims court shall determine in accordance with subsection (b) whether required venue lies with the court or with another small claims court in the county in which the small claims court action was filed.

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

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

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

(3) Venue is in the township (in a county of the small claims

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court) where the greater percentage of individual defendants included in the complaint resides, or, if there is not a greater percentage, the place where any individual named as a defendant:

(A) resides;

(B) owns real estate; or

(C) rents an apartment or real estate or where the principal office or place of business of any defendant is located.

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

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

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

Sec. 2. The court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars ($6,000), not including interest or attorney's fees.

Sec. 3. The court has original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars ($6,000). The court also has original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars ($6,000). These jurisdictional limitations are not affected by interest and attorney's fees.

Sec. 4. The court has original and concurrent jurisdiction with the circuit and superior court in emergency possessory actions between a landlord and tenant under IC 32-31-6.

Sec. 5. The small claims court has no jurisdiction:

(1) in actions seeking injunctive relief or involving partition of real estate;

(2) in actions to declare or enforce any lien except as provided in section 14 of this chapter;

(3) in actions in which the appointment of a receiver is asked; or

(4) in suits for dissolution or annulment of marriage.

Sec. 6. The judge of the circuit court, assisted by the judges of

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the small claims court, shall make and adopt uniform rules for conducting the business of the small claims court:

(1) according to a simplified procedure; and

(2) in the spirit of sections 7 and 9 of this chapter.

Sec. 7. A simplified procedure shall be established by rule to enable any person, including the state, to:

(1) file the necessary papers; and

(2) present the person's case in court;

either to seek or to defend against a small claim without consulting or being represented by an attorney.

Sec. 8. (a) Upon the filing of a complaint, service of original process shall be attempted by personal service of the summons and complaint on the defendant, which may include leaving a copy of the service at the last known place of residence of the party if the process server properly describes on the return the residence, noting any of its unique features, and mailing by first class a copy of the service without charge to the party at the same last known place of residence.

(b) If service cannot be made in this manner, service of process shall be made in an alternate manner as provided by the Indiana Rules of Civil Procedure.

(c) Subsequent service of process, other than that originally served upon filing of the complaint, may be made by registered or certified mail or another manner authorized by the Indiana Rules of Civil Procedure.

Sec. 9. A trial:

(1) must be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law; and

(2) may not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence, except the provisions relating to privileged communications and offers of compromise.

Sec. 10. There may not be a trial by jury in the small claims court.

Sec. 11. (a) A filing of a civil claim in the small claims court constitutes a waiver of trial by jury by the plaintiff.

(b) A defendant in a small claims case waives the right to trial by jury unless the defendant requests a jury trial at least three (3) calendar days before the trial date that appears on the complaint. Upon the filing of a jury trial request, the small claims court shall transfer the claim to the superior court of the county. The

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defendant shall pay all costs necessary for filing the claim in the superior court as if the cause had been filed initially in that court.

(c) A notice of claim filed in the small claims court must include a statement that reflects the provisions of subsection (b).

Sec. 12. The small claims court shall take judicial notice of municipal, city, and town ordinances.

Sec. 13. (a) If the judgment or order is against the defendant, the defendant shall pay the judgment at any time and upon terms and conditions as the judge orders.

(b) If the judge orders that the judgment be paid in specified installments, the judge may stay the issuance of execution and other supplementary process during the period of compliance with the order.

(c) A stay ordered under subsection (b) may be modified or vacated by the court.

Sec. 14. (a) All judgments rendered in civil actions may be recorded in the judgment docket book of the proper division of the small claims court.

(b) A judgment entered by a small claims court is a lien on real estate when entered in the circuit court judgment docket in the same manner as a judgment in a court of general jurisdiction becomes a lien on real estate under IC 34-55-9.

(c) The clerk of the small claims court shall keep a docket in which judgments shall be entered and properly indexed in the name of the judgment defendant as judgments of circuit courts are entered and indexed.

Sec. 15. (a) All appeals from judgments of the small claims court shall be taken to the superior court of the county and tried de novo.

(b) The rules of procedure for appeals must be in accordance with the rules established by the superior court.

(c) The appellant shall pay all costs necessary for the filing of the case in the superior court, as if the appeal were a case that had been filed initially in that court.

Chapter 4. Powers

Sec. 1. A judge may:

(1) administer oaths;

(2) take and certify acknowledgements of deeds; and

(3) give all necessary certificates for the authentication of the records and proceedings of the small claims court.

Sec. 2. The small claims court has the same power as the circuit court in relation to the:

(1) attendance of witnesses;

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(2) punishment of contempts; and

(3) enforcement of its orders.

Sec. 3. A judge may:

(1) issue and direct all process to individuals and corporations necessary to exercise the jurisdiction of the court;

(2) make all proper judgment, sentences, decrees, and orders; and

(3) do all acts necessary or proper in conformity with state laws;

assisted as necessary by the clerk of the circuit court.

Sec. 4. Each judge may solemnize marriages.

Chapter 5. Transfer of Cases, Absent Judge, and Special Judge

Sec. 1. The circuit court judge may transfer cases from one (1) township small claims court to another as necessary.

Sec. 2. A judge of the circuit or superior court may order a cause filed in the circuit or superior court to be transferred to the small claims court if the:

(1) small claims court has jurisdiction of the cause concurrent with the circuit or superior court; and

(2) judge consents to the transfer.

Sec. 3. The judges of the small claims court may sit in place of each other and perform each other's duties:

(1) at the direction of or with the approval of the circuit court judge; and

(2) with the consent of the respective judges.

Sec. 4. (a) If a judge is unable to preside over the judge's division of the small claims court during any number of days, the judge may appoint in writing a person qualified to be a small claims judge under IC 33-34-2-2 to preside in place of the judge.

(b) The written appointment shall be entered on the order book or record of the circuit court. The appointee shall, after taking the oath prescribed for the judges, conduct the business of the division subject to the same rules and regulations as judges and has the same authority during the continuance of the appointee's appointment.

(c) The appointee is entitled to the same compensation from the township trustee as accruable to the small claims judge in whose place the appointee is serving.

Sec. 5. (a) A judge absent from the bench for more than thirty (30) days shall deposit the dockets, books, and papers of the office with the:

(1) small claims judge of another division; or

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(2) circuit court;

as directed by the circuit court judge.

(b) A:

(1) judge with whom the docket of another judge is deposited during a vacancy or an absence; and

(2) successor of any judge who has the dockets of the successor's predecessor in the successor's possession;

may perform all duties that the judge might do legally in relation to the judge's own dockets.

(c) Process shall be returned to the judge who has the legal custody of the docket at the day of return.

Sec. 6. (a) Only another judge may serve as a special judge in the small claims court.

(b) Except for mileage and travel expense, a judge serving as a special judge under this section may not receive compensation in addition to the salary provided under this article.

Chapter 6. Facilities and Personnel

Sec. 1. The township trustee shall provide a courtroom for each division and an office for each judge in a convenient location within the township that has:

(1) adequate access;

(2) sufficient parking facilities;

(3) a separate and appropriate courtroom;

(4) proper space and facilities for the bailiff, clerks, and other employees; and

(5) enough room for files and supplies.

Sec. 2. A township shall:

(1) furnish all:

(A) supplies, including all blanks, forms, stationery, and papers of every kind, required for use in all cases in the township division of the small claims court; and

(B) furniture, books, and other necessary equipment and supplies; and

(2) provide for all necessary maintenance and upkeep of the facilities where court is held.

Sec. 3. Each township shall provide an appropriate and competitive salary of at least five thousand six hundred dollars ($5,600) for the number of clerks for the small claims court sufficient to:

(1) operate efficiently; and

(2) adequately serve the citizens doing business with the court.

Sec. 4. (a) The voters of each township having a small claims

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court shall elect a constable for the small claims court at the general election every four (4) years for a term of office of four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified. The ballot must state the:

(1) name of the candidate; and

(2) court for which the candidate is to serve.

(b) Each small claims court shall have a constable who:

(1) acts as the bailiff of the court;

(2) serves the court's personal service of process;

(3) has police powers to:

(A) make arrests;

(B) keep the peace; and

(C) carry out the orders of the court;

(4) must meet the qualifications prescribed by IC 3-8-1-31;

(5) is compensated for each process that is delivered to effect personal service when serving as the bailiff for the court;

(6) is responsible for:

(A) the preparation and mailing of all registered or certified service and is compensated for each process served by mail; and

(B) all the official acts of the deputies;

(7) is compensated solely from the service of process fees collected under IC 33-34-8-1; and

(8) may require a deputy to give a bond for the proper discharge of the deputy's duties for an amount fixed by the constable.

(c) The elected constable may appoint full-time and part-time deputies for assistance in the performance of official duties who:

(1) perform all the official duties required to be performed by the constable;

(2) possess the same statutory and common law powers and authority as the constable;

(3) must take the same oath required of the constable;

(4) are compensated solely from the service of process fees collected under IC 33-34-8-1; and

(5) serve at the pleasure of the constable and may be dismissed at any time with or without cause.

(d) If there is an:

(1) emergency; or

(2) inability of a constable to carry out the constable's duties;

the judge may appoint a special constable to carry out the duties of the constable during the emergency or inability.

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Chapter 7. Records; Reports; Accounting

Sec. 1. The state board of accounts shall provide rules, in cooperation with the appropriate county officers, to specify the:

(1) forms; and

(2) records;

for the handling and reporting of money and other property by or in connection with the small claims court.

Sec. 2. Each judge shall prepare, certify, and file quarterly reports on March 31, June 30, September 30, and December 31 of each year with the circuit court judge, which must include the:

(1) total case filings;

(2) terminations; and

(3) cases remaining open;

broken down by the type of case, in a form approved by and distributed under the direction of the circuit court judge.

Sec. 3. The judge of the circuit court, with the assistance of the clerk of the circuit court, the judges of the small claims courts, and the state board of accounts, shall, at the expense of the townships:

(1) provide the forms, blanks, court calendar books, judgment dockets, and fee books; and

(2) make rules and instructions to direct the judges in keeping records and making reports.

The clerk of the circuit court shall keep full and permanent records and reports of each judge's past and current proceedings, indexed and available for reference as a public record.

Chapter 8. Fees and Costs

Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

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The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

Sec. 2. The person who is designated by a judge to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the _____ County Small Claims Court _____ Division (with the name of the county and township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state all automated record keeping fees received by the court for deposit in the state user fee fund established under IC 33-37-9; and

(2) distribute monthly to the county auditor all document storage fees received by the court. The county auditor shall deposit fees distributed under this subdivision into the clerk's record perpetuation fund under IC 33-37-5-2.

Sec. 4. Fees, costs, and any other amounts collected by the courts shall be accounted for quarterly to the clerk of the circuit court on:

(1) March 31;

(2) June 30;

(3) September 30; and

(4) December 31;

of each year.

SECTION 14. IC 33-35 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 35. CITY AND TOWN COURTS

Chapter 1. Establishment; Election of Judges

Sec. 1. (a) During every fourth year after 1986, a second or third class city or a town may by ordinance establish or abolish a city or town court. An ordinance to establish a city or town court must be

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adopted not less than one (1) year before the judge's term would begin under section 3 of this chapter.

(b) The judge for a court established under subsection (a) shall be elected under IC 3-10-6 or IC 3-10-7 at the municipal election in November 1987 and every four (4) years thereafter.

(c) A court established under subsection (a) comes into existence on January 1 of the year following the year in which a judge is elected to serve in that court.

(d) A city or town court in existence on January 1, 1986, may continue in operation until it is abolished by ordinance.

(e) A city or town that establishes or abolishes a court under this section shall give notice of its action to the division of state court administration of the office of judicial administration under IC 33-24-6.

Sec. 2. (a) This section applies to a town that:

(1) adopts an ordinance under IC 3-10-6-2.6; and

(2) subsequently adopts an ordinance to establish a town court under section 1 of this chapter.

(b) Notwithstanding section 1 of this chapter, the judge of the town court shall be elected at the next municipal election not conducted in a general election year. The successors of the judge shall be elected at the first general election following the municipal election and every four (4) years thereafter.

Sec. 3. (a) The judge of a city or town court shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the city or town.

(b) Except as provided in subsections (c) and (d), the term of office of a judge elected under this section is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) This subsection applies to a town that adopts an ordinance under IC 3-10-6-2.6. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is one (1) year; and

(2) the successors to the judge described in subdivision (1) is four (4) years;

beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(d) This subsection applies to a town that adopts an ordinance under IC 3-10-7-2.7. The term of office of:

(1) a judge elected at the next municipal election not conducted in a general election year is three (3) years; and

(2) the successors to the judge described in subdivision (1) is

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four (4) years;

beginning noon January 1 after election and continuing until a successor is elected and qualified.

(e) Before beginning the duties of office, the judge shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the duties of office.

Sec. 4. To be eligible to hold the office of city court judge, as provided by Article 6, Section 6, of the Constitution of the State of Indiana, the judge must be a resident of the city during the term of office or the office becomes vacant.

Sec. 5. Before beginning the duties of office, the judge of a town court must:

(1) take and subscribe to the same oath of office as judges of circuit courts; and

(2) execute a bond payable to the town in the penal sum of five thousand dollars ($5,000), conditioned upon the faithful performance of the duties of the judge's office with good and sufficient surety.

The bond must be approved by the legislative body of the town and filed in the office of the town clerk-treasurer.

Chapter 2. Judge's Powers and Jurisdiction

Sec. 1. (a) A judge of a city or town court:

(1) may adopt rules for conducting the business of the court;

(2) has all powers incident to a court of record in relation to:

(A) the attendance of witnesses;

(B) the punishment of contempts;

(C) the enforcement of its orders; and

(D) the issuance of commissions for taking depositions in cases pending in the court;

(3) may administer oaths; and

(4) may give all necessary certificates for the authentication of the records and proceedings of the court.

(b) If the judge is temporarily absent or unable to act, the judge shall appoint a reputable practicing attorney to preside in the judge's absence as special judge. The special judge:

(1) has all the powers and rights; and

(2) shall perform all the duties;

of the judge of the court as fully as the regular judge appointing the special judge.

Sec. 2. A judge of a city or town court shall provide, at the expense of the town or city, a seal for the court that must contain on the face the words: "(Town or City) Court of _____,

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Indiana.". A description of the seal, together with an impress of it, shall be put on the records of the court.

Sec. 3. A city court has the following jurisdiction over crimes, infractions, and ordinance violations:

(1) Jurisdiction of all violations of the ordinances of the city.

(2) Jurisdiction of all misdemeanors and all infractions.

Sec. 4. A city court has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed five hundred dollars ($500). However, the city court does not have jurisdiction in actions for:

(1) slander;

(2) libel;

(3) foreclosure of mortgage on real estate, in which the title to real estate is in issue;

(4) matters relating to a decedent's estate, appointment of guardians, and all related matters; and

(5) actions in equity.

Sec. 5. The city court of each of the four (4) cities having the largest populations and the town court of the town having the largest population in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) have concurrent civil jurisdiction with the circuit court of the county where the amount in controversy does not exceed three thousand dollars ($3,000). The court has jurisdiction in any action where the parties or the subject matter are in the county in which the city or town is located. However, the city or town court does not have jurisdiction in:

(1) actions for slander or libel;

(2) matters relating to decedents' estates, appointment of guardians, and all related matters;

(3) dissolution of marriage actions; or

(4) injunction or mandate actions.

Sec. 6. A city court in a third class city that is not a county seat and to which section 5 of this chapter does not apply has concurrent jurisdiction with the circuit court in civil cases in which the amount in controversy does not exceed three thousand dollars ($3,000). However, the city court does not have:

(1) jurisdiction in actions for:

(A) slander;

(B) libel;

(C) foreclosure of mortgages on real estate, in which the title to real estate is in issue;

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(D) all matters relating to a decedent's estate, appointment of guardians and all related matters; and

(E) actions in equity; and

(2) original jurisdiction in which the principal defendant resides within another city having a city court with a civil jurisdiction.

Judgments rendered in the city court, when a certified transcript is filed with the clerk of the circuit court, have the same force as judgments rendered in the circuit court.

Sec. 7. If in a proceeding in a city court the title to land is put in issue by plea supported by affidavit, or manifestly appears from the proof on trial to be in issue, the court shall, without further proceeding, certify the case and papers to the circuit or other court having jurisdiction in the county in which the case is being tried. However, if the title to land is put in issue by affidavit or verified pleading, the court shall at once hear and determine whether title is in issue, and, if the proof supports the issue, then the case shall be certified for final determination, including the issue of title.

Sec. 8. (a) A town court has exclusive jurisdiction of all violations of the ordinances of the town.

(b) A town court also has jurisdiction of all misdemeanors and all infractions.

Chapter 3. Personnel; Expenses; Costs

Sec. 1. (a) The officers of a city court are a:

(1) judge;

(2) clerk; and

(3) bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

Sec. 2. (a) In second class cities, the city clerk is the clerk of the city court. The city clerk of a third class city is the clerk of the city

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court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

(b) A city clerk of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

(c) The clerk may administer oaths.

(d) The clerk of a city or town court shall:

(1) issue all process of the court, affix the seal of the court to the process, and attest to the process;

(2) keep a complete record and docket of all cases showing:

(A) the name of a person who was arrested and brought before the court;

(B) the disposition of the case; and

(C) an account of the:

(i) fees;

(ii) fines;

(iii) penalties;

(iv) forfeitures;

(v) judgments;

(vi) executions;

(vii) decrees; and

(viii) orders;

in as near to the same manner as the records are kept by the clerk of the circuit court; and

(3) collect all:

(A) fees;

(B) fines;

(C) penalties and forfeitures;

(D) judgments;

(E) executions; and

(F) money;

accruing to the city or town from the enforcement of ordinances.

(e) At the close of each week, the clerk shall make and deliver to the city controller of a second class city, clerk-treasurer of a third class city, or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment.

(f) At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or

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town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

(g) In cities in which the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

(h) The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-7 or IC 33-37-7-8.

Sec. 3. (a) The bailiff of a city court must be a police officer of the city assigned to the court by the chief of police, under direction of the board of public safety. However, the judge of the city court may appoint another person to serve as bailiff.

(b) The bailiff shall give bond payable to the city in the penal sum of one thousand dollars ($1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of the bailiff's duties. The bond shall be filed in the office of the controller or clerk-treasurer.

(c) The bailiff shall do the following:

(1) Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.

(2) Take charge of all executions issued by the court and see to the collection of the executions.

(3) Keep, in books to be furnished by the controller or clerk-treasurer, an accurate account and docket of all executions that come into the bailiff's hands, showing the:

(A) names of the defendants;

(B) date and number of the execution;

(C) amount of fines, fees, or penalties imposed; and

(D) disposition of the execution.

(4) Make and deliver a written report to the clerk of the court on Tuesday of each week, showing all money collected by the bailiff during the previous week, giving the:

(A) names of the defendants;

(B) number of executions; and

(C) amount of fines, fees, or penalties collected;

and pay the money to the clerk, taking the clerk's receipt for the payments.

(d) The salary of the bailiff shall be fixed as salaries of other

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police officers are fixed.

(e) The bailiff of a city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be appointed by the judge of the court. The bailiff shall serve and execute all processes issued by the court and is entitled to receive a salary fixed by the common council of the city. In addition, the bailiff may collect a fee from a defendant for the bailiff's own use on all execution sales of property under an execution or attachment as follows:

(1) On the first fifty dollars ($50), ten percent (10%).

(2) On more than fifty dollars ($50) and not more than three hundred dollars ($300), five percent (5%).

(3) On all sums over three hundred dollars ($300), three percent (3%).

(4) Any additional sum necessarily expended by the bailiff in collecting the judgment.

A bailiff may use the bailiff's private vehicle in the performance of the bailiff's duties and is entitled to receive a sum for mileage equal to the sum paid per mile to state officers and employees. The payment to the bailiff is subject to the approval of the judge. The judge shall include in the budget for the court sufficient money to provide for the anticipated claims of the bailiff. The common council shall make annual appropriations that are necessary to carry out this subsection.

Sec. 4. The town marshal or a deputy marshal shall serve all process issuing from the town court.

Sec. 5. (a) The common council of a city having a city court may create the position of city court referee to assist the city court judge in the administration of the judge's duties and the disposition of matters pending in the court. The common council may authorize more than one (1) referee. After authorization is granted, the judge shall appoint one (1) or more referees. The referee or referees serve at the pleasure of the judge.

(b) A referee shall take the same oath of office as provided for the judge and must have the same qualifications for office as required for the judge. A referee may administer oaths in the performance of the referee's duty and use the seal of the court. In all cases coming before the referee, the referee shall comply with the requirements of procedure provided for the hearing of cases by the court. The referee shall make a return of the referee's findings and recommendations in writing to the court, and the court shall

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proceed to enter the order, judgment, or decree that the court considers proper.

(c) The salary of a referee shall be fixed by the judge subject to the approval of the common council of the city. The common council shall appropriate sufficient money to pay the referee.

Sec. 6. (a) The prosecuting attorney of the judicial circuit in which the city is located shall prosecute all cases in a city court for violation of statutes.

(b) The city attorney shall prosecute all cases of city ordinance violations.

Sec. 7. A judge of a city or town court shall provide, at the expense of the city or town, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

Sec. 8. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(c) Money paid in advance for costs remaining unexpended at the time an action or a proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

(d) This section expires July 1, 2005.

Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at

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the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

Chapter 4. Court Sessions; Compensation; Restrictions on Activities of Judges

Sec. 1. (a) A city court judge shall hold regular sessions of the city court at a place to be provided and designated by the legislative body of the city.

(b) A town court judge shall hold sessions of the town court as the business of the court demands at a place to be provided and designated by the legislative body of the town.

Sec. 2. (a) Special judges of a city court are entitled to the compensation allowed special judges in the circuit court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the city controller or clerk-treasurer.

(b) A city court judge may not receive any fees or compensation other than the judge's salary, as established under subsection (e).

(c) A city court judge of each of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is entitled to receive, for additional services that this article requires to be performed, three thousand five hundred dollars ($3,500) per year in addition to the salary otherwise provided. The fiscal body of the city shall appropriate the money necessary to pay the additional compensation.

(d) A town court judge is entitled to receive the compensation that is prescribed by the fiscal body of the town.

(e) A city court judge is entitled to receive compensation that is prescribed by the fiscal body of the city.

Sec. 3. A city court judge may not act as attorney, agent, or counsel for the applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1 or aid or assist in any manner in the procuring of such a license. A person who recklessly violates this section commits a Class B misdemeanor.

Chapter 5. Records; Procedures; Practices

Sec. 1. City courts are governed by the laws and rules governing the practice, pleading, and processes in circuit courts.

Sec. 2. A change of venue may not be taken from a city or town court. However, a defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for

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the circuit court.

Sec. 3. All warrants or other processes issued by the city court must be:

(1) directed to the chief of police of the city or any person specially deputized by the city court; and

(2) executed, served, and returned by the chief, by any police officer of the city, or by the specially deputized person.

The members of the police force of the city shall cause all persons arrested by the police force for a violation of any law to be taken before the city court for trial or examination.

Sec. 4. (a) City courts of the three (3) cities having the largest populations in counties having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall keep the following books of record on the civil side of the court:

(1) A loose leaf minute book, similar to that kept by the circuit court, each case to be numbered consecutively in order of its filing.

(2) Index and cross-index book, containing the names of all parties to each action with the number of the case opposite the name.

(3) A fee book as is provided for city courts.

(4) An order book in which all orders of a cause are written consecutively when final judgment or order is entered.

(b) The case should bear the same number as originally given to the case when filed and must be arranged in the order book consecutively according to the original number given to the case when filed. All orders, proceedings, records of issuing execution, returns of execution, and satisfactions of execution shall be grouped together, if practical, on one (1) page or on consecutive pages when there is not sufficient room to group it on one (1) page. All costs in a cause shall be taxed on the margin of the page containing the final order or judgment. All orders not connected with a specific case, such as general appointments made by the judge, shall be entered in the minute book under a separate number and recorded in the record book under that number.

Sec. 5. All issues of fact pending in city courts shall be tried by the judge, unless either party demands a jury trial. The jury must consist of six (6) qualified voters of the city, to be summoned by the bailiff by venire issued by the judge.

Sec. 6. The style of the city or town court is "The (City or Town) Court of _____," according to the name of the city or town.

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Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) A person selected as judge of the following courts must be an attorney in good standing under the requirements of the supreme court:

(1) Anderson city court.
(2) Avon town court.
(3) Brownsburg town court.
(4) Carmel city court.
(5) A city or town court located in Lake County.
(6) Muncie city court.
(7) Noblesville city court.
(8) Plainfield town court.
(9) Greenwood city court.
(10) Martinsville city court.

Sec. 8. (a) All judgments, decrees, orders, and proceedings of city and town courts have the same force as those of the circuit court. A judgment becomes a lien on real estate when a transcript of the judgment is filed with the clerk of the circuit court.

(b) All orders of sale and executions affecting real estate from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be issued by the clerk of the circuit court to the sheriff upon the filing of a certified copy of the judgment. When the copy is filed, the court rendering the judgment has no further jurisdiction of the case except to furnish a transcript for appeal. The life of a lien may be continued in force when the action is started in the city court, as though the action were filed in the circuit court, by filing with the clerk of the circuit court a certificate, certified to by the judge of the city court and containing:

(1) the names of the parties to the suit;
(2) the nature of the action;
(3) the description of the property affected; and
(4) the amount in controversy.

The judge shall enter minutes on the docket showing the issuing of the certificates.

Sec. 9. (a) An appeal from a judgment of a city court may be taken to the circuit or superior court of the county and tried de novo.

(b) An appeal from a judgment of a town court may be taken to the superior or circuit court of the county within thirty (30) days

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after the rendition of the judgment.

(c) A prisoner against whom punishment is adjudged by a city court may appeal to the circuit court of the county, within thirty (30) days after the judgment. If the prisoner, within the thirty (30) days, enters into recognizance for his appearance in court and causes to be filed in the court, within forty-five (45) days, all other papers, documents, and transcripts necessary to complete the appeal, the appeal stays all further proceedings on the judgment in the court below. However, the prisoner may remain in jail on the prisoner's sentence instead of furnishing a recognizance, and an appeal without recognizance does not stay the execution of the court below.

Sec. 10. (a) A party in a civil action who desires to take an appeal from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall file a bond, to the approval of the city court, within thirty (30) days after the date of rendition of final judgment, and the motion to correct errors within ten (10) days after the rendition of final judgment. The transcript and motion shall be filed in the court to which the appeal is taken within thirty (30) days after the motion has been signed by the court.

(b) All errors saved shall be reviewed as far as justice warrants, and for that purpose, a complete transcript of all the evidence is not required. An error occurring during the trial, not excepted to at the time, may be made available upon appeal by setting it forth in a motion for a new trial. Upon application within the time fixed, either of the parties to the suit may obtain either:

(1) a correct statement, to be prepared by the party requesting the signing of the same, of the facts in a narrative form appearing on the trial and of all questions of law involved in the case and the decisions of the court upon the questions of law; or

(2) a correct stenographic report;

and the expense of procuring the correct statement or correct stenographic report shall be paid by the party requesting the correct statement or correct stenographic report.

(c) The appeal shall be:

(1) submitted on the date filed in the court to which the appeal is taken;

(2) advanced on the docket of that court; and

(3) as determined at the earliest practical date, without any

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extension of time for filing of briefs;

but the court to which an appeal is taken may, on application, hear oral arguments.

(d) If judgment is affirmed on appeal, it may be increased by ten percent (10%), in addition to any interest that may be allowed, if the appeal is found to be frivolous.

(e) A change of venue may be taken from the judge to whom the case is appealed as provided by law for taking changes of venue from the judge of the circuit court.

(f) The court to which an appeal is taken shall render its opinion in abbreviated form by simply citing the controlling authorities in the case, unless it appears that some new question of practice, procedure, or law is involved that would warrant a more extensive opinion.

SECTION 15. IC 33-36 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 36. ORDINANCE VIOLATIONS BUREAUS

Chapter 1. Definitions

Sec. 1. The definitions in IC 36-1-2 apply throughout this article.

Chapter 2. Establishment

Sec. 1. The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

Sec. 2. If the legislative body does not establish an ordinance violations bureau under section 1 of this chapter, the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk for purposes of this chapter.

Sec. 3. The violations clerk may accept:

(1) written appearances;

(2) waivers of trial;

(3) admissions of violations; and

(4) payment of civil penalties of not more than one hundred dollars ($100);

in ordinance violation cases, subject to the schedule prescribed under IC 33-36-3 by the legislative body.

Chapter 3. Schedule of Ordinance and Code Provisions; Violations

Sec. 1. (a) Upon the appointment or designation of the violations

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clerk as provided by IC 33-36-2-1, the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount of civil penalty to be assessed to a violator who elects to admit a violation under this chapter.

(b) Civil penalties shall be paid to, receipted by, and accounted for by the clerk under procedures provided for by the state board of accounts. Payment of civil penalties under this chapter may be made in person, by mail, or to an agent or agents designated by the legislative body.

Sec. 2. A person charged with an ordinance or a code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under section 1 of this chapter.

Sec. 3. If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

Sec. 4. In a county having a consolidated city, the schedule of ordinance violations designated by a municipal corporation under this chapter must also be approved by the city-county legislative body.

Sec. 5. (a) If a person:

(1) denies an ordinance or code violation under this article;

(2) fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or

(3) fails to deny or admit the violation under this article;

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation.

(b) Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

Sec. 6. (a) An ordinance violation admitted under this article does not constitute a judgment for the purposes of IC 33-37. An ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.

(b) An ordinance violation processed under this chapter may not be considered for the purposes of IC 33-37-7-5 or IC 33-37-7-6 when determining the percentage of ordinance violations

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prosecuted in certain courts.

Sec. 7. All sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

SECTION 16. IC 33-37 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 37. COURT FEES

Chapter 1. Applicability and Definitions

Sec. 1. This article applies to all proceedings in the following courts:

(1) Circuit courts (Article 7, Section 7 of the Constitution of the State of Indiana, IC 33-28, and IC 33-33).

(2) Superior courts (IC 33-29 and IC 33-33).

(3) County courts (IC 33-30).

(4) Probate courts (IC 33-31).

(5) City and town courts (IC 33-35).

Sec. 2. As used in this article, "clerk" refers to any of the following:

(1) A clerk of a circuit court under IC 33-32-2-1.

(2) The clerk of a city or town court under IC 33-35.

(3) The judge of a city or town court that does not have a clerk.

Sec. 3. The costs imposed by this article are for all proceedings in the action.

Sec. 4. (a) If publication by notice is required by law in any action, the party or the attorney for the party from whom the notice is required shall pay the cost of publication directly to the publisher of the notice.

(b) The party or the attorney for the party shall file with the clerk proof of publication of the notice.

Chapter 2. General Court Costs Provisions for Criminal Actions

Sec. 1. This chapter applies in criminal actions.

Sec. 2. (a) Costs in a criminal action are not a part of the sentence and may not be suspended. However, if:

(1) two (2) or more charges against a person are joined for trial; and

(2) the person is convicted of two (2) or more offenses in the trial;

the court may waive the person's liability for costs for all but one (1) of the offenses.

(b) If a person is acquitted or an indictment or information is

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dismissed by order of the court, the person is not liable for costs.

Sec. 3. (a) When the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent. If the person is not indigent, the court shall order the person to pay:

(1) the entire amount of the costs at the time sentence is pronounced;

(2) the entire amount of the costs at some later date; or

(3) specified parts of the costs at designated intervals.

(b) Upon any default in the payment of the costs:

(1) an attorney representing the county may bring an action on a debt for the unpaid amount; or

(2) the court may direct that the person, if the person is not indigent, be committed to the county jail and credited toward payment at the rate of twenty dollars ($20) for each twenty-four (24) hour period the person is confined, until the amount paid plus the amount credited equals the entire amount due.

(c) If, after a hearing under subsection (a), the court determines that a convicted person is able to pay part of the costs of representation, the court shall order the person to pay an amount of not more than the cost of the defense services rendered on behalf of the person. The clerk shall deposit the amount paid by a convicted person under this subsection in the county's supplemental public defender services fund established under IC 33-40-3-1.

(d) A person ordered to pay part of the cost of representation under subsection (c) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and Indiana law.

Sec. 4. (a) The state shall pay all costs of trial in a prosecution for an offense committed:

(1) by an inmate of a state correctional facility; and

(2) in the county in which the correctional facility is located.

(b) The costs of trial to be paid under this section include:

(1) court fees; and

(2) expenses incurred by the county sheriff in returning the defendant to the jurisdiction of the court and keeping the defendant in custody until trial.

Sec. 5. The fees prescribed by IC 33-37-4-1 are costs and may be collected from a defendant against whom a conviction is entered. A fine or penalty imposed is in addition to costs.

Chapter 3. General Court Costs Provisions for Civil Actions

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Sec. 1. (a) The fees prescribed in civil actions or paternity actions may not be collected from the state or a political subdivision in an action brought by or on behalf of the state or the political subdivision.

(b) This section does not prevent collecting fees from a defendant when the state or political subdivision is successful in its action.

Sec. 2. A person entitled to bring a civil action or to petition for the appointment of a guardian under IC 29-3-5 may do so without paying the required fees or other court costs if the person files a statement in court, under oath and in writing:

(1) declaring that the person is unable to make the payments or to give security for the payments because of the person's indigency;

(2) declaring that the person believes that the person is entitled to the redress sought in the action; and

(3) setting forth briefly the nature of the action.

Sec. 3. (a) When an offender confined by the department of correction commences an action or a proceeding without paying fees or other court costs under section 2 of this chapter, the offender shall obtain from the appropriate official of the correctional facility or facilities at which the offender is or was confined a certified copy of the prisoner's trust fund account statement for the six (6) months immediately preceding submission of the complaint or petition. The offender shall file the trust fund account statement in addition to the statement required under section 2 of this chapter.

(b) The offender shall pay a partial filing fee that is twenty percent (20%) of the greater of:

(1) the average monthly deposits to the offender's account; or

(2) the average monthly balance in the offender's account;

for the six (6) months immediately preceding the filing of the complaint or petition. However, the fee may not exceed the full statutory fee for the commencement of actions or proceedings.

(c) If the offender claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement required by section 2 of this chapter and the statement of account required by subsection (a), the offender shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

(d) If the court approves the application to waive all fees, the

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court shall give written notice to the offender that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the offender that the offender's case will be dismissed if the partial filing fee is not paid not later than forty-five (45) days after the date of the order, or within an additional period that the court may, upon request, allow. Process concerning the offender's case may not be served until the fee is paid.

Sec. 4. A party for whom judgment is entered in a civil action is entitled to recover costs.

Sec. 5. The prepayment of fees under this chapter is not required in an appeal of a civil matter to a circuit court from a court of inferior jurisdiction.

Sec. 6. Court costs fees under this chapter include service of process by certified mail, unless service by the sheriff is requested by the person who institutes the action.

Sec. 7. If personal service of process is carried out by a process server other than the sheriff, the party who paid for the private service is entitled to reimbursement of the cost of the private service as a part of any judgment that party may recover.

Sec. 8. Notwithstanding IC 33-37-4-4, the clerk may not collect a separate civil fee for a name change action initiated under IC 31-15-2-18.

Sec. 9. Prepayment of fees is not required in proceedings for either of the following:

(1) Adoption.

(2) The appointment of a guardian.

Chapter 4. Collection of Court Cost Fees

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 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

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(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(7) A child abuse prevention fee (IC 33-37-5-12).
(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
(9) A highway work zone fee (IC 33-37-5-14).
(10) A deferred prosecution fee (IC 33-37-5-17).
(11) A document storage fee (IC 33-37-5-20).
(12) An automated record keeping fee (IC 33-37-5-21).
(13) A late payment fee (IC 33-37-5-22).
(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(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 33-39-1-8 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, not later than thirty (30) days after the fees are collected:
(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.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(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 shall distribute the partial payment of the criminal costs fee as follows:
(1) The clerk shall apply the partial payment to general court costs.
(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the

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partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs

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fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and

(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 31-34 (children in need of services).

(2) IC 31-37 (delinquent children).

(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(6) A document storage fee (IC 33-37-5-20).

(7) An automated record keeping fee (IC 33-37-5-21).

(8) A late payment fee (IC 33-37-5-22).

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(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).

(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).

(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 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 33-34.

(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

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). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

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(c) This section expires July 1, 2005.

Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

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

(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(c) This section applies after June 30, 2005.

Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate).

(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

Sec. 8. (a) This section applies in all actions listed in sections 4, 5, 6, and 7 of this chapter.

(b) In an action in which there has been or will be a change of

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venue or transfer from one (1) county to another, the clerk of the court from which the action is transferred shall collect from the party seeking change of venue a fee equal to that required by sections 4, 5, 6, and 7 of this chapter. The clerk of the transferring court shall forward the fee collected under this section to the clerk of the court to which the action is transferred.

Sec. 9. The clerk is not required to show on each receipt for court costs collected the proration of court costs:

(1) remitted to the auditor of state, the county auditor, and the municipality as specified in IC 33-37-7; or

(2) collected for any funds specified in IC 33-37-5.

Sec. 10. (a) Not later than seventy-five (75) days after judgment is entered in an action, the clerk shall issue an itemized fee bill for the collection of fees that were charged against the party in that action and that remain unpaid. The clerk shall present the fee bill for collection to the sheriff of a county in which the debtor party resides or in which the debtor party has property.

(b) The sheriff shall do the following:

(1) Collect the amount due under the fee bill.

(2) Return the fee bill to the clerk not more than sixty (60) days after the day the fee bill was issued.

(c) After presented to the sheriff, a fee bill has the effect of an execution and operates as a lien upon the real and personal property of the debtor.

(d) A successor of an officer may issue fee bills for the fees of the officer's predecessors in office in the manner provided under this chapter. A clerk may issue the fee bills of the sheriff or the former sheriffs of the county in the same manner.

Chapter 5. Collection of Additional Fees

Sec. 1. (a) This section applies to a document fee for preparing a transcript or copy of any record. However, this section does not apply to either of the following:

(1) The preparation or copying of a record:

(A) through the use of enhanced access under IC 5-14-3; or

(B) by a governmental entity using an electronic device.

(2) The transmitting of a document by facsimile machine or other electronic device.

(b) Except as provided in subsection (c), the clerk shall collect a fee of one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

(c) The legislative body of a county may adopt by ordinance a schedule of document fees to be collected by a clerk under this

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section. If an ordinance has been adopted, the clerk shall collect document fees according to the schedule. However, the document fee collected by the clerk under this subsection may not exceed one dollar ($1) per legal size or letter size page, including a page only partially covered with writing.

Sec. 2. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit all the following in the fund:

(1) Revenue received by the clerk for transmitting documents by facsimile machine to a person under IC 5-14-3.

(2) Document storage fees required under section 20 of this chapter.

(3) The late payment fees imposed under section 22 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-1 or IC 33-37-7-2.

(b) The clerk may use any money in the fund for the following purposes:

(1) The preservation of records.

(2) The improvement of record keeping systems and equipment.

Sec. 3. Notwithstanding IC 5-14-3, the clerk shall collect a document fee of one dollar ($1) for each certificate under seal attached in authentication of a copy of any record, paper, or transcript.

Sec. 4. The clerk shall collect a document fee of three dollars ($3) for preparing or recording a transcript of a judgment to become a lien on real estate.

Sec. 5. The clerk shall forward document fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-37-7-12(a).

Sec. 6. (a) This section applies to an action in which a final court order requires a person to pay support or maintenance payments through the clerk.

(b) The clerk shall collect a fee in addition to support and maintenance payments. The fee is the following:

(1) Twenty dollars ($20) for the calendar year in which the initial order is entered, unless the first payment is due after June 30 of that calendar year.

(2) Ten dollars ($10) for the calendar year in which the initial order was entered, if the first payment is due after June 30 of that calendar year.

(3) In each subsequent year in which the initial order or a

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modified order is in effect, twenty dollars ($20) if the fee is paid before February 1, or thirty dollars ($30) if paid after January 31.

(c) The fee required under subsection (b) is due at the time that the first support or maintenance payment for the calendar year in which the fee must be paid is due.

(d) The clerk may not deduct the fee from a support or maintenance payment.

(e) Except as provided under IC 33-32-4-6, IC 33-37-7-1(g), and IC 33-37-7-2(g), the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-37-7-12(a).

Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under IC 15-3-4.6-4.1 if:

(1) a weed control board has been established in the county under IC 15-3-4.6-1; and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars ($300).

Sec. 8. (a) This section applies to criminal, infraction, and ordinance violation actions. However, it does not apply to a case excluded under IC 33-37-4-2(d).

(b) The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a county that has established an alcohol and drug services program.

(c) In each action in which a defendant is found to have:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation;

the clerk shall collect a law enforcement continuing education program fee of three dollars ($3).

Sec. 9. (a) This section applies to criminal actions.

(b) The court shall assess a drug abuse, prosecution, interdiction, and correction fee of at least two hundred dollars ($200) and not more than one thousand dollars ($1,000) against a person convicted of an offense under IC 35-48-4.

(c) In determining the amount of the drug abuse, prosecution, interdiction, and correction fee assessed against a person under subsection (b), a court shall consider the person's ability to pay the fee.

(d) The clerk shall collect the drug abuse, prosecution,

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interdiction, and correction fee set by the court when a person is convicted of an offense under IC 35-48-4.

Sec. 10. (a) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200) in each action in which:

(1) a person is found to have:

(A) committed an offense under IC 9-30-5;

(B) violated a statute defining an infraction under IC 9-30-5; or

(C) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult; and

(2) the person's driving privileges are suspended by the court or the bureau of motor vehicles as a result of the finding.

(b) The clerk shall collect an alcohol and drug countermeasures fee of two hundred dollars ($200) in each action in which:

(1) a person is charged with an offense under IC 9-30-5; and

(2) by a plea agreement or an agreement of the parties that is approved by the court:

(A) judgment is entered for an offense under:

(i) IC 9-21-8-50;

(ii) IC 9-21-8-52;

(iii) IC 7.1-5-1-3; or

(iv) IC 7.1-5-1-6; and

(B) the defendant agrees to pay the alcohol and drug counter measures fee.

Sec. 11. (a) This section applies to an action in a circuit court in a county that has established a program under IC 9-30-9.

(b) The probation department shall collect an alcohol abuse deterrent program fee and a medical fee set by the court under IC 9-30-9-8 and deposit the fee into the supplemental adult probation services fund.

Sec. 12. The court shall order a person to pay a child abuse prevention fee of one hundred dollars ($100) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:

(A) murder (IC 35-42-1-1);

(B) causing suicide (IC 35-42-1-2);

(C) voluntary manslaughter (IC 35-42-1-3);

(D) reckless homicide (IC 35-42-1-5);

(E) battery (IC 35-42-2-1);

(F) rape (IC 35-42-4-1);

(G) criminal deviate conduct (IC 35-42-4-2);

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(H) child molesting (IC 35-42-4-3);
(I) child exploitation (IC 35-42-4-4);
(J) vicarious sexual gratification (IC 35-42-4-5);
(K) child solicitation (IC 35-42-4-6);
(L) incest (IC 35-46-1-3);
(M) neglect of a dependent (IC 35-46-1-4);
(N) child selling (IC 35-46-1-4); or
(O) child seduction (IC 35-42-4-7); and

(2) the victim of the offense is less than eighteen (18) years of age.

Sec. 13. The court shall order a person to pay a domestic violence prevention and treatment fee of fifty dollars ($50) to the clerk in each criminal action in which:

(1) the person is found to have committed the offense of:
(A) murder (IC 35-42-1-1);
(B) causing suicide (IC 35-42-1-2);
(C) voluntary manslaughter (IC 35-42-1-3);
(D) reckless homicide (IC 35-42-1-5);
(E) battery (IC 35-42-2-1);
(F) domestic battery (IC 35-42-2-1.3); or
(G) rape (IC 35-42-4-1); and

(2) the victim:
(A) is a spouse or former spouse of the person who committed an offense under subdivision (1);
(B) is or was living as if a spouse of the person who committed the offense of domestic battery under subdivision (1)(F); or
(C) has a child in common with the person who committed the offense of domestic battery under subdivision (1)(F).

Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-30-3-5).

(b) The clerk shall collect a highway worksite zone fee of fifty cents ($0.50). However, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents ($25.50) if:

(1) the criminal action, infraction, or ordinance violation is:
(A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); or
(B) failure to merge (as provided in IC 9-21-8-7.5); and

(2) the judge orders the clerk to collect the fee for exceeding a worksite speed limit or failure to merge.

Sec. 15. (a) The sheriff shall collect from the person who filed

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the civil action a service of process fee of forty dollars ($40), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

(b) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

(c) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

Sec. 16. In addition to any other duties, a clerk shall do the following:

(1) Collect and transfer additional judgments to a county auditor under IC 9-18-2-41.

(2) Deposit funds collected as judgments in the state highway fund under IC 9-20-18-12.

(3) Deposit funds in the conservation officers fish and wildlife fund under IC 14-22-38-4, IC 14-22-38-5, and IC 14-22-40-8.

(4) Deposit funds collected as judgments in the state general fund under IC 34-28-5-4.

Sec. 17. (a) This section applies to actions in which the court defers prosecution under IC 33-39-1-8.

(b) In each action in which prosecution is deferred, the clerk shall collect from the defendant a deferred prosecution fee of fifty dollars ($50) for court costs.

Sec. 18. (a) In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court shall assess a safe schools fee of at least two hundred dollars ($200) and not more than one thousand dollars ($1,000).

(b) In determining the amount of the safe schools fee assessed against a person under subsection (a), a court shall consider the person's ability to pay the fee.

(c) The clerk shall collect the safe schools fee set by the court when a person is convicted of an offense in which the possession or use of a firearm was an element of the offense.

Sec. 19. (a) The clerk shall collect a jury fee of two dollars ($2) in each action in which a defendant is found to have committed a crime, violated a statute defining an infraction, or violated an

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ordinance of a municipal corporation.

(b) The fee collected under this section shall be deposited into the county user fee fund established by IC 33-37-8-5.

Sec. 20. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect a document storage fee of two dollars ($2).

Sec. 21. (a) This section applies to all civil, criminal, infraction, and ordinance violation actions.

(b) The clerk shall collect the following automated record keeping fee:

(1) Seven dollars ($7) after June 30, 2003, and before July 1, 2009.

(2) Four dollars ($4) after June 30, 2009.

Sec. 22. (a) Except as provided in subsection (e), this section applies to an action if all the following apply:

(1) The defendant is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act.

(2) The defendant is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty.

(3) The defendant is not determined by the court imposing the court costs, fine, or civil penalty to be indigent.

(4) The defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars ($25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-37-2-2, a court may suspend a late

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payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

(e) A plaintiff or defendant in an action under IC 33-34 shall pay a late fee of twenty-five dollars ($25) if the plaintiff or defendant:

(1) is required to pay court fees or costs under IC 33-34-8-1;

(2) is not determined by the court imposing the court costs to be indigent; and

(3) fails to pay the costs in full before the later of the following:

(A) The end of the business day on which the court enters the judgment.

(B) The end of the period specified in a payment schedule set for the payment of court costs under rules adopted for the operation of the court.

A court may suspend a late payment fee if the court finds that the plaintiff or defendant has demonstrated good cause for failure to make timely payment of the fee.

Sec. 23. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000) against an individual convicted in Indiana of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

Sec. 24. (a) This section applies to a proceeding in a drug court under IC 12-23-14.5.

(b) The clerk shall collect a drug court fee if payment of the fee is ordered by a drug court under IC 12-23-14.5-12.

Chapter 6. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person,

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including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

Sec. 2. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk *may or shall* collect a credit card service fee from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. (a) The clerk shall forward credit card service fees collected under section 2 of this chapter to the county auditor or the city or town fiscal officer in accordance with IC 33-37-7-12(a).

(b) Funds described in subsection (a) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

Chapter 7. Distribution of Court Fees

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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-5(a) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to

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the auditor of state for deposit in the state user fee fund established by IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(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 distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). 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 distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund

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established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

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

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) This section expires July 1, 2005.

Sec. 2. (a) The clerk of a circuit court shall distribute semiannually 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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

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(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(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 distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). 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 distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

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(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

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

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) This section applies after June 30, 2005.

Sec. 3. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-5(a) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

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(b) This section expires July 1, 2005.

Sec. 4. (a) The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-37-7-12(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) This section applies after June 30, 2005.

Sec. 5. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-5(a) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city

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and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section expires July 1, 2005.

Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section applies after June 30, 2005.

Sec. 7. (a) The clerk of a city or town court shall distribute semiannually 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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

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(5) IC 33-37-5-17 (deferred prosecution fees).

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

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

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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 monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section expires July 1, 2005.

Sec. 8. (a) The clerk of a city or town court shall distribute semiannually 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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

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

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (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 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution,

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interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(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 distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) This section applies after June 30, 2005.

Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars ($6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established by

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IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state one million two hundred thousand dollars ($1,200,000) for deposit into the public defense fund established by IC 33-40-6-1.

Sec. 10. (a) In a county having a judicial circuit in which either IC 31-12-1 or IC 31-12-2 applies, the county fiscal body shall annually appropriate an amount necessary to carry out the administration and the purposes of the programs established under these chapters.

(b) Requests for funding under this section must be submitted under IC 36-2-5-4 or IC 36-3-6-4.

Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate twelve dollars ($12) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county

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auditor into the pension trust established under IC 36-8-10-12.

Sec. 12. (a) Except:

(1) for the state share prescribed by section 1 or 2 of this chapter for semiannual distribution; and

(2) as provided under sections 1(g) and 2(g) of this chapter, IC 33-32-4-6, and IC 33-37-5-2;

not later than thirty (30) days after the clerk collects a fee, the clerk shall forward the fee to the county auditor if the clerk is a clerk of a circuit court, and to the city or town fiscal officer if the clerk is the clerk of a city or town court.

(b) If part of the fee is collected on behalf of another person for service as a juror or witness, the county auditor or city or town fiscal officer shall forward that part of the fee to the person not later than forty-five (45) days after the auditor or fiscal officer receives the claim for the fee.

(c) Except for amounts deposited in a user fee fund established under IC 33-37-8, the county auditor shall distribute fees received from the clerk to the following:

(1) The county treasurer for deposit in the county general fund, if the fee belongs to the county.

(2) The fiscal officer of a city or town, if the fee belongs to the city or town under section 5 or 6 of this chapter.

(d) Except for amounts deposited in a user fee fund established under IC 33-37-8, the city or town fiscal officer shall deposit all fees received from a clerk in the city's or town's treasury.

(e) The clerk shall forward the state share of each fee to the state treasury at the clerk's semiannual settlement for state revenue.

Chapter 8. Local User Fee Funds

Sec. 1. As used in this chapter, "city or town fund" refers to the city or town user fee fund established under section 3 of this chapter.

Sec. 2. As used in this chapter, "county fund" refers to the county user fee fund established under section 5 of this chapter.

Sec. 3. (a) A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund is administered by the fiscal officer of the city or town.

(b) The city or town fund consists of the following fees collected by a clerk under this article:

(1) The pretrial diversion program fee.

(2) The alcohol and drug services fee.

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(3) The law enforcement continuing education program fee.
(4) The deferral program fee.
(5) The drug court fee.

Sec. 4. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

Sec. 5. (a) A county user fee fund is established in each county to finance various program services. The county fund is administered by the county auditor.

(b) The county fund consists of the following fees collected by a clerk under this article and by the probation department for the juvenile court under IC 31-34-8-8 or IC 31-37-9-9:

(1) The pretrial diversion program fee.
(2) The informal adjustment program fee.
(3) The marijuana eradication program fee.
(4) The alcohol and drug services program fee.
(5) The law enforcement continuing education program fee.
(6) The deferral program fee.
(7) The jury fee.
(8) The drug court fee.

(c) All of the jury fee and two dollars ($2) of a deferral program fee collected under IC 33-37-4-2(e) shall be deposited by the county auditor in the jury pay fund established under IC 33-37-11.

Sec. 6. Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

Sec. 7. (a) This section applies when a county auditor has established a pretrial diversion program fund to receive funds initially deposited in the county fund from the collection of the pretrial diversion program fee. Whenever a prosecuting attorney:

(1) certifies to the county fiscal body that the amount in the pretrial diversion program fund exceeds the amount needed to finance the pretrial diversion program services during the calendar year; and

(2) states the amount of the excess funds in the certification;

the fiscal body may adopt an ordinance to appropriate the excess funds from the pretrial diversion program fund to the office of the prosecuting attorney.

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(b) Funds appropriated as described in subsection (a) may be used by the office of the prosecuting attorney for any purpose specified in the appropriation ordinance adopted by the fiscal body.

(c) A county fiscal body may not transfer funds previously appropriated to the office of the prosecuting attorney as a result of an appropriation described in subsection (a).

Sec. 8. (a) This section applies to jury fees collected under IC 33-37-5-19.

(b) If a clerk certifies to a county fiscal body the amount of fees collected, the county fiscal body shall direct the county auditor to transfer the amount certified to the jury pay fund established under IC 33-37-11.

Chapter 9. State User Fee Funds

Sec. 1. As used in this chapter, "state fund" refers to the state user fee fund established by section 2 of this chapter.

Sec. 2. The state user fee fund is established. The state fund is administered by the treasurer of state.

Sec. 3. On June 30 and December 31 each year, the auditor of state shall transfer to the treasurer of state for deposit in the state fund the fees distributed to the auditor of state under IC 33-37-7-1(b), IC 33-37-7-2(b), IC 33-37-7-7(d), and IC 33-37-7-8(d).

Sec. 4. (a) The treasurer of state shall distribute semiannually one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established by IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established by IC 10-11-7-1.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established by IC 33-39-8-6.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established by IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

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(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by IC 12-18-5-2.

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall distribute semiannually the amount remaining after the distributions are made under subsection (a) to the judicial technology and automation project fund established by IC 33-24-6-12.

Chapter 10. Juror and Witness Fees

Sec. 1. (a) A juror of a circuit, superior, county, or probate court or a member of a grand jury is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Payment at the rate of:

(A) fifteen dollars ($15) for each day the juror is in actual attendance in court until the jury is impaneled; and

(B) forty dollars ($40) for each day the juror is in actual attendance after impaneling and until the jury is discharged.

(b) A county fiscal body may adopt an ordinance to pay from county funds a supplemental fee in addition to the fees prescribed by subsection (a)(2).

(c) A juror of a city or town court is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Fifteen dollars ($15) per day while the juror is in actual attendance.

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by subsection (c)(2).

(e) For purposes of this section, a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that

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day.

Sec. 2. (a) A witness in a criminal action may receive a fee if the witness:

(1) is summoned by the state;

(2) is named on the indictment or information; and

(3) testifies under oath to a material fact in aid of the prosecution.

(b) A fee paid under subsection (a) is the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) For each day of attendance in court equal to:

(A) fifteen dollars ($15) for witnesses subpoenaed under IC 35-37-5-4; or

(B) five dollars ($5) for all other witnesses.

Sec. 3. A witness in an action listed in IC 33-37-4-2, IC 33-37-4-3, IC 33-37-4-4, IC 33-37-4-5, IC 33-37-4-6, and IC 33-37-4-7 is entitled to the sum of the following:

(1) An amount for mileage at the mileage rate paid to state officers for each mile necessarily traveled to and from the court.

(2) Five dollars ($5) for each day of attendance in court.

Sec. 4. (a) The clerk shall note witness and juror fees when the fees are claimed and forward the claims to the county auditor or city or town fiscal officer.

(b) The clerk is not entitled to a fee for providing an affidavit or other proof of attendance to a juror or witness.

(c) The county auditor or city or town fiscal officer shall disburse juror or witness fees claimed under this section as provided in IC 33-37-7-12.

Chapter 11. Jury Pay Fund

Sec. 1. As used in this chapter, "jury pay fund" refers to the jury pay fund established under section 2 of this chapter.

Sec. 2. (a) A jury pay fund is established for each county to supplement the cost of paying jury fees. The jury pay fund is administered by the county auditor.

(b) The jury pay fund consists of amounts deposited by the county auditor under IC 33-37-8-5(c) and the fees collected under IC 33-37-5-19 from defendants who:

(1) committed a crime;

(2) violated a statute defining an infraction; or

(3) violated an ordinance of a municipal corporation.

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Sec. 3. Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

SECTION 17. IC 33-38 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 38. JUDGES

Chapter 1. Certain Judgeship's Eligibility; Term of Office; Travel Expenses

Sec. 1. A person is not eligible to hold the office of judge of any probate or superior court unless, in addition to other prerequisites to eligibility provided by Indiana law, the person is admitted to the practice of law in Indiana.

Sec. 2. Each judge of each:

(1) judicial circuit containing more than one (1) county;

(2) county court serving more than one (1) county; and

(3) superior court district containing more than one (1) county;

shall be paid two thousand dollars ($2,000) per year to reimburse the judge for traveling and other necessary expenses. Two thousand dollars ($2,000) for each judge is appropriated annually from the state general fund not otherwise appropriated.

Sec. 3. The term of office of a person:

(1) elected judge of the court of appeals or of any circuit, superior, probate, criminal, or juvenile court begins on the first day of January after the person's election; and

(2) elected or appointed to any judgeship expires on December 31 after the election of the respective successors.

Chapter 2. Appointment of Bailiffs in Certain Counties

Sec. 1. The judge of the circuit, superior, criminal, probate, and juvenile courts in each county having a population of at least thirty-five thousand (35,000) shall appoint a bailiff and may appoint a riding bailiff for the judge's court, whose per diem shall be fixed by the court to be paid from the county treasury.

Sec. 2. In counties having a population of less than thirty-five thousand (35,000), the judge of the circuit court may appoint a bailiff. However, if a bailiff is not appointed, the sheriff of the county shall perform the duties of the bailiff.

Chapter 3. Copy of Appointment of a City or Municipal Judge to the Clerk of Circuit Court

Sec. 1. When a person is appointed as judge of a city or

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municipal court, a certified copy of the appointment shall be sent by the appointing authority to the clerk of the circuit court of the county in which the city is located.

Sec. 2. The appointment described in section 1 of this chapter shall be recorded in the order book of the circuit court, and the record authorizes the clerk to certify that the judge is the:

(1) appointed;

(2) qualified; and

(3) acting;

judge of the city or municipal court for which the judge was appointed.

Chapter 4. Chief Clerk in Marion and Lake Counties

Sec. 1. The judge of the circuit court in a county having a population of at least four hundred thousand (400,000) may appoint a chief clerk for the court.

Sec. 2. The salary for the chief clerk:

(1) shall be fixed by the judge of the court;

(2) may not be more than four thousand eight hundred dollars ($4,800) per year; and

(3) shall be paid in monthly installments from the county treasury of the county in which the court is located.

Sec. 3. The chief clerk may administer oaths that are convenient or necessary to be administered in the discharge of the clerk's duties, for which there is no charge or expense incurred.

Sec. 4. The chief clerk must be:

(1) a graduate of an approved law school; and

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

Sec. 5. The county council of the county shall appropriate the money requested by the presiding judge of the circuit court for payment of the salary of the chief clerk, not exceeding the maximum amount of salary provided for by this section.

Chapter 5. Salaries

Sec. 1. There is appropriated from the state general fund a sufficient amount to pay the state general fund contributions under this chapter.

Sec. 2. The county councils of the counties of the state shall appropriate annually a sufficient amount to pay the county salaries under this chapter.

Sec. 3. (a) This section applies to a judicial circuit that is composed of more than one (1) county.

(b) The counties comprising a circuit to which this section applies are considered one (1) county for purposes of this chapter.

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Each county in the circuit shall pay part of the county salary in the same proportion as the county's individual classification factor bears to the classification factor of the judicial circuit.

Sec. 4. For purposes of this chapter, each county is:

(1) graded on the basis of population and gross assessed valuation; and

(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

Sec. 5. (a) The nine (9) classes of the several counties of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. They are as follows:

(1) Population.

(2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The results obtained under subdivision (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).

(4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

Classification Factors

	High	Low	Class
No limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	no limit	9

Sec. 6. (a) The total annual salary of each full-time judge of a

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circuit, superior, municipal, county, or probate court is:

(1) ninety thousand dollars ($90,000), paid by the state; and

(2) any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c).

The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

(c) When making each payment under subsection (a), the county shall determine for each judge whether the total of:

(1) the payment made on behalf of that judge;

(2) previous payments made on behalf of that judge in the same calendar year; and

(3) the state share of the judge's salary under subsection (a);

exceeds the Social Security wage base established by the federal government for that year. If the total does not exceed the Social Security wage base, the payment on behalf of that judge must also be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes. If the total exceeds the Social Security wage base, the part of the payment on behalf of the judge that is below the Social Security wage base must be accompanied by an amount equal to the employer's share of Social Security taxes and Medicare taxes, and the part of the payment on behalf of the judge that exceeds the Social Security wage base must be accompanied by an amount equal to the employer's share of Medicare taxes. Payments made under this subsection shall be deposited in the state general fund under subsection (a).

(d) For purposes of determining the amount of life insurance premiums to be paid by a judge who participates in a life insurance program that:

(1) is established by the state;

(2) applies to a judge who is covered by this section; and

(3) bases the amount of premiums to be paid by the judge on the amount of the judge's salary;

the judge's salary does not include any amounts paid to the state by a county under subsection (a).

Sec. 7. Of the annual salary of a juvenile court magistrate, the county served by the magistrate shall pay forty-one thousand three

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hundred ninety-three dollars ($41,393). The balance of the annual salary shall be paid by the state from the state general fund.

Sec. 8. (a) The total annual salary for each justice of the supreme court is one hundred fifteen thousand dollars ($115,000).

(b) The total annual salary for each judge of the court of appeals is one hundred ten thousand dollars ($110,000).

(c) The state shall pay the annual salaries prescribed in subsections (a) through (b) from the state general fund.

(d) In addition to salary, the state shall pay to a justice or judge, in equal monthly payments on the first day of each month from money in the state general fund not otherwise appropriated, the following annual subsistence allowances to assist in defraying expenses relating to or resulting from the discharge of the justice's or judge's official duties:

(1) Five thousand five hundred dollars ($5,500) to the chief justice of the supreme court.

(2) Five thousand five hundred dollars ($5,500) to the chief judge of the court of appeals.

(3) Three thousand dollars ($3,000) to each justice of the supreme court who is not the chief justice.

(4) Three thousand dollars ($3,000) to each judge of the court of appeals who is not the chief judge.

A justice or judge is not required to make an accounting for an allowance received under this subsection.

(e) The state may not furnish automobiles for the use of justices or judges compensated under this section.

Sec. 9. (a) A judge described in section 6 of this chapter, the justices of the supreme court, and the judges of the court of appeals shall:

(1) formulate;

(2) post in a prominent place; and

(3) make available to the public;

a schedule of the working hours during which the court will be open and during which each judge or justice will be present.

(b) A judge or justice shall hold the court open and be available in the court during:

(1) regular business hours; or

(2) the hours specified on the schedule, if the business of the court requires evening or weekend sessions.

(c) A judge or justice may be absent from the court due to official business, matters relating to the judge's or justice's judicial office, illness, serious personal matters, or regular vacation.

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Sec. 10. The classification of salary schedules for judges may not be lowered below the classification first fixed by the state board of accounts under this chapter.

Chapter 6. Judge's Retirement System

Sec. 1. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

Sec. 2. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 3. As used in this chapter, "employer" means the state of Indiana.

Sec. 4. As used in this chapter, "fiscal year" means the period beginning July 1, in any year, and ending June 30 of the succeeding year.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by section 12 of this chapter.

Sec. 6. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "judge" means a person who serves or has served as a regular judge or justice of one (1) or more of the following courts:

(1) Supreme court.

(2) Court of appeals.

(3) Indiana tax court.

(4) Circuit court of a judicial circuit.

(5) Superior court of a county.

(6) Criminal court of a county having a separate criminal court.

(7) Probate court of a county having a separate probate court.

(8) Juvenile court of a county having a separate juvenile court.

(9) Municipal court of a county.

(10) County court of a county.

Sec. 8. As used in this chapter, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

(1) is not covered by IC 33-38-7 or IC 33-38-8; and

(2) is served by a person who has other service that is covered by IC 33-38-7 or IC 33-38-8.

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Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 10. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 12. The Indiana judges' retirement fund is established and consists of:

(1) each participant's contribution to the fund;

(2) gifts, grants, devises, and bequests in money, property, or other forms made to the fund;

(3) interest on investments or on deposits of the funds; and

(4) contributions or payments to the fund made in the manner provided by the general assembly, including appropriations from the state general fund as provided by this chapter.

Sec. 13. The fund must satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter IC 33-38-7, or IC 33-38-8:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter, IC 33-38-7, and IC 33-38-8.

(2) A part of the corpus or income of the fund may not be used or diverted to a purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits a participant would otherwise receive under the fund.

(4) If the fund is terminated or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section.

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In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin not later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) The salary taken into account under this chapter, IC 33-38-7, or IC 33-38-8 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

Sec. 14. The board shall administer the fund in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the act.

Sec. 15. (a) Conditions for participation in the fund, contributions to the fund, withdrawal from the fund, and eligibility for and computation of benefits for participants and their survivors are governed by IC 33-38-7 and IC 33-38-8.

(b) Notwithstanding any provision of this chapter, IC 33-38-7, or IC 33-38-8, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A participant on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act but is not entitled to receive credit for service for benefit purposes.

(c) Notwithstanding any provision of this chapter, IC 33-38-7, and IC 33-38-8, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C.

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4301 et seq.).

Sec. 16. (a) The governor may conduct, or cause to be conducted, a referendum for the judges who are covered by the provisions of the judges' retirement fund to determine whether the judges covered by the retirement fund shall be excluded from or included in the agreement negotiated under the provisions of Section 218 of the federal Social Security Act (as defined in IC 5-10.1-1-9). The referendum must be conducted in full compliance with all the requirements of Section 218(d) of the federal Social Security Act. The governor shall designate the board as the agency to conduct and supervise the referendum, and the expense of conducting the referendum shall be paid from funds appropriated to the fund.

(b) If the majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the negative, the board may request that a subsequent referendum be conducted in the same manner and with the same effect described in subsection (a). However, a subsequent referendum may not be conducted within one (1) year after the date of the prior referendum.

(c) If a majority of the judges who are eligible to vote in the referendum described in subsection (a) vote in the affirmative, both the:

(1) judges covered by the retirement fund; and

(2) judges who waived their right to be covered by the provisions of the retirement fund;

shall be included in the agreement negotiated by the state with the Secretary of the United States Department of Health and Human Services in the same manner provided in IC 5-10.1-4 for the inclusion of services covered by the retirement systems specified in IC 5-10.1-4-1 in the agreement.

(d) Each judge whose services are covered by Social Security is required to pay during the period of the judge's service the employee contributions required by the agreement. The contributions shall begin on the effective date of the judge's coverage and are subject to the terms and conditions of IC 5-10.1.

(e) The auditor of state shall pay the employer contributions required under the agreement wholly from funds appropriated to the fund, and the contributions begin on the effective date of the modification that adds the judges of the fund to the federal-state agreement. The employer contributions shall be paid in the manner provided in the agreement.

(f) The modification of the federal-state agreement to effectuate the participation of the judges in the agreement must be effective

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for services performed on a date fixed and determined by the board.

Sec. 17. (a) For purposes of this chapter, there is appropriated for each biennium a sum of money, computed on an actuarially funded basis, as follows:

(1) From the state general fund for participants' retirement benefits, the amount determined by the board, on recommendation of an actuary, which, when added to the part of the fund held for benefits at the date of the appropriation, is equal to the total liability of the fund for benefits to the end of the biennium.

(2) From the earnings on the fund, for administration purposes, the amount required during the biennium, as determined by the board on the basis of experience. The amount required for administration shall be paid out as the operating expenses of other state departments are paid.

(b) The biennial appropriation provided in this section shall be credited to the board annually in equal installments in July of each year of the biennium.

Sec. 18. The amount appropriated under section 17 of this chapter for participants' retirement benefits shall be used for retirement benefits under IC 33-38-7 and IC 33-38-8.

Sec. 19. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to secure payment of benefits to the participants and their beneficiaries, as prescribed in IC 33-38-7 and IC 33-38-8.

Sec. 20. In addition to the purpose set forth in section 19 of this chapter, the fund may be used for the payment of the costs of administering this chapter.

Sec. 21. (a) When drawing a salary warrant for a participant, the auditor of state and the county auditor shall deduct from the amount of the warrant the participant's contribution, if any, to the fund in the amount certified in the vouchers or an order issued by the director.

(b) The auditor of state and the county auditor shall draw a warrant to the fund for the total contributions withheld from the participants each month. The warrant drawn to the fund together with a list of participants and the amount withheld from each participant shall be transmitted immediately to the director.

(c) The auditor of state shall draw warrants upon the treasurer of state, payable from the fund, for purposes provided for in this chapter, upon the presentation of vouchers or an order signed by

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the director of the board in accordance with resolutions of the board.

Sec. 22. The auditor of state and the county auditor in the preparation of salary warrants to participants shall indicate on the payroll voucher the following information, in addition to other things:

(1) The amount of the participant's contribution to the fund deducted from the salary of the participant.

(2) The net amount payable to the participant, after the deduction of the participant's contribution.

Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall:

(1) determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8;

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund; and

(3) provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of the director and the actuary of the board, the treasurer of state, the attorney general, and the auditor of state, with respect to the fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

Sec. 24. Notwithstanding any other provision of this chapter, IC 33-38-7, or IC 33-38-8, to the extent required by Internal Revenue Code Section 401(a)(31) of the Internal Revenue Code, as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31) of the Internal Revenue Code, the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

Sec. 25. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

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(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

Sec. 26. (a) A participant may purchase judge pro tempore service credit if:

(1) the participant has at least one (1) year of service in the fund;

(2) before the participant retires, the participant makes contributions to the fund:

(A) that are equal to the product of:

(i) the participant's salary at the time the participant actually makes a contribution for the service credit; multiplied by

(ii) a percentage rate, as determined by the actuary of the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; multiplied by

(iii) the number of years of judge pro tempore service the participant intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

(3) the fund receives verification from the applicable court that the judge pro tempore service occurred.

(b) A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in another retirement system.

(c) A participant who:

(1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or

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(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(e) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Sec. 27. A reference to the judges' retirement system under this

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chapter is considered a reference to the judges' retirement fund under this article.

Chapter 7. 1977 Retirement, Disability, and Death System

Sec. 1. This chapter applies only to an individual who begins service as a judge before September 1, 1985.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

Sec. 6. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 10. (a) A person who completed at least eight (8) years of service as a judge before July 1, 1953, may become a participant in the fund and be subject to this chapter if the person qualifies for benefits under section 11 of this chapter. A person who is a judge on July 1, 1953, shall become a participant in the fund and be subject to this chapter, beginning on July 1, 1953, unless twenty (20) days before July 1, 1953, the judge files with the board a written notice of election not to participate in the fund.

(b) A person who:

(1) becomes a judge after July 1, 1953, and before September 1, 1985; and

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(2) is not a participant in the fund;

becomes a participant in the fund and is subject to this chapter, beginning on the date the person becomes a judge, unless within twenty (20) days after that date the judge files with the board a written notice of election not to participate in the fund. An election filed under this subsection is irrevocable.

(c) A person who irrevocably:

(1) elects not to participate in the fund; or

(2) withdraws from the fund under section 13 of this chapter;

is ineligible to participate and to receive benefits under this chapter.

(d) Participation of a judge in the fund continues until the date on which the judge:

(1) becomes an annuitant;

(2) dies; or

(3) accepts a refund;

but a person is not required to pay into the fund during any period that the person is not serving as a judge, except as otherwise provided in this chapter.

(e) A participant is considered to have made a one (1) time irrevocable salary reduction agreement of six percent (6%) of each payment of salary that a participant would otherwise have received for services as a judge.

(f) The auditor of state and the county auditor shall pay and credit to the fund the amounts described in subsection (e) as provided in IC 33-38-6-21 and IC 33-38-6-22. However, no amounts shall be paid on behalf of a participant for more than twenty-two (22) years.

Sec. 11. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) A participant whose employment as judge is terminated, regardless of cause, is entitled to a retirement annuity beginning on the date specified by the participant in a written application, if the following conditions are met:

(1) The date the annuity begins is not:

(A) before the date of final termination of employment by the participant; or

(B) the date thirty (30) days before the receipt of the participant's written application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

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(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

(c) A participant:

(1) who:

(A) elects to accept retirement after June 30, 1977; and

(B) is at least sixty-five (65) years of age; or

(2) who:

(A) elects to accept retirement after June 30, 1999;

(B) is at least fifty-five (55) years of age; and

(C) meets the requirements under subsection (b)(2)(B);

is entitled to an annual retirement benefit as calculated in subsection (d).

(d) The annual retirement benefit for a participant who meets the requirements of subsection (c) equals the product of:

(1) the salary being paid for the office that the participant held at the time of the participant's separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE A

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least

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eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service. A participant who elects to accept retirement before July 1, 1977, is entitled to an annual retirement benefit that equals the average of the benefit computed under this subsection and the benefit the participant would have received under IC 33-38-6 as in effect on June 30, 1977.

(e) If the annual retirement benefit of a participant who began service as a judge before July 1, 1977, as computed under subsection (d), is less than the amount the participant would have received under IC 33-38-6 as in effect on June 30, 1977, the participant is entitled to receive the greater amount as the participant's annual retirement benefit instead of the benefit computed under subsection (d).

(f) Except as provided in subsections (b)(2)(B) and (d), if a participant who elects to accept retirement after June 30, 1977, has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

(g) A participant who is permanently disabled is entitled to an annual benefit equal to the product of:

(1) the salary being paid for the office that the participant held at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

TABLE B

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%

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17	**55%**
18	**56%**
19	**57%**
20	**58%**
21	**59%**
22 or more	**60%**

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(h) The surviving spouse or surviving child or children, as designated by the participant, of a participant who has qualified before July 1, 1977, to receive the retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, shall, upon the death of such participant, be entitled to an annuity in an amount equal to the greater of:

(1) the sum of:

(A) two thousand dollars ($2,000); plus

(B) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of the participant's death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits prior to the participant's death; or

(2) the amount determined under the following table:

TABLE C

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(i) If a participant who qualifies after June 30, 1977, and before July 1, 1983, to receive a retirement annuity under the provisions of this chapter, either by length of service or by being permanently disabled, dies, the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled to an annuity in an amount equal to the greater of:

(1) fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant

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retired and begun receiving retirement annuity benefits before death; or

(2) the amount determined under TABLE C in subsection (h)(2).

(j) If a participant:

(1) dies after June 30, 1983; and

(2) on the date of the participant's death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

the participant's surviving spouse or surviving child or children, as designated by the participant, is or are entitled, regardless of the participant's age, to an annuity in an amount equal to the greater of the amount determined under TABLE C in subsection (h)(2) or fifty percent (50%) of the amount of retirement annuity the participant was drawing at the time of death, or to that which the participant would have been entitled had the participant retired and begun receiving retirement annuity benefits on the participant's date of death, with reductions as necessary under subsection (f).

(k) Notwithstanding subsection (j), if a participant:

(1) died after June 30, 1983, and before July 1, 1985; and

(2) was serving as a judge at the time of death;

the surviving spouse is entitled to the same retirement annuity as the surviving spouse of a permanently disabled participant entitled to benefits under subsection (i).

(l) The annuity payable to a surviving child or children under subsection (h), (i), or (j), is subject to the following:

(1) The total monthly benefit payable to a surviving child or children is equal to the same monthly annuity that was to have been payable to the surviving spouse.

(2) If there is more than one (1) child designated by the participant, then the children are entitled to share the annuity in equal monthly amounts.

(3) Each child entitled to an annuity shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(4) Upon the cessation of payments to one (1) designated child,

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if there is at least one (1) other child then surviving and still entitled to payments, the remaining child or children shall share equally the annuity. If the surviving spouse of the participant is surviving upon the cessation of payments to all designated children, the surviving spouse will then receive the annuity for the remainder of the surviving spouse's life.

(5) The annuity shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child named as a beneficiary by a participant survives the participant.

(B) No children designated by the participant are entitled to an annuity due to their age at the time of death of the participant.

(C) A designation is not made.

(6) An annuity payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

Sec. 12. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) A participant is considered permanently disabled if the board has received a written certificate by at least two (2) licensed and practicing physicians, appointed by the board, indicating that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(c) The participant shall be reexamined by at least two (2) physicians appointed by the board at the times as the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits cease to be payable as of the date of the examination unless, on that date, the participant is:

(1) at least sixty-five (65) years of age; or

(2) at least fifty-five (55) years of age and meets the requirements under section 11(b)(2)(B) of this chapter.

(d) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

Sec. 13. (a) Except as otherwise provided in this chapter, a

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participant:

(1) whose employment as a judge is terminated regardless of cause; and

(2) who has less than twelve (12) years service;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. However, the date on which the withdrawal begins may not be before the date of final termination of employment of the participant, or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, a participant is entitled to receive out of the fund an amount equal to the total sum contributed to the fund on behalf of the participant, payable within sixty (60) days after date of the withdrawal application or in monthly installments as the participant may elect.

Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If annuities are not payable to the survivors of a participant who dies after July 1, 1983, the surviving spouse or child or children of the participant, if any, as determined by the participant, and if none survive, then any dependent or dependents surviving shall draw from the fund the amount that the participant paid into the fund plus interest as determined by the board. If no spouse, child or children, or other dependents survive, then the amount plus interest minus any payments made to the participant shall be paid to the executor or administrator of the participant's estate.

(c) The amount owed a spouse, child or children, or other dependent, or estate under this section is payable within sixty (60) days after date of the withdrawal application or in the monthly installments as the recipient may elect.

Sec. 15. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 16 of this chapter.

(b) If a participant's spouse does not survive the participant, and a child is not designated and entitled to receive an annuity under section 11 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to an annuity in an amount equal to the annuity the participant's spouse would have received under section 11 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, then that dependent child is entitled to receive an annuity in an amount equal to the annuity the spouse

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was receiving or would have received under section 11 of this chapter.

(d) If there is more than one (1) dependent child, the dependent children are entitled to share the annuity equally.

(e) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

Sec. 16. Notwithstanding any other provision of this chapter, and solely for the purposes of the benefits provided under this chapter, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988 (P.L.100-647). This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code (other than Section 415(b)(2)(G)) applied without regard to Section 415(b)(2)(F) to anyone who did not first become a participant before January 1, 1990.

Sec. 17. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

Sec. 18. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees'

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retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value

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of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Sec. 19. (a) This section applies only to a person who:

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(1) is a judge participating under this chapter;
(2) before becoming a judge was a member of an Indiana public employees' retirement fund;
(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 of this chapter;
(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and
(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:
(1) the prior service was credited under an Indiana public employees' retirement fund; and
(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution

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from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 8. 1985 Retirement, Disability, and Death System

Sec. 1. This chapter applies only to an individual who begins service as a judge after August 31, 1985.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "employer" means the state of Indiana.

Sec. 5. As used in this chapter, "fund" refers to the Indiana judges' retirement fund established by IC 33-38-6-12.

Sec. 6. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent consistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund.

Sec. 8. As used in this chapter, "salary" means the total salary paid to a participant by the state and by a county or counties,

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determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge, whether the date is before, on, or after March 11, 1953, and ending on the date under consideration and includes all intervening employment as a judge.

Sec. 10. A person who:

(1) begins service as a judge after August 31, 1985; and

(2) is not a participant in the fund;

shall become a participant in the fund.

Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge.

Sec. 12. (a) A participant who:

(1) ceases service as a judge, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from date of withdrawal application or in monthly installments as the participant may elect.

Sec. 13. A participant whose employment as judge is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a

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written application, if the following conditions are met:

(1) The date on which the benefit begins is not:

(A) before the date of final termination of employment of the participant; or

(B) the date thirty (30) days before the receipt of the application by the board.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;

(B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or

(C) has become permanently disabled.

(3) The participant is not receiving a salary from the state for services currently performed, except for services rendered in the capacity of judge pro tempore or senior judge.

Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

(1) applies for a retirement benefit; and

(2) is at least:

(A) sixty-five (65) years of age; or

(B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%

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17	**55%**
18	**56%**
19	**57%**
20	**58%**
21	**59%**
22 or more	**60%**

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

(1) participants who are separated from service because of permanent disability;

(2) survivors of participants who die while in service after August 1, 1992; or

(3) survivors of participants who die while not in service but while entitled to a future benefit.

Sec. 15. (a) A participant is considered permanently disabled if the board has received a written certification by at least two (2) licensed and practicing physicians, appointed by the board, that:

(1) the participant is totally incapacitated, by reason of physical or mental infirmities, from earning a livelihood; and

(2) the condition is likely to be permanent.

(b) The participant shall be reexamined by at least two (2) physicians appointed by the board, at the times the board designates but at intervals not to exceed one (1) year. If, in the opinion of these physicians, the participant has recovered from the participant's disability, then benefits shall cease to be payable as of the date of the examination unless, on that date, the participant is at least:

(1) sixty-five (65) years of age; or

(2) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated by

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the initial and periodic examinations and reviews to determine eligibility for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

Sec. 16. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who becomes permanently disabled is entitled to an annual benefit that equals the product of:

(1) the salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service and was in service as a judge;

(C) was permanently disabled; or

(D) had completed at least eight (8) years of service, was not still in service as a judge, and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

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(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	$10,000
July 1, 1996, to June 30, 1997	$11,000
July 1, 1997, and thereafter	$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children

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at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

Sec. 18. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) If a participant's spouse does not survive the participant, and there is no child designated and entitled to receive a benefit under section 17 of this chapter, any surviving dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 17 of this chapter.

(c) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, the dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 17 of this chapter.

(d) If there is more than one (1) dependent child, then the dependent children are entitled to share the benefit equally.

(e) A dependent child is entitled to receive the child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

Sec. 19. (a) Benefits provided under this section are subject to IC 33-38-6-13.

(b) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board, the total of the participant's contributions plus interest (as determined by the board) minus any payments made to the participant shall be paid to:

(1) the surviving spouse of the participant or a child or children of the participant, as designated by the participant;

(2) any other dependent or dependents of the participant, if a spouse or designated child or children does or do not survive; or

(3) the participant's estate, if a spouse, designated child or children, or other dependent does or do not survive.

(c) The amount owed a spouse, designated child or children, or other dependent or dependents, or estate under subsection (b) is payable within sixty (60) days from the date of receipt of the

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withdrawal application or in the monthly installments as the recipient elects.

Sec. 20. Notwithstanding any other provision of this chapter, benefits paid under this chapter may not exceed the maximum annual benefit specified by Section 415 of the Internal Revenue Code.

Sec. 21. (a) A judge is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

(1) at any time when the judge is not serving as judge; or

(2) during any period of service as a senior judge under IC 33-23-3.

Sec. 22. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1985 benefit system under section 1 of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments

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determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(b) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(b) of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior

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service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Sec. 23. (a) This section applies only to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 22 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

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(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any

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of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

Chapter 9. Judicial Conference of Indiana and the Indiana Judicial Center

Sec. 1. As used in this chapter, "judicial conference" refers to the judicial conference of Indiana established by section 3 of this chapter.

Sec. 2. As used in section 4 of this chapter, "trial court judges" refers only to those trial court judges who are members of the judicial conference under section 3 of this chapter.

Sec. 3. (a) The judicial conference of Indiana is established.

(b) The membership of the judicial conference consists of the following:

(1) All justices of the supreme court.

(2) All judges of the court of appeals.

(3) The judge of the tax court.

(4) All circuit, superior, probate, and county court judges.

(5) All municipal court judges who are serving on a full-time basis.

(6) Any retired judge who serves as a special judge and notifies the conference of the service.

(c) A full-time magistrate under IC 33-23-5 is a nonvoting member of the conference.

Sec. 4. (a) The activities of the judicial conference shall be directed by a board of directors having the following members:

(1) The chief justice of Indiana.

(2) The chief judge of the court of appeals.

(3) The president of the Indiana judges association.

(4) The president of the Indiana council of juvenile court judges.

(5) One (1) judge from each of the trial court districts established by the supreme court, elected for a term of two (2) years by the trial court judges of the district.

(6) Five (5) trial court judges appointed for terms of one (1) year by the chief justice of Indiana.

(b) The chief justice of Indiana shall serve as chairperson of the board of directors. The judicial conference, through the board of directors:

(1) shall establish a staff agency to be designated the Indiana

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judicial center; and

(2) may establish positions for an executive director, staff personnel, and other necessary personnel.

All personnel of the Indiana judicial center shall be appointed by the chief justice of Indiana, and their salaries shall be fixed by the supreme court, subject to appropriation by the general assembly.

Sec. 5. (a) The entire membership of the judicial conference shall meet:

(1) at least once a year at a time and place to be fixed by the board of directors; and

(2) at other times as may be designated by the board of directors.

(b) The judicial conference may create committees either upon action of the board of directors or by majority vote of the members attending a meeting of the judicial conference. The judicial conference, the board of directors, or any committee of the judicial conference may hold hearings on any question related to the duties set out in section 6 of this chapter. A proposal for legislation relating to courts that is made by the judicial conference shall be presented to the division of state court administration for study and recommendation by the division before being presented to the general assembly.

Sec. 6. The judicial conference shall do the following:

(1) Promote an exchange of experience and suggestions regarding the operation of Indiana's judicial system.

(2) Promote the continuing education of judges.

(3) Seek to promote a better understanding of the judiciary.

(4) Act as administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under IC 11-13-4-3.

(5) Act as compact administrator for probationers participating in the interstate compact on juveniles under IC 11-13-4-3.

Sec. 7. All members, including full-time magistrates, shall attend and those invited to participate may attend the meetings of the judicial conference. Per diem and travel allowances authorized by law shall be paid to the members and full-time magistrates attending from the annual appropriation to the judicial conference.

Sec. 8. (a) The Indiana judicial center shall maintain a roster of in-state facilities that have the expertise to provide child services (as defined in IC 12-19-7-1) in a residential setting to:

(1) children in need of services (as described in IC 31-34-1); or

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(2) delinquent children (as described in IC 31-37-1 and IC 31-37-2).

(b) The roster under subsection (a) must include the information necessary to allow a court having juvenile jurisdiction to select an in-state placement of a child instead of placing the child in an out-of-state facility under IC 31-34 or IC 31-37. The roster must include at least the following information:

(1) Name, address, and telephone number of each facility.

(2) Owner and contact person for each facility.

(3) Description of the child services that each facility provides and any limitations that the facility imposes on acceptance of a child placed by a juvenile court.

(4) Number of children that each facility can serve on a residential basis.

(5) Number of residential openings at each facility.

(c) The Indiana judicial center shall revise the information in the roster at least monthly.

(d) The Indiana judicial center shall make the information in the roster readily available to courts with juvenile jurisdiction.

Sec. 9. The Indiana judicial center shall administer the alcohol and drug services program under IC 12-23-14 and the certification of drug courts under IC 12-23-14.5.

Chapter 10. Private Judges

Sec. 1. As used in this chapter, "private judge" means a person who is qualified to act as judge of a case under this chapter.

Sec. 2. (a) A person who:

(1) has been but is not currently a judge of a circuit, superior, criminal, probate, municipal, or county court and has served in the capacity of judge for at least four (4) consecutive years;

(2) is admitted to the practice of law in Indiana; and

(3) is a resident of Indiana;

may act as judge for certain cases under this chapter.

(b) A person may act as a judge of a case under this chapter only if:

(1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom the parties wish to have as private judge;

(2) the case is one over which the court in which the former judge served would have had subject matter and monetary jurisdiction;

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(3) the case is founded exclusively on contract, tort, or a combination of contract and tort; and

(4) the case is one in which a utility (as defined in IC 8-1-2-1) is not a party.

Sec. 3. (a) A former judge qualified under section 2(a) of this chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

(1) compile;

(2) periodically update; and

(3) make available to the public;

a list of registered former judges.

(b) If the parties to an action wish to have the action heard before a private judge, the parties shall submit to the executive director of the division of state court administration a written petition as described in section 2(b)(1) of this chapter. After verifying that the former judge is qualified under section 2(a) of this chapter and is registered under subsection (a), the executive director shall forward the petition to the former judge named on the petition.

(c) The regular or presiding judge of the court in which the action is filed shall appoint the private judge to hear the action if the written petition of the parties to the action and the written consent of the private judge to hear the action is presented to the regular or presiding judge:

(1) contemporaneously with the filing of the action; or

(2) after the action has been filed.

Sec. 4. (a) A trial conducted by a private judge shall be conducted without a jury.

(b) A person who serves as a private judge has, for each case the private judge hears, the same powers as the judge of a circuit court in relation to:

(1) court procedure;

(2) deciding the outcome of the case;

(3) attendance of witnesses;

(4) punishment of contempts;

(5) enforcement of orders;

(6) administering oaths; and

(7) giving all necessary certificates for the authentication of the records and proceedings.

(c) All proceedings in an action heard by a private judge are of record and must be:

(1) filed with the clerk of the circuit court in the county of

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proper venue under the Indiana Rules of Trial Procedure; and

(2) made available to the public in the same manner as circuit court records.

(d) The Indiana Rules of Trial Procedure apply for all actions brought before a private judge. An appeal from an action or a judgment of a private judge may be taken in the same manner as an appeal from the circuit court of the county where the case is filed.

Sec. 5. Costs in an action brought before a private judge shall be taxed and distributed in the same manner as costs in the circuit court of the county in which the case is filed.

Sec. 6. (a) The clerk of the circuit court of the county in which the case is filed serves as the clerk of the court for a case heard by a private judge, and the sheriff of that county serves as the sheriff of the court for the case. The clerk and the sheriff shall attend the proceedings and perform the same duties relating to their offices as are required for the circuit court of the county in which the case is filed.

(b) The clerk of the circuit court of the county in which the case is filed shall provide to a private judge for each case all books, dockets, papers, and printed blanks necessary to discharge the duties of the court.

Sec. 7. (a) A case heard by a private judge may be heard:

(1) at any time; and

(2) at any place in Indiana;

that is mutually agreeable to all parties and the judge.

(b) There shall be posted in the office of the clerk of the circuit court of the county in which the case is filed, in a place accessible to the public, a notice of the date, time, and place of any proceeding, including:

(1) a hearing on a motion for judgment by default;

(2) a hearing for judgment on the pleadings;

(3) a hearing for summary judgment; and

(4) a trial upon the merits;

that could result in a judgment. The notice shall be posted at least three (3) days before the proceeding is conducted.

Sec. 8. Notwithstanding the rules of trial procedure, a private judge may receive compensation for hearing a case in an amount and subject to the terms and conditions agreed to by the judge and the parties to the case. A contract for the services of a private judge must provide for the payment of the judge's compensation by the parties. In addition, the contract must include terms and

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conditions relating to:

(1) the compensation of all personnel; and

(2) the costs of all facilities and materials;

as determined by the clerk of the court that are used in relation to the case and not otherwise covered.

Sec. 9. The supreme court shall adopt rules to carry out this chapter.

Chapter 11. Temporary Judges

Sec. 1. (a) The judge of a circuit, superior, or county court may appoint temporary judges. Each temporary judge must be:

(1) a competent attorney admitted to the practice of law in Indiana; and

(2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts located:

(1) in the same county; or

(2) in counties that are adjacent to each other.

(c) An agreement under subsection (b) must:

(1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;

(2) specify the duration of the agreement, which may not exceed one (1) year; and

(3) permit a judge to end the participation of a court in the agreement.

Sec. 2. A temporary judge:

(1) may:

(A) administer all oaths and affirmations required by law;

(B) take and certify affidavits and depositions; and

(C) issue subpoenas for witnesses whose testimony is to be taken before the temporary judge;

(2) has the same power to compel the attendance of witnesses and to punish contempts as the judge of the court;

(3) may:

(A) conduct preliminary hearings in criminal matters;

(B) issue search warrants and arrest warrants; and

(C) fix bond; and

(4) may enforce court rules.

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Sec. 3. (a) Except as provided in subsection (b), a temporary judge may hear evidence upon and report findings to the judge of the court for each probate, civil, criminal, and other case referred to the temporary judge by that judge. The temporary judge may:

(1) make the final judgment in these cases; and

(2) in a criminal case tried by the court, conduct all sentencing hearings in the case.

(b) If a defendant is being tried for a felony, the judge of the court shall conduct all sentencing hearings and make the final judgment in the case.

Sec. 4. A temporary judge may:

(1) conduct a jury trial;

(2) receive the verdict of the jury; and

(3) make and enter the judgment on the jury verdict;

in a civil case referred to the temporary judge by the judge of the court.

Sec. 5. In a criminal jury trial referred to a temporary judge by the judge of the court, the temporary judge may conduct the trial, receive the verdict of the jury, conduct all sentencing hearings, and make all final judgments. However, if the criminal case is a case in which the defendant is being tried for a felony, the judge of the court shall:

(1) make the final judgment in the case; and

(2) conduct all sentencing hearings in the case.

Sec. 6. The judge of the court may:

(1) limit any of the rights or powers of the temporary judge specified in this chapter; and

(2) specifically determine the duties of the temporary judge within the limits established in this chapter.

Sec. 7. A temporary judge may serve as a judge pro tempore or a special judge of the court but is not entitled to additional compensation for that service.

Sec. 8. A temporary judge has no power of judicial mandate.

Sec. 9. A temporary judge is entitled to twenty-five dollars ($25), paid by the county, for each day of service as a temporary judge.

Sec. 10. Except for:

(1) a temporary juvenile law judge appointed under section 1(b) of this chapter for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40; or

(2) a temporary judge appointed by a court located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

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a temporary judge appointed under this chapter may not serve for more than sixty (60) calendar days in all during a calendar year.

Sec. 11. A temporary judge appointed under this chapter may serve even though the judge of the court is present and presiding in the court.

Chapter 12. Defense and Indemnification of Judges for Civil Damages

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or proceeding that:

(1) results in the criminal conviction of; or

(2) is a disciplinary action or proceeding against;

a judge.

Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the executive director of the division of state court administration to hire private counsel to provide the defense.

(2) A judgment.

(3) A settlement.

(4) Court costs.

(5) Discovery costs.

(6) Expert witness fees.

(7) Any other expense incurred as a result of an action or a proceeding.

Sec. 3. As used in this chapter, "judge" means an individual who holds or formerly held one (1) of the following offices or appointments:

(1) Justice of the supreme court.

(2) Judge of the court of appeals.

(3) Judge of the tax court.

(4) Judge of a circuit court.

(5) Judge of a superior court.

(6) Judge of a probate court.

(7) Judge of a municipal court.

(8) Judge of a county court.

(9) Judge of a city court.

(10) Judge of a town court.

(11) Judge of a small claims court.

(12) A judge pro tempore, senior judge, temporary judge, or any other individual serving as judge in an action or a proceeding in an Indiana court.

(13) Bail commissioner.

(14) Magistrate.

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(15) Master commissioner.
(16) Probate commissioner.
(17) Referee.

Sec. 4. The state shall pay the expenses incurred by a judge from a threatened, pending, or completed action or proceeding that arises from:

(1) making;
(2) performing; or
(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the judge's office.

Chapter 13. The Commission on Judicial Qualifications and the Retirement, Discipline, and Removal of Justices and Judges

Sec. 1. This chapter applies to all proceedings before the commission on judicial qualifications and masters involving the censure, retirement, or removal of justices of the supreme court and judges of the court of appeals, as provided by Article 7, Section 11 of the Constitution of the State of Indiana.

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or commission with respect to the charges against a judge; and
(2) represent the commission before the supreme court in connection with any proceedings before the court.

Sec. 4. As used in this chapter, "judge" means a judge of the court of appeals.

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

Sec. 8. (a) Every justice of the supreme court and judge of the court of appeals shall retire at seventy-five (75) years of age.

(b) Notwithstanding subsection (a), the supreme court may authorize retired justices and judges to perform temporary judicial

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duties in any state court.

Sec. 9. (a) The commission shall meet as necessary to discharge its statutory and constitutional responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum for the transaction of business.

(b) Meetings of the commission shall be held in Indiana as the chairman of the commission arranges.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct meetings and discharge its duties.

Sec. 10. (a) All papers filed with the commission before the institution of formal proceedings under section 14 of this chapter are confidential unless:

(1) the justice or judge against whom a recommendation has been filed elects to have the information divulged; or

(2) the commission elects to answer publicly disseminated statements issued by any complainant.

(b) All papers filed with the commission during and after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. After the institution of formal proceedings, all hearings and proceedings before the commission or before the masters appointed under this chapter are open to the public.

Sec. 11. Filing papers with and giving testimony before the commission or the masters appointed by the supreme court under this chapter are privileged.

Sec. 12. (a) A complaint filed with the commission must be in writing and directed to the commission or to any member of the commission.

(b) A specified form of complaint may not be required.

Sec. 13. (a) Any Indiana citizen may complain to the commission about the activities, fitness, or qualifications of a judge or justice. Upon receiving a complaint, the commission shall determine if the complaint is founded and not frivolous. If the commission determines that the complaint is frivolous or malicious, the commission shall file with the proper court charges against the complainant. The commission, without receiving a complaint, may conduct an initial inquiry on its own motion.

(b) If the commission determines it is necessary to investigate a justice or judge, the commission shall notify the justice or judge by

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prepaid registered or certified mail addressed to the justice or judge at the justice's or judge's chambers and last known residence. The notice must contain information concerning the following:

(1) The investigation.

(2) The nature of the complaint.

(3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.

(4) The opportunity to present matters as the justice or judge may choose.

If the investigation does not disclose sufficient cause to warrant further proceedings the justice or judge shall be so notified.

(c) The commission may do the following:

(1) Make investigations or employ special investigators.

(2) Hold confidential hearings with the complainant or the complainant's agents or attorneys.

(3) Hold confidential hearings with the judge or justice involved in the complaint.

(d) If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and

(2) the complainant issues a public statement relating to the activities or actions of the commission;

the commission may answer the statement by referring to the record of its proceedings or the results of its investigation.

Sec. 14. (a) If the commission concludes, after investigation, to institute formal proceedings against a justice or judge, the commission shall give written notice of the proceedings to the justice or judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence. The proceedings must be entitled:

"BEFORE THE INDIANA JUDICIAL
QUALIFICATIONS COMMISSION
Inquiry Concerning a (Justice) Judge, No. _____".

(b) The notice must:

(1) be issued in the name of the commission;

(2) specify in ordinary and concise language the charges against the justice or judge and the alleged facts upon which the charges are based; and

(3) advise the justice or judge of the justice's or judge's right to file a written answer to the charges not more than twenty

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(20) days after service of the notice.

A charge is not sufficient if it merely recites the general language of the original complaint, but must specify the facts relied upon to support a particular charge.

(c) A copy of the notice shall be filed in the office of the commission.

Sec. 15. Not more than twenty (20) days after service of the notice of formal proceedings, the justice or judge:

(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall mail a copy of the answer to the counsel.

Sec. 16. (a) Upon the filing of or the expiration of time for filing an answer, the commission shall:

(1) hold a hearing concerning the discipline, retirement, or removal of the justice or judge; or

(2) request the supreme court to appoint three (3) active or retired justices or judges of courts of record as special masters to hear and take evidence and report to the commission.

(b) The commission shall:

(1) set a date, time, and place for a hearing under subsection (a); and

(2) give notice of the hearing by registered or certified mail to the justice or judge, the masters, and the counsel not less than twenty (20) days before the date of the hearing.

Sec. 17. (a) The commission or a master may proceed with a scheduled hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a justice or judge to answer or appear at the hearing may not be taken as evidence of the truth of the facts alleged to constitute grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a justice or judge to testify in the justice's or judge's behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the justice's or judge's control.

(c) The hearing shall be reported verbatim.

(d) At least four (4) commission members must be present when evidence is produced at a hearing before the commission.

Sec. 18. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

Sec. 19. (a) In formal proceedings involving a justice's or judge's discipline, retirement, or removal, the justice or judge may do the

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following:

(1) Defend against the charges by introducing evidence.

(2) Be represented by counsel.

(3) Examine and cross-examine witnesses.

(4) Issue subpoenas for attendance of witnesses to testify or produce evidentiary matter under section 31 of this chapter.

(b) The commission shall transcribe the testimony and provide a copy at no cost to the justice or judge. The justice or judge is entitled to have any part of the testimony transcribed at the justice's or judge's expense.

(c) Except as otherwise provided in this chapter, notice or any other matter shall be sent to a justice or judge by registered or certified mail to the justice or judge at the justice's or judge's office and residence unless the justice or judge requests otherwise in writing. A copy of the notice or other matter must be mailed to the justice's or judge's attorney of record.

(d) If a justice or judge has been adjudged incapacitated under IC 29-3, the justice's or judge's guardian may claim and exercise any right and privilege and make any defense for the justice or judge with the same force and effect as if claimed, exercised, or made by the justice or judge if competent. If the rules provide for serving or giving notice or sending any matter to the justice or judge, a copy of any notice or other matter sent to the justice or judge also shall be served, given, or sent to the justice's or judge's guardian.

Sec. 20. The masters, at any time before the conclusion of the hearing, or the commission, at any time before its determination:

(1) may allow or require amendments to the notice of formal proceedings; and

(2) may allow amendments to the answer.

The notice may be amended to conform to proof or to set forth additional facts whether occurring before or after the commencement of the hearing. If an amendment is made, the justice or judge shall be given reasonable time both to answer the amendment and to prepare and present a defense.

Sec. 21. (a) After a hearing, the masters shall promptly prepare and transmit to the commission an original and four (4) copies of a transcript of the hearing and an original and four (4) copies of a report that contains a brief statement of the proceedings and the masters' recommended findings of fact. The recommended findings of facts are not binding upon the commission.

(b) Upon receiving the report of the masters, the commission

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shall mail a copy of the report and transcript to the justice or judge and the counsel.

Sec. 22. Not more than fifteen (15) days after the commission mails a copy of the report of the masters to the justice or judge, the counsel or the justice or judge may file with the commission an original and one (1) copy of objections to the report of masters. If the counsel files objections, the counsel shall mail a copy of the objections to the justice or judge. If the justice or judge files objections, the justice or judge shall send a copy of the objections by registered or certified mail to the counsel.

Sec. 23. If objections to a report of the masters under section 21 of this chapter are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the justice or judge and the counsel an opportunity to be heard before the commission in the county in which the justice or judge resides. The commission shall mail written notice of the time and place of the hearing to the justice or judge and the counsel not less than ten (10) days before the hearing.

Sec. 24. (a) The chairman of the commission may extend the time for:

(1) filing an answer;

(2) conducting a hearing before the commission; and

(3) filing objections to the report of the masters.

(b) The presiding master may, with the approval of the chairman of the commission, extend the time for conducting a hearing before the masters.

Sec. 25. The commission may order a hearing to take additional evidence at any time while a matter is pending before it. The hearing must be in the county in which the justice or judge resides. The order must set the time and place of the hearing and shall indicate the matters on which evidence will be taken. The commission shall send a copy of the order to the judge and the counsel not less than ten (10) days before the hearing. If masters have been appointed, the hearing shall be before the masters, and the hearing must conform with sections 18 through 24 of this chapter and this section.

Sec. 26. If the commission finds good cause, it shall recommend to the supreme court the censure, retirement, or removal of a justice or judge. If a hearing is before the masters, the affirmative

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vote of four (4) members of the commission is required to recommend censure, retirement, or removal of a justice or judge. If a hearing is before the commission, the affirmative vote of four (4) members of the commission, including a majority of the members who were present at the hearing, is required to recommend censure, retirement, or removal of a justice or judge.

Sec. 27. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall record its determination and mail notice of the determination to the justice or judge and the counsel. If the commission recommends censure, retirement, or removal, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

Sec. 28. Upon recommending the censure, retirement, or removal of a justice or judge, the commission shall promptly file the following with the clerk of the supreme court:

(1) A copy of the recommendation certified by the chairman or secretary of the commission.

(2) A transcript of the evidence.

(3) Findings of fact and conclusions of law.

The commission shall promptly mail to the justice or judge and the counsel notice of the filing and copies of the filed documents.

Sec. 29. (a) Not more than thirty (30) days after a certified copy of the commission's recommendation is filed with the clerk of the supreme court, a justice or judge may petition the supreme court to modify or reject the commission's recommendation.

(b) The justice or judge shall verify the petition. The petition must be based on the record. The petition must specify the grounds relied on and must be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy on the justice or judge. Not more than twenty (20) days after service of respondent's brief, the petitioner may file a reply brief and shall serve two (2) copies on the commission and one (1) copy on the counsel.

(d) Failure to timely file a petition is considered consent to the determination on the merits based upon the record filed by the commission.

(e) To the extent necessary and not inconsistent with this section,

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the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.

Sec. 30. The commission has jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or hearing, including the powers to depose witnesses and to order the production of documentary evidence. A member of the commission or a master may administer oaths to witnesses in a matter under the commission's jurisdiction.

Sec. 31. (a) A master may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

Sec. 32. If a witness in a commission proceeding:

(1) fails or refuses to attend upon subpoena; or

(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

Sec. 33. A master may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

Sec. 34. (a) In all formal proceedings, discovery is available to the commission and the judge or justice under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to the circuit court judge in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge or justice at least twenty (20) days before the hearing:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.

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(2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:

(A) are in the possession of the counsel or the commission;

(B) are relevant to the hearing; and

(C) have not previously been provided to the justice or judge.

(3) Copies of all documentary evidence that the counsel expects to offer in evidence at the hearing.

(c) Upon objection of the justice or judge, the following are not admissible in a hearing:

(1) The testimony of a witness whose name and address have not been furnished to the judge or justice under subsection (b).

(2) Documentary evidence that has not been furnished to the judge or justice under subsection (b).

(d) After formal proceedings have been instituted, the justice or judge may request in writing that the counsel furnish to the justice or judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to a charge against or a defense of the justice or judge. The counsel shall provide to the justice or judge copies of documentary evidence that:

(1) are known at any time to the counsel or in the possession at any time of the counsel or the commission;

(2) are relevant to a charge against or defense of the justice or judge; and

(3) have not previously been provided to the justice or judge.

The counsel shall comply with a request under this subsection not more than ten (10) days after receiving the request and not more than ten (10) days after the counsel becomes aware of the information or evidence.

(e) During the course of an investigation by the commission, the justice or judge whose conduct is being investigated may demand in writing that the commission:

(1) institute formal proceedings against the justice or judge; or

(2) enter a formal finding that there is not probable cause to believe that the justice or judge is guilty of any misconduct.

The commission shall comply with a request under this subsection not more than sixty (60) days after receiving the request. A copy of the request shall be filed with the supreme court. If the commission finds that there is not probable cause, the commission shall file the finding with the supreme court. A document filed with the supreme court under this subsection is a matter of public record.

Sec. 35. This chapter does not encroach upon or impair the

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vested rights of a justice or judge or the surviving spouse of a justice or judge under any constitutional or statutory retirement program.

Chapter 14. The Commission on Judicial Qualifications and the Discipline of Judges of Superior, Probate, Juvenile, and Criminal Courts

Sec. 1. It is the purpose of this chapter to provide that judges of superior, probate, juvenile, or criminal courts in counties described in section 9 of this chapter are subject to disciplinary action on the grounds and in the manner set forth in this chapter.

Sec. 2. As used in this chapter, "commission" means the commission on judicial qualifications described in Article 7, Section 9 of the Constitution of the State of Indiana.

Sec. 3. As used in this chapter, "counsel" means the lawyer designated by the commission to:

(1) gather and present evidence before the masters or the commission with respect to the charges against a judge; and

(2) represent the commission before the supreme court in connection with any proceedings before the court.

Sec. 4. As used in this chapter, "judge" means a judge of a superior or probate court.

Sec. 5. As used in this chapter, "mail" includes ordinary mail or personal delivery.

Sec. 6. As used in this chapter, "masters" means the special masters appointed by the chief justice upon request of the commission.

Sec. 7. As used in this chapter, "presiding master" means the master so designated by the chief justice or, in the absence of a designation, the justice or judge named in the order appointing masters.

Sec. 8. The commission is the commission on judicial qualifications for judges of superior and probate courts in the counties described in section 9 of this chapter. The members of the commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the superior and probate courts.

Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges.

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall

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exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

Sec. 10. (a) A judge is disqualified from acting as a judicial officer, without loss of salary, while there is pending:

(1) an indictment or information charging the judge in a United States court with a crime punishable as a felony under Indiana or federal law; or

(2) a recommendation to the supreme court by the commission for the judge's removal or retirement.

(b) On recommendation of the commission or on its own motion, the supreme court may suspend a judge from office without salary if in a United States court the judge pleads guilty or no contest or is found guilty of a crime that:

(1) is punishable as a felony under Indiana or federal law; or

(2) involves moral turpitude under the law.

If the judge's conviction is reversed, the suspension terminates and the judge shall be paid the judge's salary for the period of suspension. If the judge's conviction becomes final, the supreme court shall remove the judge from office.

(c) On recommendation of the commission, the supreme court may:

(1) retire a judge for a disability that:

(A) seriously interferes with the performance of the judge's duties; and

(B) is or is likely to become permanent; and

(2) censure or remove a judge for an action that:

(A) occurs not more than six (6) years before the beginning of the judge's current term; and

(B) constitutes at least one (1) of the following:

(i) Willful misconduct in office.

(ii) Willful or persistent failure to perform the judge's duties.

(iii) Habitual intemperance.

(iv) Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

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A judge retired under this subsection is considered to have retired voluntarily. A judge removed under this subsection is ineligible for judicial office and, pending further order of the supreme court, is suspended from the practice of law in Indiana.

Sec. 11. (a) The commission shall meet as necessary to discharge its statutory responsibilities. Meetings of the commission shall be called in the same manner as prescribed for the judicial nominating commission. Four (4) members of the commission constitute a quorum.

(b) Commission meetings are to be held in Indiana on the call of the chairman.

(c) The commission may act only at a meeting. The commission may adopt rules and regulations to conduct its meetings and discharge its duties.

Sec. 12. (a) Papers filed with and proceedings before the commission before the institution of formal proceedings are confidential unless:

(1) the judge against whom a recommendation is filed elects to have the information divulged; or

(2) the commission elects to answer public statements by a complainant.

(b) Papers filed with the commission during or after the institution of formal proceedings are open for public inspection at all reasonable times. Records of commission proceedings are open for public inspection at all reasonable times. All hearings and proceedings before the commission, after the institution of formal proceedings, are open to the public.

Sec. 13. Filing papers with or giving testimony before the commission or the masters under this chapter is privileged.

Sec. 14. (a) Any citizen of Indiana may file with the commission a written and verified complaint on the judicial fitness of a judge of a superior, criminal, juvenile, or probate court of Indiana.

(b) A specified form of complaint may not be required.

Sec. 15. (a) A judge may request retirement due to disability.

(b) A citizen of Indiana may complain to the commission about the activities, fitness, or qualifications of a judge. Upon receipt of a complaint, the commission shall determine if the complaint is frivolous. The commission may, on its own motion, inquire into the activities, fitness, or qualifications of a judge.

(c) If the commission determines it is necessary to investigate a judge, the commission shall notify the judge by prepaid registered or certified mail addressed to the judge at the judge's chambers

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and last known residence of the following:

(1) The investigation.

(2) The nature of the complaint.

(3) The origin of the complaint, including the name of the complainant or that the investigation is on the commission's motion.

(4) The opportunity to present in the court of the investigation matters as the judge chooses.

(d) The commission may do the following:

(1) Conduct investigations.

(2) Employ special investigators.

(3) Hold confidential hearings with the judge's or commission's agents or attorneys.

(4) Hold confidential hearings with any judge involved.

(e) If:

(1) the commission's initial inquiry or investigation does not disclose sufficient cause to warrant further proceedings; and

(2) the complainant subsequently issues any public statement relating to the activities or actions of the commission;

the commission may answer the statement by referring to the record of proceedings or the results of the investigations.

Sec. 16. (a) If the commission decides to institute formal proceedings, the commission shall give written notice to the judge advising the judge of the institution of formal proceedings to inquire into the charges against judge. The proceedings must be entitled:

"BEFORE THE INDIANA JUDICIAL QUALIFICATIONS COMMISSION

Inquiry Concerning a Judge, No. _____".

(b) The notice must:

(1) specify in ordinary and concise language the charges against the judge and the alleged facts upon which the charges are based; and

(2) advise the judge of the judge's right to file a written answer not more then twenty (20) days after service of notice.

A charge is not sufficient if it recites the general language of the original complaint.

(c) The notice shall be made upon the judge by registered or certified mail addressed to the judge at the judge's chambers and last known residence.

Sec. 17. Not more than twenty (20) days after service of the notice of formal proceedings, the judge:

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(1) may file with the commission a signed original and one (1) copy of an answer; and

(2) shall serve by mail a copy of the answer on the counsel.

Sec. 18. (a) Upon the filing of or the expiration of the time for filing an answer, the commission shall:

(1) order a hearing before the commission on the discipline, retirement, or removal of the judge; or

(2) request the supreme court to appoint three (3) active or retired judges of courts of record as special masters to hear and take evidence on the matter and to report to the commission.

(b) The commission shall:

(1) set a time and place in the state in which the judge involved resides for a hearing; and

(2) mail notice of the hearing to the judge, the masters, and the counsel at least twenty (20) days before the hearing date.

Sec. 19. (a) The commission, or the masters when the hearing is before the masters, may proceed with the hearing whether or not the judge files an answer or appears at the hearing.

(b) The failure of a judge to answer or to appear at the hearing by itself is not evidence of the facts alleged and does not constitute grounds for censure, retirement, or removal. In a proceeding for involuntary retirement for disability, the failure of a judge to testify in the judge's own behalf or to submit to a medical examination requested by the commission or the masters may be considered, unless the failure was due to circumstances beyond the judge's control.

(c) The hearing shall be reported verbatim.

(d) At a hearing before the commission, not less than four (4) members must be present when the evidence is produced.

Sec. 20. The Indiana Rules of Evidence apply at a hearing before the commission or the masters.

Sec. 21. (a) In formal proceedings involving the discipline, retirement, or removal of a judge, the judge may:

(1) defend against the charges by introducing evidence;

(2) be represented by counsel;

(3) examine and cross-examine witnesses; and

(4) issue subpoenas for attendance of witnesses to testify or produce evidentiary matter.

(b) If testimony is transcribed at the expense of the commission, a copy shall be provided to the judge at no cost. The judge is entitled to have testimony transcribed at the judge's expense.

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(c) Except as otherwise provided in this chapter, any notice or matter sent to the judge shall be mailed by registered or certified mail to the judge at the judge's office and residence unless the judge requests otherwise in writing. A copy of the notice or matter shall be mailed to the judge's counsel.

(d) If a judge has been adjudicated incapacitated under IC 29-3, the judge's guardian may exercise any right or privilege and make any defense for the judge as if exercised or made by the judge. If any notice or matter is sent to the judge, a copy of the notice or matter also shall be sent to the judge's guardian.

Sec. 22. The masters, before the conclusion of the hearing, or the commission, before its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts. If an amendment is made, the judge shall be given reasonable time to answer the amendment and to prepare and present a defense.

Sec. 23. (a) After a hearing before the masters, the masters shall promptly transmit to the commission an original and four (4) copies of:

(1) a transcript of the hearing; and

(2) a report that contains a brief statement of the proceedings and recommended findings of fact.

The recommended findings of facts are not binding on the commission.

(b) Upon receiving the report of the masters, the commission shall promptly mail a copy of the report and transcript to the judge and the judge's counsel.

Sec. 24. Not more than fifteen (15) days after a copy of the report of the masters is mailed to the judge, the counsel or the judge may file with the commission an original and one (1) copy of objections to the report of the masters. If the counsel files objections, the counsel shall mail a copy of the objections to the judge. If the judge files objections, the judge shall mail a copy of the objections to the counsel.

Sec. 25. If objections to the report of the masters are not timely filed, the commission may adopt the recommended findings of the masters without a hearing. If objections are timely filed, or if objections are not timely filed and the commission proposes to modify or reject the recommended findings of the masters, the commission shall give the judge and the counsel an opportunity to be heard in the county where the judge resides. The commission

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shall mail to the judge and the counsel written notice of the time and place of the hearing not less than ten (10) days before the hearing.

Sec. 26. (a) The chairman of the commission may extend the time for:

(1) filing an answer;

(2) commencing a hearing before the commission; or

(3) filing objections to the report of the masters.

(b) The presiding master, with the approval of the chairman of the commission, may extend the time for commencing a hearing before the masters.

Sec. 27. (a) The commission may order a hearing to take additional evidence at any time while the matter is pending before the commission. The order must set the time and place of the hearing in the county in which the judge resides and must indicate the matters on which evidence will be taken. A copy of the order shall be mailed to the judge and the counsel at least ten (10) days before the hearing.

(b) If masters have been appointed, the hearing of additional evidence is before the masters in accordance with this chapter.

Sec. 28. If the commission finds good cause, it shall recommend to the supreme court the discipline, retirement, or removal of a judge. If a hearing is before the masters, the affirmative vote of four (4) commission members is required to recommend the discipline, retirement, or removal of a judge. If a hearing is before the commission, the affirmative vote of four (4) commission members, including a majority of the members present at the hearing, is required to recommend the discipline, retirement, or removal of a judge.

Sec. 29. The commission shall keep a record of all formal proceedings concerning a judge. The commission shall enter its determination in the record and mail notice to the judge and the counsel. If the commission recommends the discipline, retirement, or removal of a judge to the supreme court, the commission shall prepare a transcript of the evidence and proceedings and shall make written findings of fact and conclusions of law.

Sec. 30. Upon recommending the discipline, retirement, or removal of a judge, the commission shall file a copy of each of the following with the clerk of the supreme court:

(1) The recommendation certified by the chairman or secretary of the commission.

(2) The transcript.

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(3) The findings of fact and conclusions of law.

The commission shall mail to the judge and the counsel notice of the filing and copies of the filed documents.

Sec. 31. (a) A judge may petition the supreme court to modify or reject the recommendation of the commission for discipline, retirement, or removal of the judge not more than thirty (30) days after the certified copy of the commission's recommendation is filed with the clerk of the supreme court.

(b) A petition described in subsection (a) must:

(1) be verified;

(2) be based on the record;

(3) specify the grounds relied on; and

(4) be accompanied by the petitioner's brief and proof of service of two (2) copies of the petition and brief on the commission and one (1) copy of the petition and brief on the counsel.

(c) Not more than twenty (20) days after service of the petitioner's brief, the commission shall file a respondent's brief and serve a copy of the brief on the judge.

(d) Not more than twenty (20) days after service of the respondent's brief, the judge may file a reply brief. The judge shall serve two (2) copies of the reply brief on the commission and one (1) copy of the reply brief on the counsel.

(e) Failure to timely file a petition is considered consent to the determination on the merits based on the record filed by the commission.

(f) To the extent necessary and not inconsistent with this section, the Indiana Rules of Appellate Procedure apply to reviews by the supreme court of commission proceedings.

Sec. 32. The commission has jurisdiction and powers to dispose of any investigation or hearing, including the following:

(1) The power to compel the attendance of witnesses.

(2) The power to depose witnesses.

(3) The power to order the production of documentary evidence.

Any commission member or any master may administer oaths and affirmations to witnesses in a matter under the jurisdiction of the commission.

Sec. 33. (a) A master may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

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in a proceeding before the masters. The master shall serve the subpoena in the manner provided by law.

(b) The chairman of the commission may issue a subpoena for:

(1) the attendance of witnesses;

(2) the production of documentary evidence; or

(3) discovery;

in a proceeding before the commission or in which masters have not been appointed. The chairman shall serve the subpoena in the manner provided by law.

Sec. 34. If a witness in a commission proceeding:

(1) fails or refuses to attend upon subpoena; or

(2) refuses to testify or produce documentary evidence demanded by subpoena;

a circuit court may enforce the subpoena.

Sec. 35. All papers and pleadings filed with the office of the chairman of the commission are considered filed with the commission.

Sec. 36. (a) In all formal proceedings, discovery is available to the commission and the judge under the Indiana Rules of Civil Procedure. A motion requesting a discovery order must be made to the circuit court in the county in which the commission hearing is held.

(b) In all formal proceedings, the counsel shall provide the following to the judge at least twenty (20) days before a hearing:

(1) The names and addresses of all witnesses whose testimony the counsel expects to offer at the hearing.

(2) Copies of all written statements and transcripts of testimony of witnesses described in subdivision (1) that:

(A) are in the possession of the counsel or the commission;

(B) are relevant to the hearing; and

(C) have not been provided to the judge.

(3) Copies of all documentary evidence that the counsel expects to introduce at the hearing.

(c) On objection by a judge, the testimony of a witness whose name and address have not been furnished to the judge and documentary evidence that has not been furnished to the judge, are not admissible at a hearing.

(d) After formal proceedings have been instituted, a judge may request in writing that the counsel provide the judge the names and addresses of all witnesses known at any time to the counsel who have information that may be relevant to any charge against or any defense of the judge. The counsel shall provide copies of

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written statements, transcripts of testimony, and documentary evidence that:

(1) are in the commission counsel's possession at any time;

(2) are relevant to a charge against or defense of the judge; and

(3) have not been furnished to the judge.

The counsel shall comply with the request not more than ten (10) days after receiving the request or not more than ten (10) days after any information or evidence becomes known to the counsel.

(e) During an investigation by the commission, a judge whose conduct is being investigated may demand in writing that the commission institute formal proceedings against the judge or enter a formal finding that there is not probable cause to believe the judge is guilty of misconduct. Not more than sixty (60) days after receiving a written demand, the commission shall comply with the demand. A copy of the demand shall be filed in the supreme court and is a matter of public record. If the commission finds there is not probable cause, the finding shall be filed in the supreme court and is a matter of public record.

SECTION 18. IC 33-39 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 39. PROSECUTING ATTORNEYS

Chapter 1. Bond, Duty to Prosecute, Special Prosecutors, and Pretrial Diversion

Sec. 1. (a) As used in this chapter, "senior prosecuting attorney" means a person who:

(1) was employed for at least eight (8) years as a prosecuting attorney or chief deputy prosecuting attorney; and

(2) files an affidavit requesting designation as a senior prosecuting attorney in the circuit court in a county in which the person is willing to serve as a senior prosecuting attorney.

(b) An affidavit filed under subsection (a) must contain the following:

(1) The name of the person filing the affidavit.

(2) The person's attorney number issued by the supreme court.

(3) The length of time the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(4) The name of any county in which the person served as a chief deputy prosecuting attorney or prosecuting attorney.

(c) The circuit court shall promptly forward each affidavit received under this section to the prosecuting attorneys council of Indiana.

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Sec. 2. (a) This section does not apply to a deputy prosecuting attorney appointed by a prosecuting attorney or a special prosecutor appointed by a court.

(b) To be eligible to hold office as a prosecuting attorney, a person must be a resident of the judicial circuit that the person serves.

Sec. 3. A person elected to the office of prosecuting attorney, before entering upon the duties of the office, shall execute a bond in the manner prescribed by IC 5-4-1.

Sec. 4. (a) When a prosecuting attorney receives information of the commission of a felony or misdemeanor, the prosecuting attorney shall cause process to issue from a court (except the circuit court) having jurisdiction to issue the process to the proper officer, directing the officer to subpoena the persons named in the process who are likely to have information concerning the commission of the felony or misdemeanor. The prosecuting attorney shall examine a person subpoenaed before the court that issued the process concerning the offense.

(b) If the facts elicited under subsection (a) are sufficient to establish a reasonable presumption of guilt against the party charged, the court shall:

(1) cause the testimony that amounts to a charge of a felony or misdemeanor to be reduced to writing and subscribed and sworn to by the witness; and

(2) issue process for the apprehension of the accused, as in other cases.

Sec. 5. Except as provided in IC 12-15-23-6(d), the prosecuting attorneys, within their respective jurisdictions, shall:

(1) conduct all prosecutions for felonies, misdemeanors, or infractions and all suits on forfeited recognizances;

(2) superintend, on behalf of counties or any of the trust funds, all suits in which the the counties or trust funds may be interested or involved; and

(3) perform all other duties required by law.

Sec. 6. (a) Special prosecutors may be appointed only under this section.

(b) A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and

(B) the prosecuting attorney agrees that a special prosecutor

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is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and

(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard;

finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and

(B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and

(B) the court finds that the appointment of a special prosecutor is in the best interests of justice.

(c) Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or

(B) except as provided in subsection (d), a senior prosecuting attorney.

(d) A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

(e) A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

(f) The court shall establish the length of the special prosecutor's

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term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and

(2) may not exceed:

(A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and

(B) travel expenses and reasonable accommodation expenses actually incurred.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

(2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

(i) The combination of:

(1) the compensation paid to a senior prosecuting attorney under this chapter; and

(2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year.

Sec. 7. A person may not be appointed a senior prosecuting attorney under section 6 of this chapter if the person:

(1) is not available for the minimum period of commitment for service as a special prosecutor; or

(2) has had a disciplinary sanction imposed by the Indiana supreme court disciplinary commission or a similar body in

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another state that restricts the person's ability to practice law.

Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) A prosecuting attorney may withhold prosecution against an accused person if:

(1) the person is charged with a misdemeanor;

(2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; and

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending.

(c) An agreement under subsection (b) may include conditions that the person:

(1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;

(2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;

(3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;

(4) support the person's dependents and meet other family responsibilities;

(5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;

(6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;

(7) report to the prosecuting attorney at reasonable times;

(8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and

(9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(d) An agreement under subsection (b)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(e) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

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(f) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(g) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (c)(6):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

Sec. 9. A prosecuting attorney who charges a person with committing any of the following shall inform the person's employer of the charge, unless the prosecuting attorney determines that the person charged does not work with children:

(1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

Chapter 2. Powers and Duties

Sec. 1. A prosecuting attorney or deputy prosecuting attorney may:

(1) take acknowledgments of deeds or other instruments in writing;

(2) administer oaths;

(3) protest notes and checks;

(4) take the deposition of a witness;

(5) take and certify affidavits and depositions; and

(6) perform any duty now conferred upon a notary public by a statute.

An acknowledgment of a deed or another instrument taken by a prosecuting attorney or deputy prosecuting attorney may be recorded in the same manner as though a deed or another instrument were acknowledged before a notary public.

Sec. 2. A prosecuting attorney or deputy prosecuting attorney may not perform a duty set forth in section 1 of this chapter until

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the prosecuting attorney or deputy prosecuting attorney obtains a seal that stamps upon paper a distinct impression:

(1) in words or letters sufficiently indicating the official character of the prosecuting attorney or deputy prosecuting attorney; and

(2) that may include any other device chosen by the prosecuting attorney or deputy prosecuting attorney.

All acts not attested by a seal are void.

Sec. 3. A prosecuting attorney or deputy prosecuting attorney who performs any of the acts set forth in section 1 of this chapter shall, at the time of signing a certificate of acknowledgment of a deed, mortgage, other instrument, jurat, or other official document, append to the certificate a true statement of the date of the expiration of the commission of the prosecuting attorney or deputy prosecuting attorney. A prosecuting attorney or deputy prosecuting attorney has jurisdiction to perform the duties set forth in this chapter anywhere in Indiana.

Sec. 4. A prosecuting attorney or deputy prosecuting attorney who performs an act under this chapter is entitled to the same fees as those charged by notaries public. If an act committed by a notary public would be a violation of the law, the act is a violation of the law if committed by a prosecuting attorney or deputy prosecuting attorney in the performance of an act authorized under this chapter.

Sec. 5. A prosecuting attorney or a deputy prosecuting attorney may administer all oaths that are convenient and necessary to be administered in the discharge of their official duties. An oath under this section shall be administered without any charge or expense.

Chapter 3. Travel Expenses Reimbursed for Taking Depositions in Criminal Actions

Sec. 1. Except as provided in section 2 of this chapter and upon the order of a judge trying a criminal case, the county auditor shall pay to a prosecuting attorney, from funds in the county treasury not otherwise appropriated and as a part of the costs of the trial, an amount equal to the expenses necessarily incurred by a prosecuting attorney in traveling to attend the taking of any deposition in connection with the criminal action.

Sec. 2. If a prosecuting attorney incurred expenses described in section 1 of this chapter for a criminal case from another county being heard on a change of venue, the expenses shall be collected from the other county as other costs are collected in the case.

Sec. 3. The court shall provide a prosecuting attorney an

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allowance for reasonable expenses after the prosecuting attorney files with the clerk of the court an itemized and verified statement of expenses.

Chapter 4. Appointment of Investigators and Jurisdiction to Investigate

Sec. 1. (a) The prosecuting attorney of any judicial circuit of Indiana may appoint one (1) or more investigators with the approval of the county council or councils. An investigator appointed under this section:

(1) works under the direction of the prosecuting attorney; and

(2) may conduct investigations and assist in collecting and assembling evidence that, in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any of the criminal offenders of the judicial circuit.

(b) An investigator appointed under this section shall give bond in the sum of five thousand dollars ($5,000) and has the same police powers within the county authorized by law to all police officers.

(c) In each judicial circuit the salary or other compensation to be paid an investigator appointed under this section shall be set by the county council or councils. A county council or councils may not reduce the number of investigators or compensation of any investigator without approval of the prosecuting attorney.

Sec. 2. (a) If the place of trial for commission of an offense, as determined under IC 35-32-2-1, would potentially require a choice between or among counties, the coroner and law enforcement officers of the county where the offense is discovered have jurisdiction to investigate the offense.

(b) This section may be modified by agreement between or among the prosecuting attorneys of the counties involved.

Chapter 5. Assistance Procuring a Liquor License Prohibited

Sec. 1. A:

(1) prosecuting attorney;

(2) deputy prosecuting attorney; or

(3) judge of a city court;

who recklessly acts as attorney, agent, or counsel for an applicant in a proceeding to procure a license to retail or wholesale intoxicating liquors under IC 7.1, or aids or assists in any manner in the procuring of a license commits a Class B misdemeanor.

Chapter 6. Compensation of Prosecutors, Deputies, and Investigators

Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this

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chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting

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attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is

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appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

Sec. 3. For purposes of fixing the salaries of the various prosecuting attorneys under this chapter, each judicial circuit of the state is:

(1) graded on the basis of population and gross assessed valuation; and

(2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

Sec. 4. (a) The nine (9) classes of the several judicial circuits of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relations of the judicial circuit to the state as established and certified to each county auditor by the state board of accounts not later than June 20 of any calendar year. They are as follows:

(1) Population.

(2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each judicial circuit shall be divided by the population of the entire state.

(2) The gross assessed valuation of each judicial circuit shall be divided by the gross assessed valuation of the entire state.

(3) The two (2) results thus obtained shall be added together and the sum thus obtained for each judicial circuit shall be divided by two (2).

(4) The final result so obtained, multiplied by one hundred (100), shall determine the classification of each judicial circuit

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according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
NO LIMIT		8.00	1
ALL UNDER	8.00	2.25	2
ALL UNDER	2.25	1.25	3
ALL UNDER	1.25	.85	4
ALL UNDER	.85	.70	5
ALL UNDER	.70	.60	6
ALL UNDER	.60	.50	7
ALL UNDER	.50	.35	8
ALL UNDER	.35	No limit	9

Sec. 5. (a) The annual minimum salary paid by the state to a full-time prosecuting attorney described in section 6 of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney.

(b) A prosecuting attorney of a judicial circuit, other than a full-time prosecuting attorney described in section 6 of this chapter is entitled to a minimum annual salary in an amount equal to sixty percent (60%) of the salary provided in subsection (a), except as provided by subsection (c).

(c) A prosecuting attorney, other than a full-time prosecuting attorney described in section 6 of this chapter, of a judicial circuit:

(1) that has a population of less than eighty-five thousand (85,000) and that adjoins any county having a population of more than one hundred sixty thousand (160,000); or

(2) in which is located:

(A) the Indiana state prison, the Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility; or

(B) a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients;

is entitled to a minimum annual salary in an amount equal to sixty-six percent (66%) of the salary provided in subsection (a).

(d) The state shall pay, from the state general fund, the minimum annual salary of a prosecuting attorney. The state shall pay the minimum annual salary in equal installments with payments being made once every two (2) weeks.

Sec. 6. (a) Except as provided in section 7 of this chapter, a prosecuting attorney may elect to devote the prosecuting attorney's

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full professional time to the duties of the office of prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30 of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

(b) A prosecuting attorney who elects to be a full-time prosecuting attorney:

(1) shall devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and

(2) may not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's judicial circuit and with the auditor of state.

Sec. 7. The prosecuting attorney of each judicial circuit of the second class within a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) shall devote the prosecuting attorney's full professional time to the duties of the prosecuting attorney's office. The prosecuting attorney may not engage in the private practice of law for the term for which the prosecuting attorney was elected or appointed, and the prosecuting attorney is entitled to a minimum annual salary that is not less than the salary of the judge of the circuit court of the same judicial circuit.

Sec. 8. (a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

(b) Prosecuting attorneys, deputy prosecuting attorneys, and investigators are entitled to a sum for mileage for the miles necessarily traveled in the discharge of their duties. The sum for mileage provided by this subsection must:

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(1) equal the sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile;

(2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; and

(3) be paid by the county in which the duty arose that necessitated the travel.

(c) This chapter does not prohibit the payment of other expenses as may be allowed by law.

(d) If a board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

Sec. 9. The classification of salary schedules for prosecuting attorneys may not be lowered below the classification first fixed by the state board of accounts under IC 33-14-7 (before its repeal).

Chapter 7. Retirement Fund

Sec. 1. This chapter applies only to:

(1) an individual who serves as a prosecuting attorney or chief deputy prosecuting attorney on or after January 1, 1990; and

(2) a participant employed in a position described in section 8(a)(2) or 8(a)(3) of this chapter who serves in the position after June 30, 1995.

Sec. 2. As used in this chapter, "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the public employees' retirement fund.

Sec. 4. As used in this chapter, "fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the following year.

Sec. 5. As used in this chapter, "fund" refers to the prosecuting attorneys retirement fund established by this chapter.

Sec. 6. As used in this chapter, "participant" means a person serving in a position described in section 8 of this chapter who is participating in the fund.

Sec. 7. As used in this chapter, "salary" means the salary paid to a participant by the state, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code. The term does not include an amount paid to a

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participant by a county or counties.

Sec. 8. (a) As used in this chapter, "services" means the period beginning on the first day upon which a person first became:

(1) a prosecuting attorney or chief deputy prosecuting attorney;

(2) any other deputy prosecuting attorney who is:

(A) appointed under IC 33-39-6-2; and

(B) paid by the state from the state general fund; or

(3) the executive director or the assistant executive director of the prosecuting attorneys council of Indiana;

whether that date is before, on, or after January 1, 1990, and ending on the date under consideration, including all intervening employment in a position described in subdivisions (1) through (3). If an individual is elected or appointed to a position described in subdivisions (1) through (3) and serves one (1) or more terms or part of a term, then retires from office, but at a later period or periods is appointed or elected and serves in a position described in subdivisions (1) through (3), the individual shall pay into the fund during all the periods that the individual serves in that position, except as otherwise provided in this chapter, whether the periods are connected or disconnected.

(b) A senior prosecuting attorney appointed under IC 33-39-1 is not required to pay into the fund during any period of service as a senior prosecuting attorney.

Sec. 9. The prosecuting attorneys retirement fund is established. The fund consists of the following:

(1) Each participant's contributions to the fund.

(2) All gifts, grants, devises, and bequests in money, property, or other form made to the fund.

(3) All interest on investments or on deposits of the funds.

(4) A contribution or payment to the fund made in a manner provided by the general assembly.

Sec. 10. The fund shall be construed to be a trust, separate and distinct from all other entities, maintained to:

(1) secure payment of benefits to the participants and their beneficiaries; and

(2) pay the costs of administering this chapter.

Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits

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under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

Sec. 12. (a) Except as provided in subsection (b), each participant shall make contributions to the fund as follows:

(1) A participant described in section 8(a)(1) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after December 31, 1989.

(2) A participant described in section 8(a)(2) or 8(a)(3) of this chapter shall make contributions of six percent (6%) of each payment of salary received for services after June 30, 1994.

A participant's contributions shall be deducted from the participant's monthly salary by the auditor of state and credited to the fund.

(b) The state may pay the contributions for a participant.

Sec. 13. (a) A participant who:

(1) ceases service in a position described in section 8 of this chapter, other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date upon which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board. Upon withdrawal the participant is entitled to receive the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually, payable not later than sixty (60) days from the date of the withdrawal application.

(b) Notwithstanding section 8 of this chapter, a participant who

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withdraws from the fund under subsection (a) and becomes a participant again at a later date is not entitled to service credit for years of service before the withdrawal.

Sec. 14. (a) Interest shall be credited annually on June 30 at the rate of five and one-half percent (5.5%) on all amounts credited to the member as of June 30 of the preceding year.

(b) Contributions begin to accumulate interest at the beginning of the fiscal year after the year in which the contributions are due.

(c) When a member retires or withdraws, a proportional interest credit determined under this chapter shall be paid for the period elapsed since the last date on which interest was credited.

Sec. 15. A participant whose employment in a position described in section 8 of this chapter is terminated is entitled to a retirement benefit computed under section 16 or 18 of this chapter, beginning on the date specified by the participant in a written application, if all of the following conditions are met:

(1) The application for retirement benefits and the choice of the retirement date is filed on a form provided by the board and the retirement date is:

(A) after the cessation of the participant's service;

(B) on the first day of a month; and

(C) not more than six (6) months before the date the application is received by the board.

However, if the board determines that a participant is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the participant became incompetent.

(2) The participant:

(A) is at least sixty-two (62) years of age and has at least ten (10) years of service credit; or

(B) meets the requirements for disability benefits under section 17 of this chapter.

(3) The participant is not receiving and is not entitled to receive any salary for services currently performed, except for services rendered as a senior prosecuting attorney under IC 33-39-1.

Sec. 16. (a) This section does not apply to a participant who meets the requirements for disability benefits under section 17 of this chapter.

(b) Except as provided in subsections (c) and (d), the amount of the annual retirement benefit to which a participant who applies for a retirement benefit and who is at least sixty-five (65) years of

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age is entitled equals the product of:

(1) the highest annual salary that was paid to the participant before separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 10	0
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(c) If a participant who applies for a retirement benefit is not at least sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-fourth percent (0.25%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday.

(d) Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

(e) If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually.

Sec. 17. (a) Except as provided in subsection (b), a participant

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who becomes disabled while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

(1) the participant has at least five (5) years of creditable service;

(2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board.

(b) Benefits may not be provided under this chapter for any disability that:

(1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;

(2) results from the participant's commission or attempted commission of a felony; or

(3) begins within two (2) years after a participant's entry or reentry into active service in a position described in section 8 of this chapter and was caused or contributed to by a mental or physical condition that manifested itself before the participant entered or reentered active service.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

Sec. 18. (a) Except as provided in subsection (b), the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter is equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

(2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 5	0

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5-10	**40%**
11	**41%**
12	**42%**
13	**43%**
14	**44%**
15	**45%**
16	**46%**
17	**47%**
18	**48%**
19	**49%**
20 or more	**50%**

(b) Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

Sec. 19. (a) The surviving spouse of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least ten (10) years of service in a position described in section 8 of this chapter; or

(C) met the requirements for disability benefits under section 17 of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed by subsection (b).

(b) The surviving spouse is entitled to a benefit for life equal to the greater of:

(1) seven thousand dollars ($7,000); or

(2) fifty percent (50%) of the amount of retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 16(c) of this chapter.

(c) Benefits payable to a surviving spouse under this section are reduced by the amounts, if any, that are payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death.

Sec. 20. (a) If a participant's spouse does not survive the participant, the dependent child of a participant is, upon the death of the participant, entitled to a benefit equal to the benefit the participant's spouse would have received under section 19 of this chapter.

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(b) If a surviving spouse of a decedent participant dies and a dependent child of the surviving spouse and the decedent participant survives them, that dependent child is entitled to receive a benefit equal to the benefit the spouse was receiving or would have received under section 19 of this chapter.

(c) If there is more than one (1) dependent child, the dependent children are entitled to share the benefit equally.

(d) Each dependent child is entitled to receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(e) Benefits payable to a dependent child are reduced by the amounts, if any, that are payable to the dependent child from the public employees' retirement fund.

Sec. 21. (a) If benefits are not payable to the survivors of a participant who dies, and if a withdrawal application is filed with the board by the survivors or the participant's estate, the total of the participant's contributions plus interest at the rate of five and one-half percent (5.5%) compounded annually, minus any payments made to the participant, shall be paid to:

(1) the surviving spouse of the participant;

(2) any dependent or dependents of the participant, if a spouse does not survive; or

(3) the participant's estate, if a spouse or dependent does not survive.

(b) The amount owed a spouse, dependent or dependents, or estate under subsection (a) is payable not later than sixty (60) days after the date of receipt of the withdrawal application.

Sec. 22. The fund shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code as applicable to the fund. In order to meet those requirements, the fund is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the fund to participants and their beneficiaries in accordance with this chapter.

(2) A part of the corpus or income of the fund may not be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment or death, or for any other reason, may not be applied to increase the benefits a participant would otherwise receive under the

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retirement fund law.

(4) If the fund is terminated, or if all contributions to the fund are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the fund is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining any benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter would exceed that maximum benefit, the benefit payable under this chapter shall be reduced as necessary.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

Sec. 23. (a) For purposes of this chapter, the following amounts are appropriated for each biennium:

(1) From the state general fund, the amount required to actuarially fund participants' retirement benefits, as

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determined by the board on recommendation of an actuary.

(2) From the fund, the amount required for administration purposes.

(b) The biennial appropriations provided in this section shall be credited to the board annually in equal installments in the month of July of each year of the biennium.

Sec. 24. Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

Sec. 25. (a) Notwithstanding any other provision of this chapter, the fund must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes.

(b) Notwithstanding any other provision of this chapter, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

Chapter 8. Prosecuting Attorneys Council

Sec. 1. As used in this chapter, "council" refers to the prosecuting attorneys council of Indiana established by section 2 of this chapter.

Sec. 2. (a) The prosecuting attorneys council of Indiana is established.

(b) The membership of the council consists of all the prosecuting attorneys and their chief deputies acting in Indiana.

Sec. 3. The activities of the council shall be directed by a ten (10) member board of directors elected by the entire membership of the council.

Sec. 4. The council may employ an executive director, staff, and clerical assistants necessary to fulfill the purposes of the council.

Sec. 5. The council shall do the following:

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

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(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

Sec. 6. (a) The drug prosecution fund is established. The council shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The council may use money from the fund to provide assistance to prosecuting attorneys to:

(1) investigate and prosecute violations of IC 35-48;

(2) bring actions for forfeiture, law enforcement costs, and correction costs under IC 34-24-1;

(3) bring actions for civil and criminal remedies for a violation of IC 35-45-6; and

(4) obtain training, equipment, and technical assistance that would enhance the ability of prosecuting attorneys to reduce illegal drug activity.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

Chapter 9. Defense and Indemnification of Prosecutors

Sec. 1. This chapter does not apply to a threatened, pending, or completed action or a proceeding that:

(1) results in the criminal conviction of; or

(2) is a disciplinary action or proceeding against;

a prosecuting attorney.

Sec. 2. As used in this chapter, "expenses" includes the following:

(1) Reasonable attorney's fees, if the attorney general has authorized the prosecuting attorney to hire private counsel to provide the defense.

(2) A judgment.

(3) A settlement.

(4) Court costs.

(5) Discovery costs.

(6) Expert witness fees.

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(7) Any other expense incurred as a result of an action or a proceeding.

Sec. 3. As used in the chapter, "prosecuting attorney" means a prosecuting attorney, a deputy prosecuting attorney, or a senior prosecuting attorney appointed under IC 33-39-1.

Sec. 4. The state shall pay the expenses incurred by a prosecuting attorney from a threatened, pending, or completed action or proceeding that arises from:

(1) making;

(2) performing; or

(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the prosecuting attorney's office.

SECTION 19. IC 33-40 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 40. PUBLIC DEFENDERS

Chapter 1. State Public Defender

Sec. 1. (a) The office of state public defender is established.

(b) The state public defender shall be appointed by the supreme court, to serve at the pleasure of the court, for a term of four (4) years.

(c) The state public defender must be:

(1) a resident of Indiana; and

(2) a practicing attorney in Indiana for at least three (3) years.

(d) The supreme court may give any tests it considers proper to determine the fitness of an applicant for appointment.

Sec. 2. (a) The state public defender shall represent a person who is:

(1) confined in a penal facility in Indiana or committed to the department of correction due to a criminal conviction or delinquency adjudication; and

(2) financially unable to employ counsel;

in a postconviction proceeding testing the legality of the person's conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent a person who is committed to the department of correction due to a criminal conviction or delinquency adjudication, and who is financially unable to employ counsel, in proceedings before the department of correction or parole board, if the right to legal representation is established by law.

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(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, a modification, or a reversal of law, or that for any other reason is without merit.

(d) This section does not prohibit an offender from proceeding on the offender's own behalf or otherwise refusing the services of the state public defender.

Sec. 3. (a) The state public defender shall be provided with a seal of office on which appear the words "Public Defender, State of Indiana".

(b) The state public defender may:

(1) take acknowledgments;

(2) administer oaths; and

(3) do all other acts authorized by law for a notary public.

An act performed under this section must be attested by the public defender's official seal.

Sec. 4. (a) The state public defender shall be paid an annual salary to be fixed by the supreme court.

(b) The state public defender may, with the consent of the supreme court, appoint or employ, at compensation to be fixed by the supreme court, the deputies, stenographers, or other clerical help that may be required to discharge the public defender's duties.

(c) The state public defender shall be provided with an office at a place to be located and designated by the supreme court.

(d) The state public defender shall be paid the state public defender's actual necessary and reasonable traveling expenses, including cost of food and lodging when away from the municipality in which the public defender's office is located and while on business of the office of the public defender.

(e) The state public defender shall be provided with:

(1) office furniture, fixtures, and equipment; and

(2) books, stationery, printing services, postage, and supplies.

Sec. 5. The state public defender may order on behalf of a prisoner the public defender represents a transcript of any court proceeding, including evidence presented, had against the prisoner, and depositions, if necessary, at the expense of the state. However, the public defender may stipulate as to the facts contained in the record of any court, or as to the substance of testimony presented or evidence heard involving any issue to be presented on behalf of the prisoner, without the testimony or evidence being fully transcribed.

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Sec. 6. All claims for salary or other expenses authorized by this chapter shall be allowed and approved by the supreme court. There is appropriated annually out of funds of the state not otherwise appropriated a sufficient amount to pay salaries and expenses authorized by this chapter.

Chapter 2. Public Defenders

Sec. 1. (a) Upon a determination by the judge of any court having criminal jurisdiction that:

(1) the court is unable within a reasonable time to appoint an available attorney, public defender or otherwise, who is competent in the practice of law in criminal cases as legal counsel for any person charged in the court with a criminal offense and who does not have sufficient means to employ an attorney; or

(2) in the interest of justice an attorney from another judicial circuit, not regularly practicing in the court, should be appointed to defend the indigent defendant or appeal the defendant's case, but the judge is unable within a reasonable time to provide for the direct appointment of an attorney;

the judge may make written request to the state public defender to provide a qualified attorney for the defense of the indigent person.

(b) The judge shall attach to the written request a copy of the affidavit or indictment, and state in the request the amount of the applicable minimum fee to be paid for the legal services of defense counsel in the case, subject to:

(1) any additional amount reasonable under all the circumstances of the case, to be determined and approved by the judge upon the final determination of the case; and

(2) reasonable partial allowances as may be approved and ordered by the judge pending final determination.

Sec. 2. Upon receiving a written request under section 1 of this chapter, the state public defender shall:

(1) accept appointment himself or herself;

(2) appoint any of the state public defender's deputies; or

(3) appoint any practicing attorney:

(A) admitted to the practice of law in Indiana; and

(B) who is competent to practice law in criminal cases;

subject to the concurring appointment, of record, by the requesting judge.

Sec. 3. (a) The state public defender shall prepare and maintain a schedule of minimum attorney's fees for all general classifications of criminal trials, and proceedings on plea of guilty, subject to the

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approval of the supreme court. The schedule shall be furnished upon request to all criminal courts. A fee approved by any court for the services of:

(1) the state public defender;

(2) the state public defender's deputy; or

(3) any attorney appointed by the state public defender and the judge under a request made to the state public defender;

may not be less than the approved minimum fee provided in the schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the state public defender that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

Sec. 4. All fees for services rendered by the state public defender or any of the state public defender's deputies under this chapter shall be paid directly to the state treasurer, to be expended for any necessary expenses of the office of the state public defender, including salaries of the necessary deputies, in addition to the state general funds otherwise appropriated by the general assembly for the payment of the expenses.

Sec. 5. The judge of a court having criminal jurisdiction shall make all orders necessary to mandate payment of fees approved by the presiding judge for payment for legal services rendered for indigent defendants in any cause in:

(1) the court; or

(2) another court following change of venue from the court;

whether or not the legal services are arranged under this chapter or by direct appointment of counsel in the first instance by the judge.

Sec. 6. (a) A public defender may use a public defender investigator who is qualified under subsection (b) to assist the public defender in preparing for the criminal defense of indigent persons.

(b) To practice as a public defender investigator, an individual must:

(1) be at least twenty-one (21) years of age; and

(2) not have a conviction for a crime that has a direct bearing on the individual's ability to competently perform the duties of a public defender investigator.

(c) A public defender investigator may not perform any duties for the public defender that constitute the unauthorized practice of

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law.

Chapter 3. Supplemental Funding for Public Defender Services

Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under section 9 of this chapter.

Sec. 2. The fiscal body of the county shall appropriate money from the fund to supplement and provide court appointed legal services to qualified defendants.

Sec. 3. The supplemental public defender services fund may be used only to supplement the provision for court appointed legal services and may not be used to replace other funding of court appointed legal services.

Sec. 4. Any money remaining in the fund at the end of the calendar year does not revert to any other fund but continues in the supplemental public defender services fund.

Sec. 5. A county may not have more than one (1) program providing court appointed legal services in the county, unless the fiscal body of the county agrees to allow additional court appointed legal services programs in the county.

Sec. 6. (a) If at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation under section 7 of this chapter, the court shall require payment by the person or the person's parent, if the person is a child alleged to be a delinquent child, of the following costs in addition to other costs assessed against the person:

(1) Reasonable attorney's fees if an attorney has been appointed for the person by the court.

(2) Costs incurred by the county as a result of court appointed legal services rendered to the person.

(b) The clerk of the court shall deposit costs collected under this section into the supplemental public defender services fund established under section 1 of this chapter.

(c) A person ordered to pay any part of the costs of representation under subsection (a) has the same rights and protections as those of other judgment debtors under the Constitution of the State of Indiana and under Indiana law.

(d) The sum of:

(1) the fee collected under IC 35-33-7-6;

(2) any amount assessed by the court under this section; and

(3) any amount ordered to be paid under IC 33-37-2-3;

may not exceed the cost of defense services rendered to the person.

Sec. 7. (a) If a defendant or a child alleged to be a delinquent

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child is receiving publicly paid representation, the court shall consider:

(1) the person's independently held assets and assets available to the spouse of the person or the person's parent if the person is unemancipated;

(2) the person's income;

(3) the person's liabilities; and

(4) the extent of the burden that payment of costs assessed under section 6 of this chapter would impose on the person and the dependents of the person.

(b) If, after considering the factors described in subsection (a), the court determines that the person is able to pay the costs of representation, the court shall enter a finding that the person is able to pay those additional costs.

Sec. 8. An order for costs assessed under section 6 of this chapter is a civil judgment subject to the exemptions allowed debtors under IC 34-55-10-2. At any time after entry of the order, the defendant may petition the court that has entered the order for relief from payment. The court may release the defendant from payment of all or a part of the payment required by the order if the court finds that payment would impose a hardship upon the defendant or dependents of the defendant.

Sec. 9. Fees assessed under section 6 of this chapter shall be collected by the program providing court appointed legal services in the county. These fees shall be deposited in the supplemental public defender services fund established under section 1 of this chapter.

Sec. 10. (a) In a county with a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000) in which a county public defender service is not provided, a supplemental public defender services fund must be established in each city for providing funding for a public defender to represent indigent defendants in a city court.

(b) Sections 2 through 9 of this chapter apply to the locally established supplemental public defender services fund established under subsection (a). However, funds otherwise required to be delivered to the county fiscal officer for maintaining a supplemental public defender services fund under this chapter shall be deposited with the local fiscal officer.

Chapter 4. Public Defender Council

Sec. 1. As used in this chapter, "council" refers to the public defender council of Indiana established by section 2 of this chapter.

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Sec. 2. (a) There is established a public defender council of Indiana.

(b) The council's membership consists of all:

(1) public defenders;

(2) contractual pauper counsel; and

(3) other court appointed attorneys regularly appointed to represent indigent defendants.

Sec. 3. The activities of the council shall be directed by an eleven (11) member board of directors, ten (10) of whom shall be elected by the entire membership of the council, and the state public defender.

Sec. 4. The council may employ an executive director, staff, and clerical personnel as necessary to carry out the council's purposes.

Sec. 5. The council shall:

(1) assist in the coordination of the duties of the attorneys engaged in the defense of indigents at public expense;

(2) prepare manuals of procedure;

(3) assist in the preparation of trial briefs, forms, and instructions;

(4) conduct research and studies of interest or value to all such attorneys; and

(5) maintain liaison contact with study commissions, organizations, and agencies of all branches of local, state, and federal government that will benefit criminal defense as part of the fair administration of justice in Indiana.

Chapter 5. Public Defender Commission

Sec. 1. As used in this chapter, "commission" refers to the Indiana public defender commission established by section 2 of this chapter.

Sec. 2. (a) The Indiana public defender commission is established.

(b) The commission is composed of the following eleven (11) members, none of whom may be a law enforcement officer or a court employee:

(1) Three (3) members appointed by the governor, with not more than two (2) of these individuals belonging to the same political party.

(2) Three (3) members appointed by the chief justice of the supreme court, with not more than two (2) of these individuals belonging to the same political party.

(3) One (1) member appointed by the board of trustees of the Indiana criminal justice institute, who is an attorney admitted to practice law in Indiana.

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(4) Two (2) members of the house of representatives to be appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be from the same political party.

(5) Two (2) members of the senate, to be appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be from the same political party.

Sec. 3. (a) The members of the commission shall designate one (1) member of the commission as chairperson.

(b) The term of office of each member of the commission is four (4) years. A vacancy occurring among the members of the commission before the expiration of a term shall be filled in the same manner as the original appointment. An appointment to fill a vacancy occurring before the expiration of a term is for the remainder of the unexpired term.

(c) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) A member of the commission who is not a state employee is entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) The commission shall meet at least quarterly and at times called by the chairperson or at the request of three (3) commission members.

Sec. 4. The commission shall do the following:

(1) Make recommendations to the supreme court concerning standards for indigent defense services provided for defendants against whom the state has sought the death sentence under IC 35-50-2-9, including the following:

(A) Determining indigency and eligibility for legal representation.

(B) Selection and qualifications of attorneys to represent

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indigent defendants at public expense.

(C) Determining conflicts of interest.

(D) Investigative, clerical, and other support services necessary to provide adequate legal representation.

(2) Adopt guidelines and standards for indigent defense services under which the counties will be eligible for reimbursement under IC 33-40-6, including the following:

(A) Determining indigency and the eligibility for legal representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-40-3.

(C) The use and expenditure of funds in the county supplemental public defender services fund established under IC 33-40-3-1.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the public defense fund.

The report to the general assembly under subdivision (4) must be in an electronic format under IC 5-14-6.

Sec. 5. The division of state court administration of the supreme court shall provide general staff support to the commission. The division of state court administration may enter into contracts for any additional staff support that the division determines is necessary to implement this section.

Chapter 6. Public Defense Fund

Sec. 1. The public defense fund is established to receive court costs or other revenues for county reimbursement and administrative expenses. The fund shall be administered by the division of state court administration of the supreme court.

Sec. 2. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 3. Money in the fund at the end of a fiscal year does not

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revert to the state general fund.

Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the public defense fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital cases except misdemeanors.

(c) A request under this section from a county described in IC 33-40-7-1(3) may be limited to expenditures for indigent defense services provided by a particular division of a court.

Sec. 5. (a) Except as provided under section 6 of this chapter, upon certification by a county auditor and a determination by the public defender commission that the request is in compliance with the guidelines and standards set by the commission, the commission shall quarterly authorize an amount of reimbursement due the county:

(1) that is equal to fifty percent (50%) of the county's certified expenditures for indigent defense services provided for a defendant against whom the death sentence is sought under IC 35-50-2-9; and

(2) that is equal to forty percent (40%) of the county's certified expenditures for defense services provided in noncapital cases except misdemeanors.

The division of state court administration shall then certify to the auditor of state the amount of reimbursement owed to a county under this chapter.

(b) Upon receiving certification from the division of state court administration, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of the amount certified.

Sec. 6. (a) If the public defense fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all county reimbursement for net expenditures in noncapital cases that is certified by the division of state court administration in any quarter, the public defender commission shall suspend payment of reimbursement to counties in noncapital cases until the next semiannual deposit in the public defense fund. At the end of the

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suspension period, the division of state court administration shall certify all suspended reimbursement.

(b) If the public defense fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all suspended reimbursement in noncapital cases, the amount certified by the division of state court administration for each county entitled to reimbursement shall be prorated.

Chapter 7. County Public Defender Boards

Sec. 1. This chapter does not apply to a county that:

(1) contains a consolidated city;

(2) has a population of:

(A) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000); or

(C) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000); or

(3) has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), except as provided in sections 5 and 11 of this chapter.

Sec. 2. As used in this chapter, "board" refers to a board established in an ordinance under section 3 of this chapter.

Sec. 3. (a) A county executive may adopt an ordinance establishing a county public defender board consisting of three (3) members. The county executive shall appoint one (1) member. The judges who exercise felony or juvenile jurisdiction in the county shall appoint by majority vote the other two (2) members.

(b) The members appointed by the judges may not be from the same political party. The members must be persons who have demonstrated an interest in high quality legal representation for indigent persons. However, a member may not be a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(c) Each member of the board serves a three (3) year term beginning with the date of the member's appointment. A member appointed to fill a vacancy holds office for the remainder of the previous member's term. If a successor has not been appointed by the end of a member's three (3) year term, the member continues in office until the member's successor takes office.

(d) The members shall, by a majority vote, elect one (1) member to serve as chairperson.

(e) Meetings shall be held at least quarterly and may be held at

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other times during the year at the call of the:

(1) chairperson; or

(2) other two (2) members.

(f) A county executive may terminate the board by giving at least ninety (90) days written notice to the judges described in subsection (a).

Sec. 4. A member is entitled to reimbursement from the county for traveling expenses and other expenses actually incurred in connection with the member's duties to the same extent as is provided to a state employee for traveling expenses and other expenses under the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 5. (a) The board shall prepare a comprehensive plan that must include at least one (1) of the following methods of providing legal defense services to indigent persons:

(1) Establishing a county public defender's office.

(2) Contracting with an attorney, a group of attorneys, or a private organization.

(3) Using an assigned counsel system of panel attorneys for case by case appointments under section 9 of this chapter.

(4) In a county described in section 1(3) of this chapter, establishing a public defender's office for the criminal division of the superior court.

(b) The plan prepared under subsection (a) shall be submitted to the Indiana public defender commission.

Sec. 6. (a) If a county public defender's office is established under this chapter, the board shall do the following:

(1) Recommend to the county fiscal body an annual operating budget for the county public defender's office.

(2) Appoint a county public defender.

(3) Submit an annual report to the county executive, the county fiscal body, and the judges described in section 3 of this chapter regarding the operation of the county public defender's office, including information relating to caseloads and expenditures.

(b) A county public defender shall be appointed for a term not to exceed four (4) years and may be reappointed. The county public defender may be removed from office only upon a showing of good cause. An attorney must be admitted to the practice of law in Indiana for at least two (2) years before the attorney is eligible for appointment as a county public defender.

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Sec. 7. A county public defender shall do the following:

(1) Maintain an office as approved by the board.

(2) Hire and supervise staff necessary to perform the services of the office after the staff positions are recommended by the board and approved by the county executive and the fiscal body.

(3) Keep and maintain records of all cases handled by the office and report at least annually to the board and the Indiana public defender commission concerning the operation of the office, costs, and projected needs.

Sec. 8. (a) A county public defender may contract with an attorney, a group of attorneys, or a private organization to provide legal representation under this chapter.

(b) The board shall establish the provisions of the contract under this section.

(c) The county fiscal body shall appropriate an amount sufficient to meet the obligations of the contract.

Sec. 9. The board may establish an assigned counsel system of panel attorneys to provide legal representation under this chapter that shall operate as follows:

(1) The board shall gather and maintain a list of attorneys qualified to represent indigent defendants.

(2) Upon the determination by a court that a person is indigent and entitled to legal representation at public expense, the court shall appoint an attorney to provide the representation from the list maintained by the board.

(3) An attorney appointed to provide representation under this section may request authorization from the judge hearing the case for expenditures for investigative services, expert witnesses, or other services necessary to provide adequate legal representation.

(4) An attorney appointed to provide representation under this section is entitled to receive compensation and reimbursement for budgeted expenses by submitting a voucher to the court. Upon approval of the voucher by the appropriate judge, the voucher shall be presented to the county auditor who shall process the claim as other claims against county funds are processed.

(5) An attorney appointed to provide representation under this section shall, upon completion of representation, report to the board information regarding the case disposition.

Sec. 10. (a) This chapter does not prevent a court from

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appointing counsel other than counsel provided for under the board's plan for providing defense services to an indigent person when the interests of justice require. A court may also appoint counsel to assist counsel provided for under the board's plan as co-counsel when the interests of justice require. Expenditures by a county for defense services not provided under the county public defender board's plan are not subject to reimbursement from the public defense fund under IC 33-40-6.

(b) A judge of a court having criminal jurisdiction may make a written request to the state public defender to provide a qualified attorney for the defense of a person charged in the court with a criminal offense and eligible for representation at public expense if the judge determines:

(1) that an attorney provided under the county public defender board's plan is not qualified or available to represent the person; or

(2) that in the interests of justice an attorney other than the attorney provided for by the county defender board's plan should be appointed.

The judge shall attach to the request a copy of the information or indictment. Expenditures for representation under this subsection shall be paid by the county according to a fee schedule approved by the commission. These expenditures are eligible for reimbursement from the public defense fund.

Sec. 11. (a) A county public defender board shall submit a written request for reimbursement to the county auditor. The request must set forth the total of the county's expenditures for indigent defense services to the county auditor and may be limited in a county described in section 1(3) of this chapter to expenditures for indigent defense services provided by a particular division of a court. The county auditor shall review the request and certify the total of the county's expenditures for indigent defense services to the Indiana public defender commission.

(b) Upon certification by the Indiana public defender commission that the county's indigent defense services meet the commission's standards, the auditor of state shall issue a warrant to the treasurer of state for disbursement to the county of a sum equal to forty percent (40%) of the county's certified expenditures for indigent defense services provided in noncapital cases except misdemeanors.

(c) If a county's indigent defense services fail to meet the standards adopted by the Indiana public defender commission, the

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public defender commission shall notify the county public defender board and the county fiscal body of the failure to comply with the Indiana public defender commission's standards. Unless the county public defender board corrects the deficiencies to comply with the standards not more than ninety (90) days after the date of the notice, the county's eligibility for reimbursement from the public defense fund terminates at the close of that fiscal year.

Sec. 12. A county public defender, a contract attorney, or counsel appointed by the court to provide legal defense services to indigent persons may not be a partner or an employee at the same law firm that employs the county's prosecuting attorney or a deputy prosecuting attorney in a private capacity.

Chapter 8. Miscellaneous Legal Services for Indigents in Criminal Actions

Sec. 1. The judge of any court having criminal jurisdiction, except in those counties with a population of at least four hundred thousand (400,000), may contract with any attorney or group of attorneys admitted to practice law in Indiana to provide legal counsel for all or some of the poor persons coming before the court charged with the commission of a crime and not having sufficient means to employ an attorney to defend themselves.

Sec. 2. A judge shall establish the fee to be paid to an attorney or attorneys for providing service to poor people.

Sec. 3. A contract entered into under section 1 of this chapter may be from year to year or for any length of time determined by the judge.

Sec. 4. The county council of every county where the judge of any court having criminal jurisdiction has contracted with an attorney for legal services to the poor shall appropriate an amount sufficient to meet the contract obligations of a court or courts for services to the poor.

Sec. 5. An indigent person desiring to appeal to the supreme court or the court of appeals the decision of a circuit court or criminal court in criminal cases, and not having sufficient means to procure the longhand manuscript or transcript of the evidence taken in shorthand, by the order or permission of any court, the court shall direct the shorthand reporter to transcribe the shorthand notes of evidence into longhand, as soon as practicable, and deliver the longhand manuscript or transcript to the indigent person. However, the court must be satisfied that the indigent person lacks sufficient means to pay the reporter for making the longhand manuscript or transcript of evidence, and the reporter

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may charge the compensation allowed by law in cases for making and furnishing a longhand manuscript, which service of the reporter shall be paid by the court from the proper county treasury.

SECTION 20. IC 33-41 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 41. COURT REPORTERS

Chapter 1. Powers and Duties

Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, criminal, superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

(1) Be promptly present in the appointing judge's court.

(2) Record the oral evidence given in all causes, including both questions and answers.

(3) Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.

(4) Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and

(2) except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars ($125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other

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courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars ($300) per month.

Sec. 2. (a) A person may not be considered ineligible to serve as official reporter because of the person's gender.

(b) A judge may not appoint the judge's son or daughter as an official reporter.

Sec. 3. At the time of appointment, an official reporter shall take an oath before an officer empowered to administer oaths to faithfully perform his or her duties as an official reporter.

Sec. 4. An official reporter may, at any time, be removed by the judge of the court for which the reporter was appointed. In case of a vacancy in the office of official reporter, the judge of the court in which the vacancy occurs shall fill the vacancy as soon after its occurrence as practicable.

Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish the transcript described in subsection (a) written in a plain legible longhand or typewriting as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.

Sec. 6. (a) Every official circuit, superior, criminal, probate, juvenile, and county court reporter appointed under section 1 of this chapter or IC 33-30-7-2 may do the following:

(1) Take and certify all acknowledgments of deeds, mortgages, or other instruments of writing required or authorized by law to be acknowledged.

(2) Administer oaths generally.

(3) Take and certify affidavits, examinations, and depositions.

(4) Perform any duty conferred upon a notary public by Indiana statutes.

(b) Any official reporter taking examinations and depositions may:

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(1) take them in shorthand;
(2) transcribe them into typewriting or longhand; and
(3) have them signed by the deposing witness.

(c) Before performing any official duty as authorized, an official reporter must:
(1) provide a bond as is required for notaries public; and
(2) procure a seal that will stamp a distinct impression indicating the reporter's official character, to which may be added any other device as the reporter chooses.

Sec. 7. (a) This section applies to the small claims court established under IC 33-34.

(b) The person who is designated by a judge of the court to prepare transcripts may collect a fee of not more than five dollars ($5) for each transcript from a person who requests the preparation of a transcript.

Chapter 2. Salaries

Sec. 1. As used in this chapter, "census" means the last preceding United States federal decennial census.

Sec. 2. As used in this chapter, "county salary" means that part of a court reporter's salary that is paid by the county.

Sec. 3. As used in this chapter, "judicial circuit" means any county comprising a single judicial circuit or any combination of one (1) or more counties comprising a single judicial circuit.

Sec. 4. As used in this chapter, "official court reporter" means any court reporter who is appointed as the official court reporter by the judge of any circuit, superior, or probate court in Indiana.

Sec. 5. As used in this chapter, "salary" means the amount of the state salary and the amount of the county salary added together.

Sec. 6. As used in this chapter, "state salary" means that part of a court reporter's salary that is paid by the state.

Sec. 7. County councils shall appropriate annually a sufficient amount to pay the county salaries authorized by this chapter.

Sec. 8. If a judicial circuit is composed of more than one (1) county, all the counties comprising the circuit, for purposes of this chapter, are considered as one (1) county. Each county in a circuit shall pay part of the county salary in the same proportion as its individual classification factor bears to the classification factor of the judicial circuit.

Sec. 9. For the purpose of this chapter:
(1) counties are graded on the basis of population and gross assessed valuation; and
(2) each county is set up on the percentage ratio it bears to the

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state with the whole state being considered as one hundred percent (100%).

Sec. 10. (a) The nine (9) classes of counties as set out in this chapter are based on a unit factor system. The factors are determined by the relation of the county to the state as established and certified to each county auditor by the state board of accounts not later than July 1 of each year. The factors are as follows:

(1) Population.

(2) Gross assessed valuation, as shown by the last preceding gross assessed valuation, as certified by the various counties to the auditor of state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

(1) The population of each county shall be divided by the population of the entire state.

(2) The gross assessed valuation of each county shall be divided by the gross assessed valuation of the entire state.

(3) The results obtained in subdivisions (1) and (2) shall be added together and the sum obtained for each county shall be divided by two (2).

(4) The result obtained under subdivision (3), multiplied by one hundred (100), determines the classification of each county according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
No Limit		8.00	1
All under	8.00	2.25	2
All under	2.25	1.25	3
All under	1.25	.85	4
All under	.85	.70	5
All under	.70	.60	6
All under	.60	.50	7
All under	.50	.35	8
All under	.35	No limit	9

Sec. 11. The annual salary of each court reporter shall be fixed as provided in this chapter according to the county or counties in which the court reporter holds office. A county or counties may add additional increments to the minimum annual salary according to the usual budget procedures. The salaries shall be paid in equal monthly installments.

Sec. 12. The annual salary of each court reporter shall be:

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Class 1	**$7,000**
Class 2	**$6,800**
Class 3	**$6,500**
Class 4	**$6,000**
Class 5	**$5,500**
Class 6	**$5,200**
Class 7	**$5,000**
Class 8	**$4,800**
Class 9	**$4,500**

Sec. 13. If the classification of any judicial circuit is changed by reason of change in population as determined by the census, the salaries of the court reporters of the judicial circuit is governed as provided by this chapter for judicial circuits of the population class into which it is placed. However, a judicial circuit may not be reduced in classification for determining the salary of any court reporter unless the minimum population of any class on July 1, 1965, was reduced more than five percent (5%) by the last preceding United States federal decennial census.

Sec. 14. This chapter may not be considered to repeal or amend IC 33-41-1-1.

Chapter 3. Depositions

Sec. 1. This chapter does not apply to contracts for court reporting services for any of the following:

(1) A court.

(2) An agency or instrumentality of a state or political subdivision.

(3) An agency or instrumentality of the government of the United States.

Sec. 2. As used in this chapter, "employee" includes the following:

(1) A person who provides reporting or other court services under a contractual relationship with a person interested in the outcome of litigation, including anyone that may be ultimately responsible for payment.

(2) A person who is employed to provide reporting or other court services part time or full time under a contract or otherwise by a person that has a contractual relationship with a party.

Sec. 3. A deposition to be used in a proceeding in a circuit, superior, probate, county, city, or town court, the court of appeals, or the supreme court must be taken before an individual who:

(1) is described in section 4 of this chapter; and

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(2) does not have a prohibited interest or relationship described in section 5 of this chapter.

Sec. 4. A deposition must be taken before:

(1) a hearing officer;

(2) a judge, a clerk, a commissioner, or an official reporter of a court;

(3) a notary public; or

(4) another individual authorized by law to take a deposition.

Sec. 5. (a) Subsection (b)(4) does not apply to a relative or employee of the attorney of one (1) of the parties to a proceeding.

(b) A deposition may not be taken by a person who is:

(1) a party to the proceeding;

(2) a relative, an employee, or an attorney of one (1) of the parties to the proceeding;

(3) someone with a financial interest in the proceeding or its outcome; or

(4) a relative, an employee, or an attorney of a person with a financial interest in the proceeding or its outcome.

Sec. 6. A deposition that is not taken in conformity with section 3 of this chapter is void.

Sec. 7. A person, when reducing a deposition to writing, shall transcribe a page unit of the deposition in the same form as the form required for a record of proceedings under Indiana Rule of Appellate Procedure 7.2.

SECTION 21. IC 33-42 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 42. NOTARIES PUBLIC

Chapter 1. Jurisdiction

Sec. 1. The jurisdiction of a notary public qualified in Indiana is co-extensive with the limits of the state. However, a notary may not be compelled to act out of the limits of the county in which the notary public resides.

Chapter 2. Qualifications, Powers, and Duties

Sec. 1. (a) An applicant for a commission as a notary public must be:

(1) at least eighteen (18) years of age; and

(2) a legal resident of Indiana.

(b) A notary public shall be appointed and commissioned by the governor. A notary public holds office for eight (8) years. A notary public, when so qualified, may act throughout Indiana.

(c) A person may request an application to become a notary

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public from the secretary of state. The secretary of state shall prescribe a written application form on which a person may apply for a commission as a notary public. The secretary of state may provide an applicant with enhanced access (as defined in IC 5-14-3-2) to an application form that may be completed and submitted to the secretary of state by means of an electronic device. IC 4-5-10 applies to an application form provided by enhanced access under this section. The application form must include the applicant's county of residence, oath of office, and official bond. The application must also contain any additional information necessary for the efficient administration of this chapter.

(d) The applicant must:

(1) personally appear with an application form before an officer, authorized by law to administer oaths, who shall administer an oath of office to the applicant; or

(2) certify on an application form under penalty of perjury that the applicant will abide by the terms of the oath.

The secretary of state shall prescribe the manner in which an applicant may complete a certification authorized under subdivision (2).

(e) The applicant must secure an official bond, with freehold or corporate security, to be approved by the secretary of state in the sum of five thousand dollars ($5,000). The official bond must be conditioned upon the faithful performance and discharge of the duties of the office of notary public, in all things according to law, for the use of any person injured by a breach of the condition. The completed application must be forwarded to the secretary of state. The secretary of state shall forward each commission issued by the governor to the applicant or the applicant's surety company.

(f) The secretary of state shall charge and collect the following fees:

(1) For each commission to notaries public, five dollars ($5).

(2) For each duplicate commission to notaries public, five dollars ($5).

Sec. 2. (a) A notary public may not do any of the following:

(1) Use any other name or initial in signing acknowledgments, other than that by which the notary has been commissioned.

(2) Acknowledge any instrument in which the notary's name appears as a party to the transaction.

(3) Take the acknowledgment of or administer an oath to any person whom the notary actually knows:

(A) has been adjudged mentally incompetent by a court; and

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(B) to be under a guardianship under IC 29-3 at the time the notary takes the acknowledgment or administers the oath.

(4) Take the acknowledgment of any person who is blind, without first reading the instrument to the blind person.

(5) Take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does speak or understand.

(6) Acknowledge the execution of:

(A) an affidavit, unless the affiant acknowledges the truth of the statements in the affidavit; or

(B) an instrument, unless the person who executed the instrument:

(i) signs the instrument before the notary; or

(ii) affirms to the notary that the signature on the instrument is the person's own.

(b) If a notary public violates this article, the notary's appointment may be revoked by the judge of the circuit court in which the notary resides.

(c) The secretary of state may:

(1) investigate any possible violation of this section by a notary public; and

(2) under IC 4-21.5, revoke the commission of a notary public who violates this section.

If the secretary of state revokes the commission of a notary public, the notary public may not reapply for a new commission for five (5) years after the revocation.

Sec. 3. The governor may appoint notaries public in the several counties if, in the governor's judgment, the public interest would be promoted by the appointment.

Sec. 4. (a) A notary may not act until the notary has procured a seal that will stamp upon paper a distinct impression, in words or letters, sufficiently indicating the notary's official character, to which may be added any other device as the notary public may choose.

(b) All notarial acts not attested by a seal as described in subsection (a) are void.

Sec. 5. A notary may:

(1) do all acts that by common law, and the custom of merchants, notaries are authorized to do;

(2) take and certify all acknowledgments of deeds or other instruments of writing required or authorized by law to be

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acknowledged; and

(3) administer oaths generally, and take and certify affidavits and depositions.

Sec. 6. The official certificate of a notary public, attested by the notary's seal, is presumptive evidence of the facts stated in cases where, by law, the notary public is authorized to certify the facts.

Sec. 7. (a) A person who holds any lucrative office or appointment under the United States or under this state, and prohibited by the Constitution of the State of Indiana from holding more than one (1) lucrative office, may not serve as a notary public. If a person accepts a lucrative office or appointment, the person shall vacate the person's appointment as a notary.

(b) Subsection (a) does not apply to a person who holds a lucrative office or appointment under any civil or school city or town of Indiana. A person who is a public official, or a deputy or appointee acting for or serving under a public official, may not make any charge for services as a notary public in connection with any official business of that office, or of any other office in the governmental unit in which the person serves unless the charges are specifically authorized by a statute other than the statute that establishes generally the fees and charges of notaries public.

Sec. 8. (a) Upon the request of the clerk of the circuit court of a county, the secretary of state shall furnish to the clerk a list of all commissioned notaries public residing in that county.

(b) If a notary public changes the notary's:

(1) name; or

(2) county of residence;

during the term of the notary's commission, the notary public shall notify the secretary of state in writing of the change.

(c) The secretary of state shall process a revised commission to reflect any change of name or county. A revised commission under this subsection is valid for the unexpired term of the original commission.

Sec. 9. (a) A notary, in addition to affixing the notary's name, expiration date, and seal, shall:

(1) print or type the notary's name immediately beneath the notary's signature on a certificate of acknowledgment, jurat, or other official document, unless the notary's name appears:

(A) in printed form on the document; or

(B) as part of the notary's stamp in a form that is legible when the document is photocopied; and

(2) indicate the notary's county of residence on the document.

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(b) Failure to comply with subsection (a) does not affect the validity of any document notarized before July 1, 1982.

Sec. 10. A person who:

(1) is not an attorney in good standing admitted to practice law in Indiana; and

(2) knowingly or intentionally:

(A) advertises the person's services in a language other than English;

(B) represents in the advertisement that the person is a notary, notary public, notario, notario publico, or another designation that indicates in a language other than English that the person is a notary public; and

(C) fails to conspicuously state in the advertisement, both in English and in the language of the advertisement, that the person is not an attorney in good standing admitted to practice law in Indiana;

commits a Class A misdemeanor.

Chapter 3. Requirement of Appending Date of Expiration of Commission

Sec. 1. A person commissioned as a notary public by the state shall append a true statement of the date of the expiration of the notary's commission as a notary public to any certificate of acknowledgment of a deed, mortgage, or other instrument or any jurat or other official document at the time the document is signed.

Sec. 2. A notary public who omits to make the statement required by section 1 of this chapter commits a Class C infraction.

Chapter 4. Administering Oaths and Taking Acknowledgments

Sec. 1. The following may subscribe and administer oaths and take acknowledgments of all documents pertaining to all matters where an oath is required:

(1) Notaries public.

(2) Justices and judges of courts, in their respective jurisdictions.

(3) The secretary of state.

(4) The clerk of the supreme court.

(5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.

(6) Clerks of circuit courts and master commissioners, in their respective counties.

(7) Judges of United States district courts of Indiana, in their respective jurisdictions.

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(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

Sec. 2. A person authorized to administer oaths or take acknowledgments who, with intent to defraud:

(1) affixes the person's signature to a blank form of affidavit or certificate of acknowledgment; and

(2) delivers that form to another person, with intent that it be used as an affidavit or acknowledgment;

commits a Class D felony.

Sec. 3. A person who knowingly uses a form that was delivered to the person in violation of section 2 of this chapter commits a Class D felony.

Chapter 5. The Authority of a Township Trustee to Perform Notarial Acts

Sec. 1. A township trustee may perform any act that a notary public may perform in Indiana. Acknowledgments to deeds or other instruments taken by a trustee shall be recorded as if the acknowledgments had been acknowledged before a notary public.

Sec. 2. Before a trustee may perform a notarial act, the trustee must obtain a seal that can stamp upon paper a distinct impression that indicates the trustee's official character, along with any other information that the trustee chooses. A notarial act of a trustee that is not attested by a seal is void.

Sec. 3. When signing any certificate of acknowledgment, jurat, or other official document, the trustee must append to it the trustee's date of election as a trustee.

Sec. 4. A trustee may not receive a fee for performing a notarial act.

Sec. 5. A trustee may not perform an act that is prohibited to a notary public.

Chapter 6. Federal Land Bank Employees Acting as Notaries in Certain Transactions

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Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.

Chapter 7. Acknowledgment of Lot Sales by a Notary Who Is a Member of Cemetery Association

Sec. 1. A notary public who is a stockholder or an officer of a cemetery association whose rules or constitution prohibit an officer or a stockholder from becoming a beneficiary from the sale of lots by the cemetery association may take acknowledgments of sales of lots.

Chapter 8. Maximum Fees

Sec. 1. The maximum fee of a notary public is two dollars ($2) for each notarial act.

SECTION 22. IC 33-43 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 43. PRACTICE OF LAW

Chapter 1. Practice of Law by Attorneys

Sec. 1. (a) A person, before proceeding to discharge the duties of an attorney, shall take an oath to:

(1) support the Constitution of the United States and the Constitution of the State of Indiana; and

(2) faithfully and honestly discharge the duties of an attorney at law.

(b) The oath taken under subsection (a) must be entered in the order book of the court.

Sec. 2. At each term of the court, the clerk shall furnish the court with a list of the names of all attorneys having business in that court.

Sec. 3. An attorney shall do the following:

(1) Support the Constitution and laws of the United States and of Indiana.

(2) Maintain the respect that is due to the courts of justice and judicial officers.

(3) Only counsel or maintain actions, proceedings, or defenses that appear to the attorney to be legal and just. However, this subdivision may not be construed to prevent the defense of a person charged with a crime.

(4) Employ, for the purpose of maintaining the causes confided to the attorney, only those means that are consistent with truth

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and never seek to mislead the court or jury by any artifice or false statement of fact or law.

(5) Maintain inviolate the confidence and, at every peril to the attorney, to preserve the secrets of the attorney's client.

(6) Abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged.

(7) Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest.

(8) Never to reject, from any consideration personal to the attorney, the cause of the defenseless or oppressed.

(9) To promptly account to and pay over to a client any money coming into the hands of the attorney to which the client is lawfully entitled.

(10) To abstain from direct or indirect solicitation of employment to institute, prosecute, or defend against any claim, action, or cause of action.

Sec. 4. Until superseded by another attorney or discharged, an attorney may do the following:

(1) Bind the attorney's client in an action or a special proceeding, by the attorney's agreement that is either filed with the clerk or entered upon the minutes of the court.

(2) Receive money claimed by the attorney's client during the pendency of an action or a special proceeding.

(3) Discharge a claim or acknowledge satisfaction of a judgment after the money claimed has been received under subdivision (2).

Sec. 5. Unless the written authority of a party is first produced and its execution is satisfactorily proved to the court, a judgment may not be rendered against any party:

(1) upon the agreement of an attorney; or

(2) by default;

when the party has not been notified or personally entered an appearance.

Sec. 6. The court or judge may:

(1) on motion of either party that shows reasonable grounds; or

(2) without a motion;

require an attorney to produce and prove the authority under which the attorney appears. The court may stay all proceedings by

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the attorney on behalf of the party for whom the attorney assumes to appear until the attorney produces and proves authority to appear.

Sec. 7. If a party alleges that an attorney appears on behalf of the party without the party's authority the court may, at any stage of the proceedings, relieve the party from the consequences of the attorney's act. The court may also, summarily or upon motion, compel the attorney to repair the injury consequent upon the attorney's assumption of authority.

Sec. 8. (a) An attorney who is guilty of deceit or collusion, or consents to deceit or collusion, with intent to deceive a court, judge, or party to an action or judicial proceeding commits a Class B misdemeanor.

(b) A person who is injured by a violation of subsection (a) may bring a civil action for treble damages.

Sec. 9. If, on request, an attorney refuses to deliver over money or papers to a person from whom or for whom the attorney has received them, in the course of the attorney's professional employment, the attorney may be required, after reasonable notice, on motion of any party aggrieved, by an order of the court in which an action, if any, was prosecuted or if an action was not prosecuted, by the order of any court of record, to deliver the money or papers within a specified time, or show cause why the attorney should not be punished for contempt.

Sec. 10. If an attorney has been ordered to deliver money or papers under section 9 of this chapter, on a motion or in an action brought by the aggrieved party, the court may take any of the following actions:

(1) Suspend the attorney from practice in any of the courts of Indiana, for any length of time, in the court's discretion.

(2) Enter judgment for the amount of money withheld, deducting fees, if any are due, and costs paid by the attorney, with ten percent (10%) damages, that may be enforced by execution, without the benefit of stay or appraisement laws, and returnable within thirty (30) days.

(3) Render any judgment and make any order with respect to the papers or property withheld, that may be necessary to enforce the right of the party aggrieved. The judgement or order is subject to any liens the attorney has for fees.

Chapter 2. Prohibition on Practicing Law by Nonattorneys

Sec. 1. A person who:

(1) professes to be a practicing attorney;

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(2) conducts the trial of a case in a court in Indiana; or

(3) engages in the business of a practicing lawyer;

without first having been admitted as an attorney by the supreme court commits a Class B misdemeanor.

Sec. 2. In a prosecution under this chapter, the state is not required to prove that the defendant has not been admitted as an attorney. The burden of proving admission is on the defendant.

Chapter 3. Prohibition on Solicitation by Nonattorneys

Sec. 1. Soliciting another person to bring an action for damages by a person who is not an attorney is prohibited under IC 35-45-14.

Chapter 4. Attorney Entitled to Hold Lien on Judgment

Sec. 1. An attorney practicing law in a court of record in Indiana may hold a lien for the attorney's fees on a judgment rendered in favor of a person employing the attorney to obtain the judgment.

Sec. 2. (a) An attorney, not later than sixty (60) days after the date the judgment is rendered, must enter in writing upon the docket or record in which the judgment is recorded, the attorney's intention to hold a lien on the judgment, along with the amount of the attorney's claim.

(b) If an appeal is taken on a judgment, the lien may be entered not later than sixty (60) days after the date the opinion of the higher court is recorded in the office of the clerk of the trial court or after the date of final judgment where the cause is reversed and retried.

SECTION 23. IC 33-44 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 44. INTEREST BEARING ATTORNEY TRUST ACCOUNTS

Chapter 1. Legislative Findings

Sec. 1. The general assembly finds that:

(1) due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons do not adequately meet the needs of indigent persons;

(2) the use of funds collected under this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government; and

(3) the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

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Sec. 2. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons and to initiate new programs that will provide services to them.

Chapter 2. Application of Article

Sec. 1. This article does not apply to an activity that is:

(1) the practice of law; and

(2) regulated by the judicial department of state government.

Sec. 2. This article does not apply to the investment of nonqualified funds by an attorney:

(1) in any other investment specified by a client or beneficial owner; or

(2) as agreed to by the client, beneficial owner, or attorney.

Sec. 3. An attorney is not subject to disciplinary action as a result of any action taken in accordance with this article.

Chapter 3. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Attorney" means an individual in good standing admitted to the practice of law in Indiana. The term includes a professional corporation (as defined in IC 23-1.5-1-10) formed by one (1) or more attorneys.

Sec. 3. "Board" refers to the Indiana attorney trust account board established by IC 33-44-4-1.

Sec. 4. "Depository financial institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

(1) does business in Indiana; and

(2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternate share insurer.

Sec. 5. "Eligible client" means a person:

(1) who resides in Indiana; and

(2) whose income:

(A) satisfies the eligibility standards established by a legal aid program or legal services program existing in Indiana on January 1, 1990, if the program's client eligibility standards provide that the client's income may not exceed one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and

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Budget;

(B) is not more than one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget; or

(C) satisfies the eligibility standard for Supplemental Security Income or free services under the Older Americans Act of 1965, as amended (42 U.S.C. 3001-3057) or Developmentally Disabled Assistance and Bill of Rights Act (42 U.S.C. 6000-6083).

Sec. 6. "Fee generating case" means a case or matter that, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client from public funds or from the opposing party. A case is not considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(1) The qualified legal services provider that represents the indigent in the case has determined in good faith that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the lawyer referral service serving the county of the eligible client's residence, or if there is no such service, by two (2) attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the lawyer referral service described in clause (A), if one exists, nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of a type that attorneys in private practice ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the eligible client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a qualified legal services provider or its employee to represent the indigent in the case under a statute, a court rule, or practice of equal applicability to all

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attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement is based on need.

Sec. 7. "Fund" refers to the Indiana attorney trust account fund established by IC 33-44-7-1.

Sec. 8. "Interest bearing attorney trust account" means an account with a depository financial institution that is:

(1) unsegregated;

(2) interest bearing;

(3) for the deposit of qualified funds by an attorney; and

(4) capable of being drawn upon by the depositor in the same manner as a checking account that is not interest bearing.

Sec. 9. (a) "Legal assistance" means direct representation by an attorney of an eligible client in a civil matter pending in Indiana, including counsel, litigation, research, coordination with pro bono programs, support services, substantive and procedural training for attorneys and paralegals in poverty law subjects, and any other activity necessary to ensure the effective delivery of quality legal services in a civil matter.

(b) The term does not include representation of an eligible client in:

(1) criminal matters; or

(2) a fee generating case.

Sec. 10. "Qualified funds" means money received by an attorney from a client or beneficial owner in a fiduciary capacity that, in the good faith judgment of the attorney, is:

(1) of such an amount; or

(2) reasonably expected to be held for such a short term;

that sufficient interest income will not be generated to justify the expense of administering a segregated account.

Sec. 11. "Qualified legal services provider" means a nonprofit organization organized in Indiana and operating exclusively in Indiana that, as its primary purpose and function, provides legal assistance without charge to eligible clients in civil matters only.

Chapter 4. Indiana Attorney Trust Account Board

Sec. 1. The Indiana attorney trust account board is established.

Sec. 2. The board consists of eleven (11) members.

Sec. 3. The chief justice of the supreme court shall appoint six (6) members to the board.

Sec. 4. The following officials shall each appoint one (1) member to the board:

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(1) The governor.
(2) The speaker of the house of representatives.
(3) The minority leader of the house of representatives.
(4) The president pro tempore of the senate.
(5) The minority floor leader of the senate.

Sec. 5. The chief justice shall consider the following factors as favorable in appointing a member under section 3 of this chapter:

(1) Whether the individual is a dean of an Indiana law school.
(2) Whether the individual is a director or board member of an Indiana legal services or legal aid program.
(3) Whether the individual is a member of the Indiana State Bar Association.
(4) Whether the appointment of the individual would result in representation on the board from the first district, second district, and third district of the court of appeals.
(5) Whether the individual is a representative of a depository financial institution.
(6) Whether the individual is an eligible client.

Sec. 6. Not more than four (4) of the members appointed by the chief justice may be members of the same political party.

Sec. 7. A member of the board serves a term of four (4) years.

Sec. 8. The appointing authority shall fill a vacancy on the board.

Sec. 9. The chief justice shall appoint a member of the board to serve as chairperson not later than December 1 of each year.

Sec. 10. The term of a chairperson begins January 1 following the chairperson's appointment under section 9 of this chapter.

Sec. 11. A member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. A member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided by the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 13. The board shall administer the fund in accordance with IC 33-44-7.

Sec. 14. The board may receive, hold, and manage property.

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Sec. 15. The board may adopt rules under IC 4-22-2 to implement this article.

Sec. 16. The board shall develop programs to:

(1) educate attorneys and depository financial institutions concerning this article; and

(2) encourage attorneys to create and maintain interest bearing attorney trust accounts.

Chapter 5. Participation by Attorneys

Sec. 1. Except as provided in section 2 of this chapter, each attorney is subject to this article.

Sec. 2. An attorney is not subject to this article if the attorney:

(1) does not place any qualified funds in an interest bearing attorney trust account; and

(2) submits a written statement to the board.

Sec. 3. The statement submitted under section 2 of this chapter must:

(1) be filed in accordance with rules adopted under IC 4-22-2 by the board; and

(2) state that the attorney is acting under section 2 of this chapter to exempt the attorney from the application of this article.

Sec. 4. If an attorney does not act under section 2 of this chapter, the board shall presume that the attorney has elected to be subject to this article.

Sec. 5. An attorney subject to this article shall place all qualified funds in an interest bearing attorney trust account.

Sec. 6. An attorney subject to this article shall determine if money received from a client or beneficial owner constitutes qualified funds.

Sec. 7. In making the determination under section 6 of this chapter, the attorney shall consider the following:

(1) The amount of interest the money would earn during the period the money is expected to be deposited.

(2) The cost of establishing and administering the account.

(3) The capability of the depository financial institution to calculate and pay the interest earned by each client's funds, after deduction of any service charges, to the client.

Sec. 8. An attorney:

(1) does not breach a fiduciary duty;

(2) is not liable in damages; and

(3) is not subject to disciplinary action;

because of a deposit of money in an interest bearing attorney trust

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account if the attorney acted in accordance with a good faith judgment that the money constituted qualified funds.

Chapter 6. Interest Bearing Attorney Trust Accounts

Sec. 1. If the depositor and depository financial institution agree, a trust account that contains qualified funds held by an attorney subject to this article may be made an interest bearing attorney trust account.

Sec. 2. The terms and conditions of an interest bearing attorney trust account, except as required under this chapter, shall be determined by the depositor and the depository financial institution. A depository financial institution is not required to offer an interest bearing attorney trust account.

Sec. 3. The board owns the beneficial interest in the interest accrued by an interest bearing attorney trust account of an attorney who is subject to this article.

Sec. 4. Except for amounts deducted under terms or conditions agreed upon under section 2 of this chapter, a depository financial institution shall remit any interest earned on an interest bearing attorney trust account to the board.

Sec. 5. A depository financial institution shall make the remittance required under section 4 of this chapter not less frequently than quarterly and not later than fifteen (15) days after the end of the remittance period.

Sec. 6. A depository financial institution shall transmit a statement to:

(1) the board; and

(2) the attorney who maintains the interest bearing attorney trust account;

when the depository financial institution remits interest under section 4 of this chapter.

Sec. 7. The statement described in section 6 of this chapter must contain the following information:

(1) The name of the account.

(2) The amount of interest remitted from the account.

Sec. 8. A depository financial institution is not required to determine or inquire whether a deposit includes qualified funds.

Sec. 9. The remittance of interest by a depository financial institution to the board from an interest bearing attorney trust account is a valid and sufficient release and discharge of a claim by an entity against the depository financial institution for the remittance.

Sec. 10. An entity may not maintain an action against a

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depository financial institution solely for:

(1) offering, opening, or maintaining an interest bearing attorney trust account;

(2) accepting funds for deposit in an interest bearing attorney trust account; or

(3) remitting interest to the board.

Sec. 11. A paper, a record, a document, or other information identifying an attorney, a client, or a beneficial owner of an interest bearing attorney trust account is confidential.

Sec. 12. The board or a depository financial institution may not disclose information described by section 11 of this chapter except:

(1) with the consent of the attorney maintaining the account; or

(2) as permitted by:

(A) law; or

(B) rule adopted by the judicial department of state government.

Chapter 7. Indiana Attorney Trust Account Fund

Sec. 1. The Indiana attorney trust account fund is established as a trust fund to be used solely as provided under this article.

Sec. 2. The fund shall be administered by the board in accordance with rules adopted under IC 4-22-2 by the board.

Sec. 3. The board shall deposit the interest remitted under IC 33-44-6-4 into the fund.

Sec. 4. The money in the fund consists of public funds.

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. For purposes of Indiana law, income received by the board from the remittance of interest is not taxable to:

(1) the attorney maintaining the interest bearing attorney trust account; or

(2) the client whose funds are deposited in the interest bearing attorney trust account.

Sec. 8. The board may not disburse money in the fund except for:

(1) the delivery of civil legal assistance to eligible clients;

(2) programs or projects in the public interest that assist in the improvement of the administration of justice; and

(3) administrative costs.

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Sec. 9. During each year the board shall disburse money from the fund for the payment of administrative costs to the extent permitted under section 14 of this chapter. After the payment of administrative costs, any money disbursed by the board from the fund during that year shall be disbursed as follows:

(1) Ninety percent (90%) of the funds shall be disbursed to provide legal assistance to eligible clients by:

(A) qualified legal services providers; or

(B) law school clinics in Indiana that provide free civil legal assistance to eligible clients.

(2) Ten percent (10%) of the funds shall be disbursed for programs or projects in the public interest that assist in the improvement of the administration of justice, including the following:

(A) Guardian ad litem and court appointed special advocate programs that provide guardians ad litem or court appointed special advocates for appointment by the court:

(i) under IC 31-17-2-12 to conduct an investigation and prepare a report in a custody proceeding; or

(ii) under IC 31-33-15-1, IC 31-34-10, or IC 31-40.

(B) Lawyer referral services in Indiana that provide:

(i) a referral to an attorney in private practice without a charge for the referral; and

(ii) an initial consultation with an attorney in private practice without a charge for the consultation;

in a fee generating case.

Sec. 10. An entity that receives funds disbursed under section 9(1) of this chapter during a year is not eligible to receive funds disbursed under section 9(2) of this chapter during that year.

Sec. 11. An entity that receives funds disbursed under section 9(2) of this chapter during a year is not eligible to receive funds disbursed under section 9(1) of this chapter during that year.

Sec. 12. The board shall periodically:

(1) enter into contracts with; and

(2) award grants to;

qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to carry out the purpose of the fund.

Sec. 13. In making disbursements from the fund under section 9(1) of this chapter, the board shall primarily consider the geographic distribution by county of persons with incomes of not more than the current poverty threshold established by the United

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States Office of Management and Budget, as indicated in the most current report published by the Bureau of the Census. However, the board may use other considerations in making disbursements from the fund when demonstrable legal needs are documented by a qualified legal services provider.

Sec. 14. Total administrative costs, including payments to board members under IC 33-44-4-11 and IC 33-44-4-12, costs for employees under IC 33-44-8, and all other costs of managing and administering the fund and otherwise performing all responsibilities of the board, may not exceed fifteen percent (15%) of the amounts received into the fund from interest bearing attorney trust accounts.

Sec. 15. The state board of accounts shall conduct an audit of the fund at least one (1) time during each year to ensure that the fund is administered as required by this chapter. The state board of accounts may conduct audits of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice as the state board of accounts considers necessary to ensure that the money distributed to qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice is being used as required by this article.

Chapter 8. Board Employees

Sec. 1. The board may appoint an executive director to carry out this article.

Sec. 2. The executive director may:

(1) employ persons; or

(2) contract for services;

upon approval by the board.

Sec. 3. An employee of the board serves at the pleasure of the board.

Chapter 9. Annual Report

Sec. 1. The board shall file a report with:

(1) the governor;

(2) the legislative council; and

(3) the chief justice of the supreme court;

before December 31 of each year. The report filed with the legislative council must be in an electronic format under IC 5-14-6.

Sec. 2. The report filed under section 1 of this chapter must include the following information for the annual period ending June 30:

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(1) The number of eligible clients served.

(2) The amount of interest paid into the fund by the board during the year as remittances by depository financial institutions and the amount of interest deposited in the fund during the year from investments by the treasurer of state.

(3) The amount disbursed, by category, for direct legal services, to law school clinics, to programs or projects in the public interest that assist in the improvement of the administration of justice, administrative costs, and for educational purposes.

(4) The number of attorneys subject to this article.

(5) The number of attorneys submitting written statements under IC 33-44-5-2.

(6) The identity of qualified legal services providers, law school clinics, and programs or projects in the public interest that assist in the improvement of the administration of justice to whom grants have been made or with whom contracts have been executed and the amounts disbursed to each.

SECTION 24. IC 1-1-3.5-5, AS AMENDED BY P.L.204-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

(1) the director of the Indiana state library;

(2) the election division; and

(3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

(1) The auditor of state, for distribution of money from the following:

(A) The cigarette tax fund in accordance with IC 6-7-1-30.1.

(B) Excise tax revenue allocated under IC 7.1-4-7-8.

(C) The local road and street account in accordance with IC 8-14-2-4.

(D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

(2) The board of trustees of Ivy Tech State College, for the board's

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division of Indiana into service regions under IC 20-12-61-9.

(3) The department of commerce, for the distribution of money from the following:

(A) The rural development fund under IC 4-4-9.

(B) The growth investment program fund under IC 4-4-20.

(4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

(5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

(6) The enterprise zone board, for the evaluation of enterprise zone applications under IC 4-4-6.1.

(7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

(9) The state board of accounts, for calculating the state share of salaries paid under ~~IC 33-13-12, IC 33-14-7, and IC 33-15-26.~~ **IC 33-38-5, IC 33-39-6, and IC 33-41-2.**

SECTION 25. IC 3-5-7-6, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section does not apply to any of the following:

(1) A candidate in a presidential primary election under IC 3-8-3.

(2) A candidate for President of the United States.

(3) A candidate for Vice President of the United States.

(b) As used in this section, "candidacy document" refers to any of the following:

(1) A declaration of intent to be a write-in candidate.

(2) A declaration of candidacy.

(3) A consent to the nomination.

(4) A consent to become a candidate.

(5) A certificate of candidate selection.

(6) A consent filed under IC 3-13-2-7.

(7) A statement filed under ~~IC 33-2.1-2-6.~~ **IC 33-24-2 or IC 33-25-2.**

(c) Whenever a candidate files a candidacy document on which the candidate uses a name that is different from the name set forth on the candidate's voter registration record, the candidate's signature on the candidacy document constitutes a request to the county voter registration office that the name on the candidate's voter registration record be the same as the name the candidate uses on the candidacy document.

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(d) A request by a candidate under this section is considered filed with the county voter registration office when the candidacy document is filed with the election division or the county election board.

(e) The election division or the county election board shall forward a request filed under this section to the county voter registration office not later than seven (7) days after receiving the request.

SECTION 26. IC 3-6-4.5-7, AS ADDED BY P.L.209-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. As required by 42 U.S.C. 15512, a complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-16-4.~~ **IC 33-42-4.**

SECTION 27. IC 3-6-5.1-7, AS ADDED BY P.L.209-2003, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under ~~IC 33-16-4.~~ **IC 33-42-4.**

SECTION 28. IC 3-8-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. A candidate for the office of judge of a superior or probate court must:

(1) 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; and

(2) comply with any other requirement for that office set forth in ~~IC 33-5 or IC 33-8.~~ **IC 33-29, IC 33-33, or IC 33-31.**

SECTION 29. IC 3-8-1-28.5, AS AMENDED BY P.L.14-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28.5. (a) This section does not apply to a candidate for the office of judge of a city court in a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) A candidate for the office of judge of a city court must reside in the city upon filing a declaration of candidacy or declaration of intent to be a write-in candidate required under IC 3-8-2, a petition of nomination under IC 3-8-6, or a certificate of nomination under IC 3-10-6-12.

(c) A candidate for the office of judge of a city court must reside in a county in which the city is located upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

(d) This subsection applies to a candidate for the office of judge of a city court listed in ~~IC 33-10.1-5-7(c).~~ **IC 33-35-5-7(c).** Before a

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candidate for the office of judge of the court may file a:

(1) declaration of candidacy or petition of nomination;

(2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or

(3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 30. IC 3-8-1-29.5, AS AMENDED BY P.L.14-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.5. (a) This section applies to a candidate for the office of judge of a town court listed in ~~IC 33-10.1-5-7(c).~~ **IC 33-35-5-7(c).**

(b) Before a candidate for the office of judge of the court may file a:

(1) declaration of candidacy or petition of nomination;

(2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; or

(3) declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 31. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, clerk of the supreme court, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with ~~IC 33-2.1-8-6 and IC 33-2.1-8-7.~~ **IC 33-23-11-14 and IC 33-23-11-15.**

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SECTION 32. IC 3-8-7-16, AS AMENDED BY P.L.66-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon August 20 before an election:

(1) The name and place of residence of each person nominated for election to:

(A) an office for which the electorate of the whole state may vote;

(B) the United States House of Representatives;

(C) a legislative office; or

(D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

(A) justice of the supreme court;

(B) judge of the court of appeals; and

(C) judge of the tax court;

who is subject to a retention vote by the electorate and who has filed a statement under ~~IC 33-2.1-2-6~~ **IC 33-24-2 or IC 33-25-2** indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 33. IC 3-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. At a primary election a voter may vote for as many candidates for each office as there are persons to be elected to that office at the general election, except as provided in ~~IC 33-5.1-2-8~~ **IC 33-33-49-13** for candidates for judge of the Marion superior court.

SECTION 34. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or) on or in the box before the person's name in the proper column.

Vote for one only

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Representative in Congress
[] (1) AB_____
[] (2) CD_____
[] (3) EF_____
[] (4) GH_____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:
(A) President of the United States.
(B) United States Senator.
(C) Governor.
(D) United States Representative.

(2) Legislative offices:
(A) State senator.
(B) State representative.

(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2.~~ **IC 33-30-3-3.**
(E) Prosecuting attorney.
(F) Clerk of the circuit court.

(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.

(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.

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(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

(C) Judge of the city court.

(D) City-county council member or common council member.

(7) Town offices:

(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)
"Shall (insert public question)?"

[] YES

[] NO

SECTION 35. IC 3-10-6-6, AS AMENDED BY P.L.122-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November 2002 and every four (4) years thereafter; and

(2) at the municipal election in November 2003 and every four (4) years thereafter;

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elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

(1) at the general election in November 2002 and every four (4) years thereafter; and

(2) at the general election in November 2004 and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November 2004 and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under ~~IC 33-10.1-1-3)~~ **IC 33-35-1-1)** to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

SECTION 36. IC 3-11-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The election division shall have the paper ballots for President and Vice-President of the United States printed on one (1) paper ballot, in the manner prescribed by IC 3-10-4.

(b) The election division shall have the:

(1) names of the candidates for United States Senator;

(2) names of the candidates for state offices;

(3) state constitutional amendment questions; and

(4) judicial retention questions submitted under ~~IC 33-2.1-2-6,~~ **IC 33-24-2 or IC 33-25-2;**

printed on another paper ballot.

SECTION 37. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:

(A) President and Vice President of the United States.

(B) United States Senator.

(C) Governor and lieutenant governor.

(D) Secretary of state.

(E) Auditor of state.

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(F) Treasurer of state.
(G) Attorney general.
(H) Superintendent of public instruction.
(I) Clerk of the supreme court.
(J) United States Representative.
(2) Legislative offices:
(A) State senator.
(B) State representative.
(3) Circuit offices and county judicial offices:
(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
(C) Judge of the probate court.
(D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2.~~ **IC 33-30-3-3.**
(E) Prosecuting attorney.
(F) Clerk of the circuit court.
(4) County offices:
(A) County auditor.
(B) County recorder.
(C) County treasurer.
(D) County sheriff.
(E) County coroner.
(F) County surveyor.
(G) County assessor.
(H) County commissioner.
(I) County council member.
(5) Township offices:
(A) Township assessor.
(B) Township trustee.
(C) Township board member.
(D) Judge of the small claims court.
(E) Constable of the small claims court.
(6) City offices:
(A) Mayor.
(B) Clerk or clerk-treasurer.
(C) Judge of the city court.
(D) City-county council member or common council member.
(7) Town offices:

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(A) Clerk-treasurer.
(B) Judge of the town court.
(C) Town council member.

SECTION 38. IC 3-12-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The statement prepared under section 9 of this chapter must contain:

(1) the name of each candidate;
(2) the elected offices;
(3) the total number of votes received by each candidate;
(4) the total number of votes received by each candidate and cast for and against each public question in each precinct; and
(5) the total number of votes cast at the election.

(b) Notwithstanding ~~IC 33-19-6-1,~~ **IC 33-37-5-1,** upon request by a candidate, the circuit court clerk shall prepare a copy of the statement for the candidate at a fee not to exceed twenty-five cents ($0.25) per page.

SECTION 39. IC 3-12-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. Upon the filing of a petition under section 2 of this chapter, the circuit court clerk shall:

(1) require payment of the filing fee under ~~IC 33-19;~~ **IC 33-37;** and
(2) assign the petition a cause number as a miscellaneous civil action.

SECTION 40. IC 3-12-8-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. Upon the filing of a petition under section 5 of this chapter, the circuit court clerk shall:

(1) require payment of the filing fee under ~~IC 33-19;~~ **IC 33-37;** and
(2) assign the petition a cause number as a miscellaneous civil action.

SECTION 41. IC 3-13-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A vacancy in the office of justice of the supreme court, judge of the court of appeals, or judge of the tax court shall be filled as provided in ~~IC 33-2.1-4.~~ **IC 33-27.**

SECTION 42. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

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(2) a successor is elected at the next general election and qualified; whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

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

(1) ~~IC 33-5-5.1-37.1.~~ **IC 33-33-2-39.**

(2) ~~IC 33-5-5.1-41.1.~~ **IC 33-33-2-43.**

(3) ~~IC 33-5-29.5-39.~~ **IC 33-33-45-38.**

(4) ~~IC 33-5-40-44.~~ **IC 33-33-71-40.**

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

SECTION 43. IC 3-13-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A vacancy that occurs, other than by resignation, in the office of prosecuting attorney shall be certified to the governor by the circuit court clerk of the county in which the prosecuting attorney resided.

(b) A vacancy in the office of prosecuting attorney that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(c) A vacancy in the office of prosecuting attorney not covered by subsection (b) shall be filled by the governor.

(d) The person appointed or selected holds office for the remainder of the unexpired term and until a successor is elected and qualified.

(e) If a vacancy in the office of the prosecuting attorney occurs under subsection (b), the chief deputy prosecuting attorney appointed under ~~IC 33-14-7-2~~ **IC 33-39-6-2** shall be the acting prosecuting attorney until the vacancy is filled by the caucus under IC 3-13-11.

SECTION 44. IC 3-14-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who recklessly violates ~~IC 33-5-5.1-29.5~~ **IC 33-33-2-11** by accepting contributions that exceed the amount permitted under that section commits a Class B misdemeanor.

(b) A person described by subsection (a) is also subject to a civil penalty under IC 3-9-4-17. The county election board may assess a penalty of not more than three (3) times the amount of the contribution that exceeds the limit prescribed by ~~IC 33-5-5.1-29.5,~~ **IC 33-33-2-11,** plus any investigative costs incurred and documented by the board.

SECTION 45. IC 3-14-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. In addition to the duties

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prescribed by ~~IC 33-14,~~ **IC 33-39,** the prosecuting attorney of each circuit shall prosecute each resident of the circuit who the prosecutor believes has violated IC 3-14-1-7, IC 3-14-1-10, IC 3-14-1-13, IC 3-14-1-14, or IC 3-14-1-14.5 in any circuit of the state.

SECTION 46. IC 4-6-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The attorney general shall ascertain the amounts paid to any person for court costs under ~~IC 33-19,~~ **IC 33-37,** licenses, money unclaimed in estates or guardianships, fines, penalties, or forfeitures, or monies that escheat to the state under IC 29-1-2-1 or from any other source where the money is required to be paid to the state or to any officer in trust for the state. In all cases where an officer required to collect the money fails to do so after the cause of action in favor of the state has accrued, or fails to sue for and recover any property belonging to or which may escheat to the state, the attorney general shall institute all necessary proceedings to compel the payment of the money or recovery of the property. The payment to or collection by the attorney general of any of the funds does not render an officer liable to an action on the officer's bond by any other officer or person.

(b) The officers having the custody of the money shall report to the attorney general, upon oath or affirmation, all facts pertaining to it, upon the attorney general's demand, in person, by deputy or assistants, or in writing.

(c) An officer who fails to render the information upon demand commits a Class C infraction.

SECTION 47. IC 4-21.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Within thirty (30) days after the filing of the petition, or within further time allowed by the court or by other law, the petitioner shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action, consisting of:

(1) any agency documents expressing the agency action;

(2) other documents identified by the agency as having been considered by it before its action and used as a basis for its action; and

(3) any other material described in this article as the agency record for the type of agency action at issue, subject to this section.

(b) An extension of time in which to file the record shall be granted by the court for good cause shown. Inability to obtain the record from the responsible agency within the time permitted by this section is good cause. Failure to file the record within the time permitted by this subsection, including any extension period ordered by the court, is

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cause for dismissal of the petition for review by the court, on its own motion, or on petition of any party of record to the proceeding.

(c) Upon a written request by the petitioner, the agency taking the action being reviewed shall prepare the agency record for the petitioner. If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties to the judicial review proceeding stipulate to omit in accordance with subsection (e).

(d) Notwithstanding IC 5-14-3-8, the agency shall charge the petitioner with the reasonable cost of preparing any necessary copies and transcripts for transmittal to the court, unless a person files with the court, under oath and in writing, the statement described by ~~IC 33-19-3-2.~~ **IC 33-37-3-2.**

(e) By stipulation of all parties to the review proceedings, the record may be shortened, summarized, or organized.

(f) The court may tax the cost of preparing transcripts and copies for the record:

(1) against a party to the judicial review proceeding who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(2) in accordance with the rules governing civil actions in the courts or other law.

(g) Additions to the record concerning evidence received under section 12 of this chapter must be made as ordered by the court. The court may require or permit subsequent corrections or additions to the record.

SECTION 48. IC 5-2-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) There is created a continuing fund which shall be known as the law enforcement academy building fund. The fund consists of amounts deposited under ~~IC 33-19-7-5.~~ **IC 33-37-7-9.** This fund may be used by the board to acquire for the state of Indiana land and interests in and to land, and to construct upon such land a fully equipped law enforcement academy to consist of classrooms, housing facilities, a cafeteria, firearms ranges, a driving course, and other physical facilities which are deemed necessary in the discretion of the board for the basic, inservice, and advanced training of law enforcement officers in the skills and techniques of law enforcement. Any balance of the fund that is unexpended at the end of any fiscal year shall not revert to the general fund but shall be carried forward as an appropriation for the next fiscal year. Expenditures may be made by the board for, among other things,

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all expenses required for land acquisition and transfer, including but not limited to personal services, appraisers fees, and the cost of acquiring any interest in land and the construction and maintenance of improvements thereon. The budget agency may, with the approval of the board and the governor, make allocations and transfers of funds appropriated by the general assembly to state agencies having jurisdiction and control over land acquired by the board for the purposes stated herein, except that such allocations and transfers shall not be made in the acquisition of land which has been declared surplus land of the state pursuant to statute. The board is hereby further authorized to acquire said land and law enforcement academy buildings by gift, donation, bequest, devise, exchange, purchase, or eminent domain, or other means. However, any money or proceeds from gifts, bequests, grants, or other donations shall be deposited in a special donation fund which is hereby established for the purposes outlined in this section, for the use of the board to accomplish said purposes. No part of said special donation fund shall revert to the general fund of the state unless specified by the donor as a condition to his gift. All land and academy buildings, however acquired, shall become the property of the state.

(b) There is created a continuing fund which shall be known as the law enforcement training fund. The fund consists of amounts deposited under ~~IC 33-19-7-5.~~ **IC 33-37-7-9.** The board is further authorized to accept gifts and grants of money, services, or property to supplement the law enforcement training fund and to use the same for any purpose consistent with the authorized uses of said fund. This fund may be used by the board for the following purposes:

(1) Building and grounds maintenance for the law enforcement academy.

(2) Training equipment and supplies necessary to operate the law enforcement academy.

(3) Aid to approved law enforcement training schools certified as having met or exceeded the minimum standards established by the board.

(4) Personal services, as authorized by the board with the approval of the governor.

(5) Any other purpose necessary to carry out the provisions of this chapter, as determined by the board.

SECTION 49. IC 5-2-6.1-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 41. The fund consists of amounts deposited under ~~IC 33-19-7-5~~ **IC 33-37-7-9** and IC 35-50-5-3 and appropriations from the general assembly.

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SECTION 50. IC 5-2-8-1, AS AMENDED BY P.L.1-2003, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) As used in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes university police officers appointed under IC 20-12-3.5.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under ~~IC 33-19-8-6.~~ **IC 33-37-8-6.**

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under ~~IC 33-19-8-6 or IC 33-19-8-4~~ **IC 33-37-8-4 or IC 33-37-8-6** shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under ~~IC 33-19-8-6~~ **IC 33-37-8-6** a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under ~~IC 33-19-5.~~ **IC 33-37-4.**

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent

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injunctions involving abuse.
(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
(3) Techniques for handling incidents of abuse that:
(A) minimize the likelihood of injury to the law enforcement officer; and
(B) promote the safety of a victim.
(4) Information about the nature and extent of abuse.
(5) Information about the legal rights of and remedies available to victims of abuse.
(6) How to document and collect evidence in an abuse case.
(7) The legal consequences of abuse.
(8) The impact on children of law enforcement intervention in abuse cases.
(9) Services and facilities available to victims of abuse and abusers.
(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
(11) Policies concerning arrest or release of suspects in abuse cases.
(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
(13) Landlord-tenant concerns in abuse cases.
(14) The taking of an abused child into protective custody.
(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
(17) Response to a sudden, unexpected infant death.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 51. IC 5-2-8-2, AS AMENDED BY P.L.1-2003, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) As used in this section:

"Abuse" has the meaning set forth in section 1(a) of this chapter.

"City or town law enforcement agency" includes university police officers appointed under IC 20-12-3.5.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under ~~IC 33-19-8-4~~ **IC 33-37-8-4** and fees collected under IC 9-29-4-2, IC 9-29-11-1, and

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IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

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(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

SECTION 52. IC 5-2-8-5, AS AMENDED BY P.L.1-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) There is established the state police training fund. The fund consists of amounts collected under ~~IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4)** on behalf of the state police department.

(b) If the state police department files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the state police department into the state police training fund established under this section.

(c) Claims against the state police training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the state police training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

(e) As used in this subsection, "abuse" has the meaning set forth in section 1(a) of this chapter. As a part of the state police department's in-service training, the department shall provide to each law enforcement officer employed by the department continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement

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officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of the abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

The cost of providing continuing education under this subsection shall be paid from money in the state police training fund.

SECTION 53. IC 5-2-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) There is established the conservation officers training fund. The department of natural resources shall administer the fund. The fund consists of amounts collected under ~~IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4)** on behalf of the department of natural resources.

(b) If the department of natural resources files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the department of natural resources into the conservation officers training fund established under this section.

(c) Claims against the conservation officers training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is

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unencumbered and remains in the conservation officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 54. IC 5-2-8-8, AS AMENDED BY P.L.204-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) There is established the alcoholic beverage enforcement officers' training fund. The alcohol and tobacco commission shall administer the fund. The fund consists of amounts collected under ~~IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4)~~ **IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4)** on behalf of the alcohol and tobacco commission.

(b) If the alcohol and tobacco commission files a claim under ~~IC 33-19-8-4~~ **IC 33-37-8-4** or ~~IC 33-19-8-6~~ **IC 33-37-8-6** against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the alcohol and tobacco commission into the alcoholic beverage enforcement officers' training fund established under this section.

(c) Claims against the alcoholic beverage enforcement officers' training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the alcoholic beverage enforcement officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 55. IC 5-2-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

(1) under ~~IC 33-19-9-4;~~ **IC 33-37-9-4;** and

(2) from any other public or private source.

SECTION 56. IC 5-2-10.1-2, AS AMENDED BY P.L.273-1999, SECTION 220, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The Indiana safe schools fund is established to do the following:

(1) Promote school safety through the:

(A) purchase of equipment for the detection of firearms and other weapons;

(B) use of dogs trained to detect firearms, drugs, explosives, and

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illegal substances; and

(C) purchase of other equipment and materials used to enhance the safety of schools.

(2) Combat truancy.

(3) Provide matching grants to schools for school safe haven programs.

(4) Provide grants for school safety and safety plans.

(b) The fund consists of amounts deposited:

(1) under ~~IC 33-19-9-4;~~ **IC 33-37-9-4;** and

(2) from any other public or private source.

(c) The institute shall determine grant recipients from the fund with a priority on awarding grants in the following order:

(1) A grant for a safety plan.

(2) A safe haven grant requested under section 10 of this chapter.

(3) A safe haven grant requested under section 7 of this chapter.

(d) Upon recommendation of the council, the institute shall establish a method for determining the maximum amount a grant recipient may receive under this section.

SECTION 57. IC 5-2-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A county drug free community fund is established in each county to promote comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education, and criminal justice efforts. The fund consists of amounts deposited under ~~IC 33-19-7-1(c) and IC 33-19-7-4(c).~~ **IC 33-37-7-1(c), IC 33-37-7-2(c), IC 33-37-7-7(e), and IC 33-37-7-8(e).**

SECTION 58. IC 5-4-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) A person elected to the office of prosecuting attorney shall execute an individual surety bond for the faithful performance of the duties of the office. The amount of the bond must be at least eight thousand five hundred dollars ($8,500).

(b) A person elected to the office of prosecuting attorney may not take office until that person has filed a bond:

(1) in the office of the county recorder of the county in which the person resides; and

(2) within ten (10) days after the bond is issued.

(c) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by ~~IC 33-13-12-4.~~ **IC 33-38-5-3.**

(d) A bond must be:

(1) executed by the person elected prosecuting attorney and one (1) or more freehold sureties; and

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(2) payable to the state as provided in section 10 of this chapter.

(e) A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.

(f) If a bond has been legally certified, any of the following have the same effect in evidence as the bond:

(1) A copy of the bond.

(2) A record of the bond.

(3) A copy of a record of the bond.

(g) The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register.

SECTION 59. IC 5-7-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. No county or township officer in this state shall, under color of the officer's office, charge, tax up, or receive, or permit to be taxed up or received, in relation to any service in or about the officer's office, any fee or sum of money except such fee or sum of money as is plainly specified in ~~IC 33-19~~ **IC 33-37** and IC 36-2 without resort to implication.

SECTION 60. IC 5-7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Whenever ~~IC 33-19~~ **IC 33-37** or IC 36-2 specifies a fee or sum of money as compensation for any service, duty, or thing, the same shall be construed to be in full therefor, and it shall be unlawful to charge, tax up, or receive any further or additional sum under color of any claim or construction of law.

SECTION 61. IC 5-7-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. It shall be unlawful to tax up, charge, or receive fees or sums of money in county, township, or other public offices in this state, under color of office, as if the sums and fees allowed and fixed by ~~IC 33-19~~ **IC 33-37** and IC 36-2 are cumulative and superadditional.

SECTION 62. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, probate, or county court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

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

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(1) ~~IC 33-5-5.1-37.1;~~ **IC 33-33-2-39;**
(2) ~~IC 33-5-5.1-41.1;~~ **IC 33-33-2-43;**
(3) ~~IC 33-5-29.5-39;~~ **IC 33-33-45-38;** and
(4) ~~IC 33-5-40-44;~~ **IC 33-33-71-40;**

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

SECTION 63. IC 5-10-1.5-1, AS AMENDED BY P.L.2-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

(1) The state excise police and conservation enforcement officers' retirement plan established under IC 5-10-5.5.
(2) The "trust fund" and "pension trust" of the state police department established under IC 10-12-2.
(3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
(4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.
(5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
(6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.
(7) The Indiana judges' retirement fund established under ~~IC 33-13-8.~~ **IC 33-38-6.**
(8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
(9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
(10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
(11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
(12) Each retirement program of the health and hospital

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corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.

(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(17) The pension benefit paid for the national guard by the state as established under IC 10-16-7.

(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.

(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 64. IC 5-10-1.7-1, AS AMENDED BY P.L.2-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-12-2.

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under ~~IC 33-13-8.~~ **IC 33-38-6.**

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 65. IC 5-10-8-1, AS AMENDED BY P.L.13-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The following definitions apply in this chapter:

(1) "Employee" means:

(A) an elected or appointed officer or official, or a full-time employee;

(B) if the individual is employed by a school corporation, a

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full-time or part-time employee;

(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or

(D) a senior judge appointed under ~~IC 33-2-1-8;~~ **IC 33-24-3-7;** whose services have continued without interruption at least thirty (30) days.

(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.

(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.

(4) "Local unit" includes a city, town, county, township, public library, or school corporation.

(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.

(6) "Public employer" means the state or a local unit, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit. With respect to the legislative branch of government, "public employer" or "employer" refers to the following:

(A) The president pro tempore of the senate, with respect to former members or employees of the senate.

(B) The speaker of the house, with respect to former members or employees of the house of representatives.

(C) The legislative council, with respect to former employees of the legislative services agency.

(7) "Public employer" does not include a state educational institution (as defined under IC 20-12-0.5-1).

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8 or IC 5-10.2-4;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 21-6.1, a former employee who qualifies for a benefit under IC 21-6.1-5; and

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(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

SECTION 66. IC 5-10.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. "Employee" as used in this article includes:

(1) an elected or appointed officer of the state and of a political subdivision;

(2) a senior judge appointed under ~~IC 33-2-1-8;~~ **IC 33-24-3-7;** and

(3) a duly elected prosecuting attorney of a judicial circuit.

SECTION 67. IC 5-10.3-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) This section does not apply to:

(1) members of the general assembly; or

(2) employees covered by section 3 of this chapter.

(b) An employee of the state or of a participating political subdivision who:

(1) became a full-time employee of the state or of a participating political subdivision in a covered position; and

(2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(c) Any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(d) For the purposes of this section, "employees of the state" includes:

(1) employees of the judicial circuits whose compensation is paid from state funds;

(2) elected and appointed state officers;

(3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under ~~IC 33-14-9;~~ **IC 33-39-7;**

(4) employees in the classified service;

(5) employees of any state department, institution, board,

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commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;

(6) employees of any state agency which is a body politic and corporate;

(7) employees of the board of trustees of the public employees' retirement fund;

(8) persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410; and

(9) the directors and employees of county offices of family and children.

SECTION 68. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The following employees may not be members of the fund:

(1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.

(2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:

(A) were hired before July 1, 1982; or

(B) are employed by a participating school corporation.

(3) Independent contractors or officers or employees paid wholly on a fee basis.

(4) Employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund ~~created~~ **established** by ~~IC 33-14-9.~~ **IC 33-39-7-9.**

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-16-4.

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one

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thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 69. IC 6-1.1-4-32, AS AMENDED BY P.L.235-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 32. (a) As used in this section, "contract" refers to a contract entered into under this section.

(b) As used in this section, "contractor" refers to a firm that enters into a contract with the department of local government finance under this section.

(c) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

~~(d) Notwithstanding sections 15 and 17 of this chapter, a township assessor in a qualifying county may not appraise property, or have property appraised, for the general reassessment of real property to be completed for the March 1, 2002, assessment date. Completion of that general reassessment in a qualifying county is instead governed by this section. The only duty of:~~

~~(1) a township assessor in a qualifying county; or~~

~~(2) a county assessor of a qualifying county;~~

~~with respect to that general reassessment is to provide to the department of local government finance or the department's contractor under subsection (e) any support and information requested by the department or the contractor. This subsection expires June 30, 2004.~~

~~(e) Subject to section 33 of this chapter, the department of local government finance shall select and contract with a certified public accounting firm with expertise in the appraisal of real property to appraise property for the general reassessment of real property in a qualifying county to be completed for the March 1, 2002, assessment date. The department of local government finance may enter into additional contracts to provide software or other auxiliary services to be used for the appraisal of property for the general reassessment. The contract applies for the appraisal of land and improvements with respect to all classes of real property in the qualifying county. The contract must include:~~

~~(1) a provision requiring the appraisal firm to:~~

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~~(A) prepare a detailed report of:~~
~~(i) expenditures made after July 1, 1999, and before the date of the report from the qualifying county's reassessment fund under section 28 of this chapter (repealed); and~~
~~(ii) the balance in the reassessment fund as of the date of the report; and~~
~~(B) file the report with:~~
~~(i) the legislative body of the qualifying county;~~
~~(ii) the prosecuting attorney of the qualifying county;~~
~~(iii) the department of local government finance; and~~
~~(iv) the attorney general;~~
~~(2) a fixed date by which the appraisal firm must complete all responsibilities under the contract;~~
~~(3) subject to subsection (t), a provision requiring the appraisal firm to use the land values determined for the qualifying county under section 13.6 of this chapter;~~
~~(4) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;~~
~~(5) a provision requiring the appraisal firm to make periodic reports to the department of local government finance;~~
~~(6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (5) are to be made;~~
~~(7) a precise stipulation of what service or services are to be provided;~~
~~(8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the department of local government finance; and~~
~~(9) any other provisions required by the department of local government finance.~~
~~After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. If the department of local government finance terminates a contract before~~

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~~completion of the work described in this subsection, the department shall contract for completion of the work as promptly as possible under IC 5-22-6. This subsection expires June 30, 2004.~~

~~(f)~~ **(d)** At least one (1) time each month, the contractors that will make physical visits to the site of real property for reassessment purposes shall publish a notice under IC 5-3-1 describing the areas that are scheduled to be visited within the next thirty (30) days and explaining the purposes of the visit. The notice shall be published in a way to promote understanding of the purposes of the visit in the affected areas. After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (e), the department of local government finance shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment:

(1) is subject to appeal by the taxpayer under section 34 of this chapter; and

(2) must include a statement of the taxpayer's rights under sections 33 and 34 of this chapter.

~~(g) The department of local government finance shall mail the notice required by subsection (f) within ninety (90) days after the department receives the report for a parcel from the professional appraisal firm. This subsection expires June 30, 2004.~~

~~(h) The qualifying county shall pay the cost of any contract under this section which shall be without appropriation from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. However, the maximum amount that the qualifying county is obligated to pay for all contracts entered into under subsection (e) for the general reassessment of real property in the qualifying county to be completed for the March 1, 2002, assessment date is twenty-five million five hundred thousand dollars ($25,500,000). Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:~~

~~(1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;~~

~~(2) obtains from the department of local government finance:~~

~~(A) approval of the form and amount of the bill; and~~

~~(B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and~~

~~(3) files with the county auditor of the qualifying county:~~

~~(A) a duplicate copy of the bill submitted to the department of~~

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~~local government finance;~~

~~(B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and~~

~~(C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.~~

~~An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. This subsection expires June 30, 2004.~~

~~(i)~~ **(e)** Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department of local government finance under this section:

(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency.

(3) The attorney general.

(4) The governor.

~~(j)~~ **(f)** With respect to a general reassessment of real property to be completed under section 4 of this chapter for an assessment date after the March 1, 2002, assessment date, the department of local government finance shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or

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a portion of the real property in a qualifying county or a township in a qualifying county. The department of local government finance may contract to have the review performed by an appraisal firm. The department of local government finance or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

(1) the total assessed valuation of the real property within the qualifying county or township; and

(2) the total assessed valuation that would result if the real property within the qualifying county or township were valued in the manner provided by law.

~~(k)~~ **(g)** If:

(1) the variance determined under subsection (j) exceeds ten percent (10%); and

(2) the department of local government finance determines after holding hearings on the matter that a special reassessment should be conducted;

the department shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

~~(l)~~ **(h)** If the variance determined under subsection ~~(j)~~ **(f)** is ten percent (10%) or less, the department of local government finance shall determine whether to correct the valuation of the property under:

(1) sections 9 and 10 of this chapter; or

(2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

~~(m)~~ **(i)** The department of local government finance shall give notice by mail to a taxpayer of a hearing concerning the department's intent to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The department of local government finance may conduct a single hearing under this section with respect to multiple properties. The notice must state:

(1) the time of the hearing;

(2) the location of the hearing; and

(3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the department of local government finance's intent to reassess property under this chapter.

~~(n)~~ **(j)** If the department of local government finance determines after the hearing that property should be reassessed under this section, the department shall:

(1) cause the property to be reassessed under this section;

(2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located;

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and

(3) notify the taxpayer by mail of its final determination.

~~(o)~~ **(k)** A reassessment may be made under this section only if the notice of the final determination under subsection ~~(m)~~ **(i)** is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

~~(p)~~ **(l)** If the department of local government finance contracts for a special reassessment of property under this section, the qualifying county shall pay the bill, without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;

(2) obtains from the department of local government finance:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and

(3) files with the county auditor of the qualifying county:

(A) a duplicate copy of the bill submitted to the department of local government finance;

(B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and

(C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the

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claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

~~(q)~~ **(m)** A qualifying official (as defined in ~~IC 33-3-5-2.5(c))~~ **IC 33-26-8-3)** shall provide information requested in writing by the department of local government finance or the department's contractor under this section not later than seven (7) days after receipt of the written request from the department or the contractor. If a qualifying official (as defined in ~~IC 33-3-5-2.5(c))~~ **IC 33-26-8-3)** fails to provide the requested information within the time permitted in this subsection, the department of local government finance or the department's contractor may seek an order of the tax court under ~~IC 33-3-5-2.5~~ **IC 33-26-8** for production of the information.

~~(r)~~ **(n)** The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

~~(s) A contract entered into under subsection (c) is subject to this subsection. A contractor shall use the land values determined for the qualifying county under section 13.6 of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section 13.6 of this chapter do not reflect the true tax value of land, the contractor shall determine land values for the qualifying county that reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.~~

~~(t) A contractor acting under a contract under subsection (c) may notify the department of local government finance if:~~

~~(1) the county auditor fails to:~~

~~(A) certify the bill;~~

~~(B) publish the claim;~~

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~~(C) submit the claim to the county executive; or~~

~~(D) issue a warrant or check;~~

~~as required in subsection (h) at the first opportunity the county auditor is legally permitted to do so;~~

~~(2) the county executive fails to allow the claim as required in subsection (h) at the first opportunity the county executive is legally permitted to do so; or~~

~~(3) a person or entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts the process under this section for payment of a bill submitted by a contractor under subsection (h).~~

~~This subsection expires June 30, 2004.~~

~~(u) The department of local government finance, upon receiving notice under subsection (t) from the contractor, shall:~~

~~(1) verify the accuracy of the contractor's assertion in the notice that:~~

~~(A) a failure occurred as described in subsection (t)(1) or (t)(2); or~~

~~(B) a person or entity acted or failed to act as described in subsection (t)(3); and~~

~~(2) provide to the treasurer of state the department of local government finance's approval under subsection (h)(2)(A) of the bill with respect to which the contractor gave notice under subsection (t).~~

~~This subsection expires June 30, 2004.~~

~~(v) Upon receipt of the approval of the department of local government finance under subsection (u), the treasurer of state shall pay the contractor the amount of the bill approved by the department of local government finance from money in the possession of the state that would otherwise be available for distribution to the qualifying county, including distributions from the property tax replacement fund or distributions of admissions taxes or wagering taxes. This subsection expires June 30, 2004.~~

~~(w) The treasurer of state shall withhold from the part attributable to the county of the next distribution to the county treasurer under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or another law the amount of any payment made by the treasurer of state to the contractor under subsection (v). Money shall be deducted first from money payable under IC 6-1.1-21.4(b) and then from all other funds payable to the qualifying county. This subsection expires June 30, 2004.~~

~~(x) Compliance with subsections (t) through (w) shall be treated as~~

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~~compliance with IC 5-11-10.This subsection expires June 30, 2004.~~

~~(y) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (t) through (w). This subsection and subsections (t) through (x) shall be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county under this section are paid. Nothing in this subsection or subsections (t) through (x) shall be construed to create a debt of the state. This subsection expires June 30, 2004.~~

~~(z)~~ **(o)** This section expires December 31, 2006.

SECTION 70. IC 6-1.1-8-36, AS AMENDED BY P.L.90-2002, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 36. (a) A public utility company shall pay any taxes which are based upon the department of local government finance's assessment of distributable property regardless of whether or not an appeal of the assessment is pending. However, the collection of the taxes may be enjoined pending an original tax appeal under ~~IC 33-3-5.~~ **IC 33-26.**

(b) The department of local government finance shall reassess distributable property and shall certify the reassessment to the county auditor of each county in which the property is taxable if:

(1) the Indiana board:

(A) sets aside the department's original assessment and orders the department to reassess the distributable property; or

(B) refers the matter to the department under section 32 of this chapter with instructions to make another assessment; and

(2) the decision of:

(A) the Indiana board is not appealed to the tax court; or

(B) the tax court in which the matter was referred to the department under section 32 of this chapter is not appealed to the supreme court.

(c) If the tax court sets aside the Indiana board's final determination and the Indiana board reassesses distributable property, the Indiana board shall certify the reassessment to the county auditor of each county in which the property is taxable if the decision of the tax court is not appealed to the supreme court.

SECTION 71. IC 6-1.1-18.5-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.1. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a county, city, or town to supplemental juror fees adopted under ~~IC 33-19-1-4,~~ **IC 33-37-10-1,** to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed

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on a county, city, or town under section 3 of this chapter, the county, city, or town's ad valorem property tax levy for a calendar year does not include an amount equal to:

(1) the average annual expenditures for nonsupplemental juror fees under ~~IC 33-19-1-4,~~ **IC 33-37-10-1,** using the five (5) most recent years for which expenditure amounts are available; multiplied by

(2) the percentage increase in juror fees that is attributable to supplemental juror fees under the most recent ordinance adopted under ~~IC 33-19-1-4.~~ **IC 33-37-10-1.**

SECTION 72. IC 6-8.1-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) Before an original tax appeal is filed with the tax court under ~~IC 33-3-5,~~ **IC 33-26,** the commissioner may settle any tax liability dispute if a substantial doubt exists as to:

(1) the constitutionality of the tax under the Constitution of the State of Indiana;

(2) the right to impose the tax;

(3) the correct amount of tax due;

(4) the collectibility of the tax; or

(5) whether the taxpayer is a resident or nonresident of Indiana.

(b) After an original tax appeal is filed with the tax court under ~~IC 33-3-5,~~ **IC 33-26,** and notwithstanding IC 4-6-2-11, the commissioner may settle a tax liability dispute with an amount in contention of twenty-five thousand dollars ($25,000) or less.

(c) Notwithstanding IC 6-8.1-7-1(a), the terms of a settlement under subsection (b) are available for public inspection.

SECTION 73. IC 6-8.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the department. The amount of the assessment is considered a tax payment not made by the due date and is subject to IC 6-8.1-10 concerning the imposition of penalties and interest. The department shall send the person a notice of the proposed assessment through the United States mail.

(b) If the person has a surety bond guaranteeing payment of the tax for which the proposed assessment is made, the department shall furnish a copy of the proposed assessment to the surety. The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the

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proposed assessment is made.

(c) The notice shall state that the person has sixty (60) days from the date the notice is mailed to pay the assessment or to file a written protest. If the person files a protest and requires a hearing on the protest, the department shall:

(1) set the hearing at the department's earliest convenient time; and

(2) notify the person by United States mail of the time, date, and location of the hearing.

(d) The department may hold the hearing at the location of its choice within Indiana if that location complies with IC 6-8.1-3-8.5.

(e) No later than sixty (60) days after conducting a hearing on a protest, or after making a decision on a protest when no hearing is requested, the department shall issue a letter of findings and shall send a copy of the letter through the United States mail to the person who filed the protest and to the person's surety, if the surety was notified of the proposed assessment under subsection (a). The department may continue the hearing until a later date if the taxpayer presents additional information at the hearing or the taxpayer requests an opportunity to present additional information after the hearing.

(f) A person that disagrees with a decision in a letter of finding may request a rehearing not more than thirty (30) days after the date on which the letter of finding is issued by the department. The department shall consider the request and may grant the rehearing if the department reasonably believes that a rehearing would be in the best interests of the taxpayer and the state.

(g) If a person disagrees with a decision in a letter of finding, the person may appeal the decision to the tax court. However, the tax court does not have jurisdiction to hear an appeal that is filed more than one hundred eighty (180) days after the date on which the letter of finding is issued by the department.

(h) The tax court shall hear an appeal under subsection (g) de novo and without a jury. The tax court may do the following:

(1) Uphold or deny any part of the assessment that is appealed.

(2) Assess the court costs in a manner that the court believes to be equitable.

(3) Enjoin the collection of a listed tax under ~~IC 33-3-5-11.~~ **IC 33-26-6-2.**

(i) The department shall demand payment, as provided in IC 6-8.1-8-2(a), of any part of the proposed tax assessment, interest, and penalties that it finds owing because:

(1) the person failed to properly respond within the sixty (60) day period;

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(2) the person requested a hearing but failed to appear at that hearing; or

(3) after consideration of the evidence presented in the protest or hearing, the department finds that the person still owes tax.

(j) The department shall make the demand for payment in the manner provided in IC 6-8.1-8-2.

(k) Subsection (a) does not apply to a motor carrier fuel tax return.

SECTION 74. IC 6-8.1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

(1) The due date of the return.

(2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

(b) When the department receives a claim for refund, the department shall consider the claim for refund and may hold a hearing on the claim for refund to obtain and consider additional evidence. After considering the claim and all evidence relevant to the claim, the department shall issue a decision on the claim, stating the part, if any, of the refund allowed and containing a statement of the reasons for any part of the refund that is denied. The department shall mail a copy of the decision to the person who filed the claim. If the department allows the full amount of the refund claim, a warrant for the payment of the claim is sufficient notice of the decision.

(c) If the person disagrees with any part of the department's decision, ~~he~~ **the person** may appeal the decision, regardless of whether or not he protested the tax payment or whether or not the person has accepted a refund. The person must file the appeal with the tax court. The tax court does not have jurisdiction to hear a refund appeal suit, if:

(1) the appeal is filed more than three (3) years after the date the claim for refund was filed with the department;

(2) the appeal is filed more than ninety (90) days after the date the department mails the decision of denial to the person; or

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(3) the appeal is filed both before the decision is issued and before the one hundred eighty-first day after the date the person files the claim for refund with the department.

(d) The tax court shall hear the appeal de novo and without a jury, and after the hearing may order or deny any part of the appealed refund. The court may assess the court costs in any manner that it feels is equitable. The court may enjoin the collection of any of the listed taxes under ~~IC 33-3-5-11.~~ **IC 33-26-6-2.** The court may also allow a refund of taxes, interest, and penalties that have been paid to and collected by the department.

(e) With respect to the motor vehicle excise tax, this section applies only to penalties and interest paid on assessments of the motor vehicle excise tax. Any other overpayment of the motor vehicle excise tax is subject to IC 6-6-5.

(f) If a taxpayer's federal income tax liability for a taxable year is modified by the Internal Revenue Service, and the modification would result in a reduction of the tax legally due, the due date by which the taxpayer must file a claim for refund with the department is the later of:

(1) the date determined under subsection (a); or

(2) the date that is six (6) months after the date on which the taxpayer is notified of the modification by the Internal Revenue Service.

(g) If an agreement to extend the assessment time period is entered into under IC 6-8.1-5-2(e), the period during which a person may file a claim for a refund under subsection (a) is extended to the same date to which the assessment time period is extended.

SECTION 75. IC 6-8.1-9-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.2. Notwithstanding section 1(d) of this chapter, if a taxpayer prevails in a complaint that is placed on the small claims docket under ~~IC 33-3-5-12,~~ **IC 33-26-5,** the tax court shall order the refund of the taxpayer's filing fee under ~~IC 33-3-5-16~~ **IC 33-26-9-1** from the state general fund.

SECTION 76. IC 8-23-2-15, AS AMENDED BY P.L.132-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) As used in this section, "highway work zone" means an area where:

(1) highway construction, reconstruction, or maintenance is actually occurring; and

(2) notice is posted in accordance with the:

(A) Indiana Manual on Uniform Traffic Control Devices; or

(B) Indiana Work Site Traffic Control Manual;

to indicate that highway construction, reconstruction, or maintenance

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is occurring.

(b) The department may contract with the state police department or local law enforcement agencies to hire off duty police officers to patrol highway work zones. The duties of a police officer who is hired under this section:

(1) are limited to those duties that the police officer normally performs while on active duty; and

(2) do not include the duties of a:

(A) flagman; or

(B) security officer.

(c) The department shall use the money transferred to the department under ~~IC 33-19-9-4(6)~~ **IC 33-37-9-4(6)** to pay the costs of hiring off duty police officers to perform the duties described in subsection (b).

(d) All money transferred to the department under ~~IC 33-19-9-4(6)~~ **IC 33-37-9-4(6)** is annually appropriated to pay off duty police officers to perform the duties described in subsection (b).

SECTION 77. IC 9-27-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The alcohol and drug countermeasures fund is established for the purpose of funding the programs and activities developed and conducted under section 4(8) of this chapter. The fund shall be administered by the office. The fund consists of deposits made under ~~IC 33-19.~~ **IC 33-37.**

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) At least sixty percent (60%) of the money in the alcohol and drug countermeasures fund shall be used to supplement law enforcement agencies in their efforts to apprehend persons who operate vehicles while intoxicated. Money received by a law enforcement agency from the fund may not be used to replace other funding of law enforcement services.

SECTION 78. IC 9-30-3-12, AS AMENDED BY P.L.225-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If during any twelve (12) month period a person has committed moving traffic violations for which the person has:

(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has

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had at least one (1) traffic judgment entered against the person; the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred:

(1) The individual has been convicted of a moving traffic offense (as defined in section 14(a) of this chapter), other than an offense that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding ~~IC 33-19-5-2,~~ **IC 33-37-4-2,** any court may suspend one-half (1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 79. IC 9-30-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The circuit court:

(1) shall administer the program established under section 2 of this chapter;

(2) shall submit claims under ~~IC 33-19-8-6~~ **IC 33-37-8-6** for the disbursement of funds; and

(3) may enter into contracts with individuals, firms, and corporations to provide the treatment described by section 2 of this chapter.

SECTION 80. IC 10-13-3-13, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. As used in this chapter, "no contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under any of the following:

(1) IC 31-32-13.

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(2) IC 31-34-17.
(3) IC 31-34-20.
(4) IC 31-37-16.
(5) IC 31-37-19-1.
(6) IC 31-37-19-6.
(7) ~~IC 33-14-1-7.~~ **IC 33-39-1-8.**
(8) IC 35-33-8-3.2.
(9) IC 35-38-2-2.3.

SECTION 81. IC 11-12-3.5-2, AS ADDED BY P.L.224-2003, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The community corrections advisory board shall develop a forensic diversion program plan to do the following:

(1) Establish and provide procedures for the early identification of serious mental or addictive disorders among detainees, including initial intake and assessment programs for individuals who are arrested.
(2) Permit an individual who is not charged with a crime involving serious bodily injury to participate in an arraignment or postarraignment diversion program.
(3) Provide a program of community based services for an individual eligible for deferred prosecution under ~~IC 33-14-1-7~~ **IC 33-39-1-8** or IC 12-23-5-7.
(4) Permit an individual participating in a forensic diversion program to discontinue participation sixty (60) days after the individual's primary caregiver, physician, or counselor has released the individual from all care except for basic monitoring.

SECTION 82. IC 11-13-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established ~~under IC 33-13-14-2.~~ **by IC 33-33-9-3.**

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

(1) educational and occupational qualifications for employment as a probation officer;
(2) compensation of probation officers;
(3) protection of probation records and disclosure of information contained in those records; and
(4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation

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officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-1-6.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-1-6-19 and 511 IAC 7-12-5.

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) in coordination with:

(i) individual case plans; and

(ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

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Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) The conference shall make recommendations to courts and probation departments concerning:

(1) selection, training, distribution, and removal of probation officers;

(2) methods and procedure for the administration of probation, including investigation, supervision, workloads, recordkeeping, and reporting; and

(3) use of citizen volunteers and public and private agencies.

(h) The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 83. IC 12-17-2-18, AS AMENDED BY P.L.138-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney; or

(2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established ~~under IC 33-2.1-10-1);~~ **by IC 33-24-11-1);**

in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 18.5 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (a) may contract with a private organization to provide child support enforcement services.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests

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of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time that an application for child support services is made, the applicant must be informed that:

(1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and

(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

SECTION 84. IC 12-17-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. The director of the division shall adopt the rules necessary to implement Title IV-D of the federal Social Security Act and this chapter. The division shall send a copy of each proposed or adopted rule to each member of the **Indiana** child custody and support advisory committee established by ~~IC 33-2.1-10~~ **IC 33-24-11-1** not later than ten (10) days after proposal or adoption.

SECTION 85. IC 12-17-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A county child advocacy fund is established in each county for the purpose of assisting the county in developing interdisciplinary responses to child abuse and neglect situations. The fund consists of amounts deposited under ~~IC 33-19-7-1(d).~~ **IC 33-37-7-1(d) and IC 33-37-7-2(d).**

SECTION 86. IC 12-18-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The sources of the fund include the following:

(1) Amounts deposited under ~~IC 33-19-7-5.~~ **IC 33-37-7-9.**

(2) Amounts distributed from the state user fee fund under ~~IC 33-19-9-4(a)(7).~~ **IC 33-37-9-4(a)(7).**

SECTION 87. IC 12-23-14-13, AS AMENDED BY P.L.113-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established ~~under IC 33-13-14-2.~~ **by IC 33-38-9-3.**

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards ~~will be~~ **are** required for persons employed in court drug and alcohol programs.

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(c) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established by ~~IC 33-13-14-2.~~ **IC 33-38-9-4.**

(d) With regard to alcohol and drug services programs established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that programs comply with rules adopted under this section and applicable federal regulations.

(2) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.

(3) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to effectuate the purposes of this chapter.

(4) Directly, or by contract, approve and certify programs established under this chapter.

(5) Require, as a condition of operation, that each program created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of alcohol and drug services programs.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by or to provide services to a court alcohol and drug services program. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which any person employed by a court alcohol and drug services program must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified court alcohol and drug program before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

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SECTION 88. IC 12-23-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The costs of an alcohol and drug services program established under this chapter shall be paid out of the city general fund or the county general fund and may be supplemented by payment from the user fee fund upon appropriation made under ~~IC 33-19-8.~~ **IC 33-37-8.**

(b) The court shall fix the compensation of employees and contractors.

SECTION 89. IC 12-23-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) The Indiana judicial center drug and alcohol programs fund is established for the purpose of administering, certifying, and supporting alcohol and drug services programs under this chapter. The fund shall be administered by the Indiana judicial center established ~~under IC 33-13-14-2.~~ **by IC 33-38-9-4.**

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of the fiscal year does not revert to the state general fund.

SECTION 90. IC 12-23-14.5-3, AS AMENDED BY P.L.133-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b), a drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

(b) A drug court that does not otherwise have felony jurisdiction may accept an eligible individual who is referred to the drug court from another court within the county if the following criteria are met:

(1) The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.

(2) If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under ~~IC 33-10.1-5-7.~~ **IC 33-35-5-7.**

SECTION 91. IC 12-23-14.5-9, AS AMENDED BY P.L.133-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under ~~IC 33-13-14-2.~~ **IC 33-38-9-3.**

(b) As used in this section, "effective date" means the date

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established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under ~~IC 33-13-14-7.~~ **IC 33-38-9-9.**

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.

(2) Certify drug courts established under this chapter.

(3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.

(4) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

(A) by a certified drug court before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

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SECTION 92. IC 12-23-14.5-10, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The costs of a drug court established under this chapter may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under ~~IC 33-19-8.~~ **IC 33-37-8.**

(b) The court shall fix the compensation of employees of the drug court.

SECTION 93. IC 12-23-14.5-12, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A court that has established a drug court under this chapter may require an eligible individual to pay a fee for drug court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for drug court services.

(c) The fee for drug court services may not exceed five hundred dollars ($500) per referral to the drug court.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under ~~IC 33-19-8.~~ **IC 33-37-8.**

SECTION 94. IC 12-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided in sections 3 and 4 of this chapter, the following Indiana courts have jurisdiction over a proceeding under this article:

(1) A court having probate jurisdiction.

(2) A superior court in a county in which the circuit court has exclusive probate jurisdiction.

(3) A mental health division of a superior court to the extent the mental health division has jurisdiction under ~~IC 33-5.1-2-4.~~ **IC 33-33-49-9.**

SECTION 95. IC 14-22-3-5, AS AMENDED BY P.L.186-2003, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Except as provided in subsection (b), the money in the fund shall be used for the following purposes:

(1) Protecting and propagating game, fish, and birds in Indiana.

(2) Paying the operational expenses of the following:

(A) The fish and wildlife division.

(B) The law enforcement division.

(3) Maintaining the automated point of sale licensing system implemented under IC 14-22-12-7.5. However, the amount that

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may be used under this subdivision during a fiscal year may not exceed the amount transferred on July 1 of that fiscal year under IC 14-22-4-6.

(b) Money in the fund that is attributable to money deposited under ~~IC 33-19-7-5~~ **IC 33-37-7-9** shall be used to administer the following:

(1) The turn in a poacher program established under IC 14-9-8-23.

(2) The reward system established under the program.

SECTION 96. IC 15-3-4.6-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. In addition to its powers and duties in section 4 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county under ~~IC 33-19-8~~ **IC 33-37-8** and by amounts appropriated from the county general fund.

SECTION 97. IC 16-19-13-6, AS AMENDED BY P.L.1-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and supportive services, from the onset of need for services through the completion of healing, to victims of sexual assault.

(b) The sexual assault victims assistance fund is established. The office shall administer the fund to provide financial assistance to rape crisis centers. Money in the fund must be distributed to a statewide nonprofit corporation whose primary purpose is pursuing the eradication of sexual violence in Indiana. The nonprofit corporation shall allocate money in the fund among the rape crisis centers. The fund consists of:

(1) amounts transferred to the fund from sexual assault victims assistance fees collected under ~~IC 33-19-6-21.~~ **IC 33-37-5-23.**

(2) any appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(c) The expenses of administering the fund shall be paid from money in the fund. The office shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert

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to the state general fund.

SECTION 98. IC 25-1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. This chapter applies to the imposition and collection of fees under the following:

IC 14-24-10
IC 16-19-5-2
IC 25-30-1-17
~~IC 33-16-2-1.~~
IC 33-42-2-1.

SECTION 99. IC 25-18-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The clerk of the circuit court, upon receiving an application for a license, shall examine the application to determine if it is in due form. If the clerk shall be satisfied that the application is in due form and that the proposed sale is of the character which the applicant desires to advertise and conduct, ~~he~~ **the clerk** shall issue a license to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application upon the payment of a fee as provided in ~~IC 33-17-14-3.~~ **IC 33-32-5-2.**

(b) Such license may be issued by the clerk in typewritten letter form or in printed form addressed to the applicant, one (1) copy being retained by the clerk, and shall set forth the following information and statements:

DISTRESS SALE LICENSE

In accordance with and subject to IC 25-18-1, (name of applicant) is hereby licensed to conduct a distress sale for the following purpose:

Going out of business sale []
Removal of business sale []
Fire or altered goods sale []

This license shall apply only to the sale of goods reported in the inventory filed with the application for this license, which goods are to be sold by the licensee at (place of sale _____), in _____, Indiana. The effective date of this license shall be _____, _____, and this license shall expire sixty (60) days from said date, Sundays and holidays excluded.

Dated this ____ day of _____, _____.

_____ CLERK.

SECTION 100. IC 29-3-2-1, AS AMENDED BY P.L.217-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) This article applies to the following:

(1) The business affairs, physical person, and property of every incapacitated person and minor residing in Indiana.

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(2) Property located in Indiana of every incapacitated person and minor residing outside Indiana.

(3) Property of every incapacitated person or minor, regardless of where the property is located, coming into the control of a fiduciary who is subject to the laws of Indiana.

(b) Except as provided in subsections (c) through (e), the court has exclusive original jurisdiction over all matters concerning the following:

(1) Guardians.

(2) Protective proceedings under IC 29-3-4.

(c) A juvenile court has exclusive original jurisdiction over matters relating to the following:

(1) Minors described in IC 31-30-1-1.

(2) Matters related to guardians of the person and guardianships of the person described in IC 31-30-1-1(10).

(d) Except as provided in subsection (c), courts with child custody jurisdiction under:

(1) IC 31-14-10;

(2) IC 31-17-2-1; or

(3) IC 31-17-3-3;

have original and continuing jurisdiction over custody matters relating to minors.

(e) A mental health division of a superior court under ~~IC 33-5.1-2~~ **IC 33-33-49** has jurisdiction concurrent with the court in mental health proceedings under IC 12-26 relating to guardianship and protective orders.

(f) Jurisdiction under this section is not dependent on issuance or service of summons.

SECTION 101. IC 31-9-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16, IC 31-19-16.5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under ~~IC 33-2.1-7-3.1~~ **IC 33-24-6-4** who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

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the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 102. IC 31-16-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The proceedings that are transferred shall be docketed as other civil matters are docketed, and a civil costs fee as provided in ~~IC 33-19-5-4~~ **IC 33-37-4-4** shall be collected.

SECTION 103. IC 31-16-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Whenever in any court proceeding an order is in force for:

(1) the support and maintenance of the other party to the proceeding; or

(2) the support and maintenance of a child;

the individual required to pay the support shall pay the support.

(b) The clerk shall collect from the individual, in addition to the payments, the fee specified in ~~IC 33-19-6-5.~~ **IC 33-37-5-6.**

(c) The clerk may collect any unpaid fee in a proceeding for contempt.

SECTION 104. IC 31-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided in ~~IC 33-5-29.5-4,~~ ~~IC 33-5-35.1-4,~~ **IC 33-33-45-6** and section 8 of this chapter, the juvenile law does not apply to the following:

(1) A child at least sixteen (16) years of age who allegedly committed a violation of a traffic law, the violation of which is a misdemeanor, unless the violation is an offense under IC 9-30-5.

(2) A child who is alleged to have committed a violation of a statute defining an infraction, except as provided under IC 7.1-5-7.

(3) A child who is alleged to have committed a violation of an ordinance.

(4) A child who:

(A) is alleged to have committed an act that would be a crime if committed by an adult; and

(B) has previously been waived under IC 31-30-3 (or IC 31-6-2-4 before its repeal) to a court having misdemeanor or felony jurisdiction.

SECTION 105. IC 31-30-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The juvenile division of the Marion superior court established under ~~IC 33-5.1-2~~ **IC 33-33-49** has exclusive jurisdiction over a child who:

(1) has been taken into custody in Marion County; and

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(2) has allegedly committed an act that would be a misdemeanor traffic offense if committed by an adult.

SECTION 106. IC 31-30-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. A circuit court has concurrent original jurisdiction with the juvenile court, including the probate court described in ~~IC 33-8-2-10,~~ **IC 33-31-1-9(b),** for the purpose of establishing the paternity of a child in a proceeding under:

(1) IC 31-18;

(2) IC 31-1.5 (before its repeal); or

(3) IC 31-2-1 (before its repeal);

to enforce a duty of support.

SECTION 107. IC 31-31-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The fees in juvenile court proceedings are set under ~~IC 33-19-5-3.~~ **IC 33-37-4-3.**

SECTION 108. IC 31-31-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. An adult who is convicted of an offense in the juvenile court is liable for costs under ~~IC 33-19-5-1.~~ **IC 33-37-4-1.**

SECTION 109. IC 31-31-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The judge of the juvenile court may appoint one (1) or more full-time magistrates under ~~IC 33-4-7.~~ **IC 33-23-5.**

SECTION 110. IC 31-31-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The judge of:

(1) a juvenile court; or

(2) a probate court under ~~IC 33-8-2;~~ **IC 33-31-1;**

may appoint one (1) or more part-time juvenile court referees.

SECTION 111. IC 31-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The judge of:

(1) a juvenile court; or

(2) a probate court under ~~IC 33-8-2;~~ **IC 33-31-1;**

may appoint one (1) or more part-time juvenile court referees.

SECTION 112. IC 31-34-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of:

(1) at least five dollars ($5); but

(2) not more than fifteen dollars ($15);

for each month that the child participates in the program instead of the court cost fees prescribed by ~~IC 33-19-5-3.~~ **IC 33-37-4-3.**

SECTION 113. IC 31-34-8-9 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The probation department for the juvenile court shall:

(1) collect the informal adjustment program fee set by section 8 of this chapter; and

(2) transfer the collected informal adjustment program fees to the county auditor not later than thirty (30) days after the fees are collected.

(b) The county auditor shall deposit the fees in the county user fee fund established by ~~IC 33-19-8-5.~~ **IC 33-37-8-5.**

SECTION 114. IC 31-37-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The juvenile court may order each child who participates in a program of informal adjustment or the child's parents to pay an informal adjustment program fee of:

(1) at least five dollars ($5); but

(2) not more than fifteen dollars ($15);

for each month that the child participates in the program instead of the court cost fees prescribed by ~~IC 33-19-5-3.~~ **IC 33-37-4-3.**

SECTION 115. IC 31-37-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The probation department for the juvenile court shall do the following:

(1) Collect the informal adjustment program fee set under section 9 of this chapter; and

(2) Transfer the collected informal adjustment program fees to the county auditor not later than thirty (30) days after the fees are collected.

(b) The county auditor shall deposit the fees in the county user fee fund established by ~~IC 33-19-8-5.~~ **IC 33-37-8-5.**

SECTION 116. IC 31-40-2-1, AS AMENDED BY P.L.277-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to either the probation department or the clerk of the court:

(1) an initial probation user's fee of at least twenty-five dollars ($25) but not more than one hundred dollars ($100);

(2) a probation user's fee of at least ten dollars ($10) but not more than twenty-five dollars ($25) for each month the child receives supervision; and

(3) an administrative fee of one hundred dollars ($100) if the delinquent child is supervised by a juvenile probation officer.

(b) If a clerk of a court collects a probation user's fee, the clerk:

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(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under ~~IC 33-19-6-1.5;~~ **IC 33-37-5-2;** and

(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

(A) county auditor who shall deposit the money transferred under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer; or

(C) town general fund when requested by the town fiscal officer.

(c) The probation department or clerk shall collect the administrative fee under subsection (a)(3) before collecting any other fee under subsection (a). The probation department or the clerk shall deposit the probation user's fees and the administrative fees paid under subsection (a) into the county supplemental juvenile probation services fund.

(d) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(e) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (a).

(f) The probation department shall deposit the credit card service fees collected under subsection (e) into the county supplemental juvenile probation services fund. These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 117. IC 32-22-1-3, AS ADDED BY P.L.2-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. Any person who is:

(1) less than eighteen (18) years of age; and

(2) married to a person who is at least eighteen (18) years of age;

may convey, mortgage, or agree to convey any interest in real estate or may make any contract concerning the interest, with the consent of the

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circuit, superior, or probate court of the county where the person resides, upon payment of the fee required under ~~IC 33-19-5-4.~~ **IC 33-37-4-4.**

SECTION 118. IC 32-29-7-3, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period shall be:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in ~~IC 33-17-2-3.~~ **IC 33-32-3-2.** After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the

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sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars ($10) to one (1) owner and three dollars ($3) to each additional owner for service of written notice under this subsection. The fee is:

(1) a cost of the proceeding;

(2) to be collected as other costs of the proceeding are collected; and

(3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. However, the sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

SECTION 119. IC 32-29-7-6, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) If the mortgaged real estate is located in more than one (1) county:

(1) the court of any county the mortgaged real estate is located in has jurisdiction of an action for the foreclosure of the mortgage; and

(2) all the real estate shall be sold in the county where the action is brought, unless the court orders otherwise.

(b) A judgment and decree granted by a court or a judge in an action for the foreclosure of the mortgaged real estate shall be recorded in the lis pendens record kept in the office of the clerk of each county where the real estate is located, unless the judgment and decree is filed with the clerk in the county as provided in ~~IC 33-17-2-3.~~ **IC 33-32-3-2.**

SECTION 120. IC 34-7-4-2, AS AMENDED BY P.L.2-2002, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Statutes outside IC 34 providing causes of action or procedures include the following:

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(1) IC 4-21.5-5 (Judicial review of administrative agency actions).
(2) IC 22-3-4 (Worker's compensation administration and procedures).
(3) IC 22-4-17 (Unemployment compensation system, employee's claims for benefits).
(4) IC 22-4-32 (Unemployment compensation system, employer's appeal process).
(5) IC 22-9 (Civil rights actions).
(6) IC 31-14 (Paternity).
(7) IC 31-15 (Dissolution of marriage and legal separation).
(8) IC 31-16 (Support of children and other dependants).
(9) IC 31-17 (Custody and visitation).
(10) IC 31-19 (Adoption).
(11) IC 32-27-2, IC 32-30-1, IC 32-30-2, IC 32-30-2.1, IC 32-30-2, IC 32-30-4, IC 32-30-9, IC 32-30-10, IC 32-30-12, IC 32-30-13, and IC 32-30-14 (Real Property).
(12) ~~IC 33-1-3~~ **IC 33-43-4** (Attorney Liens).

SECTION 121. IC 34-26-5-18, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:
(1) A no contact order issued under IC 31-32-13 in a juvenile case.
(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.
(3) A no contact order issued under IC 31-34-25 in a CHINS case.
(4) A no contact order issued under IC 31-37-19 in a delinquency case.
(5) A no contact order issued under IC 31-37-25 in a delinquency case.
(6) A no contact order issued under ~~IC 33-14-1-7~~ **IC 33-39-1-8** in a criminal case.
(7) An order for protection issued under this chapter.
(8) A workplace violence restraining order issued under IC 34-26-6.
(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.
(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

SECTION 122. IC 34-28-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The clerk shall collect the fee provided in ~~IC 33-19-5-4.~~ **IC 33-37-4-4.** However, ~~no~~ **a**

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fee may **not** be collected if the petitioner is a resident of Indiana.

SECTION 123. IC 34-28-5-1, AS AMENDED BY P.L.98-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with ~~IC 33-19-5-2(e);~~ **IC 33-37-4-2(e);**

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay court costs of twenty-five dollars ($25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

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(5) the agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

SECTION 124. IC 34-28-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The violations clerk or deputy violations clerk shall:

(1) accept:

(A) written appearances;

(B) waivers of trial;

(C) admissions of violation;

(D) declarations of nolo contendere for moving traffic violations;

(E) payments of judgments (including costs) in traffic violation cases; and

(F) deferral agreements made under section 1(f) of this chapter (or IC 34-4-32-1(f) before its repeal) and deferral program fees prescribed under ~~IC 33-19-5-2(e);~~ **IC 33-37-4-2(e);**

(2) issue receipts and account for any judgments (including costs) collected; and

(3) pay the judgments (including costs) collected to the appropriate unit of government as provided by law.

SECTION 125. IC 34-30-2-141 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 141. ~~IC 33-2-3.1-2~~ **IC 33-24-10-5** (Concerning a person who transmits a sworn or written statement for an investigation, hearing, or other proceeding by the disciplinary commission of the supreme court).

SECTION 126. IC 34-30-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 142. ~~IC 33-2-3.1-3~~ **IC 33-24-10-6** (Concerning executive secretary, employees, hearing officers and commissioners of the disciplinary commission of the supreme court).

SECTION 127. IC 34-30-2-143 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 143. ~~IC 33-2.1-4-15~~ **IC 33-27-2-9** (Concerning the commissioners, employees, and staff of the judicial nominating commission for any act or statement relevant to the evaluation of a candidate).

SECTION 128. IC 34-30-2-144 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 144. ~~IC 33-2.1-4-16~~ **IC 33-27-2-10** (Concerning a person or organization for providing certain information, assistance, or testimony to the judicial nominating commission).

SECTION 129. IC 34-30-2-144.5, AS ADDED BY P.L.98-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 144.5. ~~IC 33-17-1-4.~~ **IC 33-32-4-8** (Concerning the personal liability of circuit court clerks for dishonored checks).

SECTION 130. IC 34-30-2-145 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 145. ~~IC 33-20-5-8~~ **IC 33-44-5-8** (Concerning an attorney for depositing money in an interest-bearing attorney trust account).

SECTION 131. IC 34-30-2-146 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 146. ~~IC 33-20-6-10~~ **IC 33-44-6-10** (Concerning depository financial institutions for certain actions concerning attorney trust accounts).

SECTION 132. IC 34-35-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Expenses to be paid under section 1 of this chapter include the following:

(1) The expense of keeping the prisoner, if any.

(2) The expense of transporting the prisoner to or from any penal institution.

(3) Any extraordinary expense for safekeeping the prisoner.

(4) The fee set by the venue court under ~~IC 33-9-11-5~~ **IC 33-40-2-5** for pauper counsel, if counsel was appointed by that court.

(5) The expense of any mileage, meals, lodging, and per diems paid for or to jurors.

(6) The per diems paid jury commissioners for drawing any special venire.

(7) The sum of five dollars ($5) for each day or part of a day a bailiff is engaged in assisting the court in the trial of the cause.

(8) The sum of eight dollars ($8) for each day or part of a day an official court reporter takes evidence or testimony before the judge or jury concerning the cause.

(9) The sum of ten dollars ($10) per day for each day of trial for use of facilities and utilities.

(10) The sum of five dollars ($5) for notifying the jury not to attend court after having been summoned in any cause.

(11) The amount of telephone or telegraph communications made by the court or authorized by it.

(12) The per diem allowed by law to the clerk of the court for

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attending court.

SECTION 133. IC 34-35-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. If any of the amounts specified in section 2 of this chapter are paid by any party against whom costs are taxed under ~~IC 33-19-4-3,~~ **IC 33-37-4-8,** the amount paid shall be refunded to the county of origin.

SECTION 134. IC 34-35-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The clerks of the courts issuing and recording the transcript shall tax as additional costs, to be paid by the judgment debtor, the fees taxed in similar matters as provided by ~~IC 33-19.~~ **IC 33-37.**

SECTION 135. IC 34-46-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. ~~IC 33-2.1-5-3 and IC 33-2.1-5-4~~ **IC 33-38-13-10 and IC 33-38-13-11** (Concerning papers filed with and testimony before the commission on judicial qualifications).

SECTION 136. IC 34-46-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. ~~IC 33-2.1-6-6 and 33-2.1-6-7~~ **IC 33-38-14-12 and IC 33-38-14-13** (Concerning papers filed with and testimony before the commission on judicial qualifications).

SECTION 137. IC 34-46-2-30.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30.4. ~~IC 33-5-40-53~~ **IC 33-33-71-49** (Concerning papers filed and testimony before the commission on judicial qualifications for St. Joseph Superior Court).

SECTION 138. IC 34-57-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. This chapter applies to the following disputes:

(1) A criminal offense that a prosecuting attorney has referred to a community dispute resolution center under a diversion program under ~~IC 33-14-1-7.~~ **IC 33-39-1-8.**

(2) A civil action that has been filed and referred by the court to a dispute resolution program for alternative dispute resolution under IC 34-57-4 (or IC 34-4-2 before its repeal).

(3) Civil disputes that do not involve an insurance claim, in which the parties voluntarily submit to community dispute resolution without filing an action in court.

SECTION 139. IC 35-33-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) Prior to the completion of the initial hearing, the judicial officer shall determine whether a person who requests assigned counsel is indigent. If the person is found to be indigent, the judicial officer shall assign counsel

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to ~~him.~~ **the person.**

(b) If jurisdiction over an indigent defendant is transferred to another court, the receiving court shall assign counsel immediately upon acquiring jurisdiction over the defendant.

(c) If the court finds that the person is able to pay part of the cost of representation by the assigned counsel, the court shall order the person to pay the following:

(1) For a felony action, a fee of one hundred dollars ($100).

(2) For a misdemeanor action, a fee of fifty dollars ($50).

The clerk of the court shall deposit fees collected under this subsection in the county's supplemental public defender services fund established under ~~IC 33-9-11.5-1.~~ **IC 33-40-3-1.**

(d) The court may review the finding of indigency at any time during the proceedings.

SECTION 140. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2003, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or

(D) post a real estate bond.

(2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

(A) Fines, costs, fees, and restitution as ordered by the court.

(B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).

(C) In the event of the posting of a real estate bond, the bond

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shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under ~~IC 33-9-11.5.~~ **IC 33-40-3.**

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may

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collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 141. IC 35-33-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Upon a showing of good cause, the state or the defendant may be granted an alteration or revocation of bail by application to the court before which the proceeding is pending. In reviewing a motion for alteration or revocation of bail, credible hearsay evidence is admissible to establish good cause.

(b) When the state presents additional:

(1) evidence relevant to a high risk of nonappearance, based on the factors set forth in section 4(b) of this chapter; or

(2) clear and convincing evidence:

(A) of the factors described in ~~IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B);~~ **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B);** or

(B) that the defendant otherwise poses a risk to the physical safety of another person or the community;

the court may increase bail.

(c) When the defendant presents additional evidence of substantial mitigating factors, based on the factors set forth in section 4(b) of this chapter, which reasonably suggests that the defendant recognizes the court's authority to bring ~~him~~ **the defendant** to trial, the court may reduce bail. However, the court may not reduce bail if the court finds by clear and convincing evidence that the factors described in ~~IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B)~~ **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B)** exist or that the defendant otherwise poses a risk to the physical safety of another person or the community.

(d) The court may revoke bail or an order for release on personal recognizance upon clear and convincing proof by the state that:

(1) while admitted to bail the defendant:

(A) or ~~his~~ **the defendant's** agent threatened or intimidated a victim, prospective witnesses, or jurors concerning the pending criminal proceeding or any other matter;

(B) or ~~his~~ **the defendant's** agent attempted to conceal or destroy evidence relating to the pending criminal proceeding;

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(C) violated any condition of ~~his~~ **the defendant's** current release order;

(D) failed to appear before the court as ordered at any critical stage of the proceedings; or

(E) committed a felony or a Class A misdemeanor that demonstrates instability and a disdain for the court's authority to bring ~~him~~ **the defendant** to trial;

(2) the factors described in ~~IC 33-14-10-6(1)(A) and IC 33-14-10-6(1)(B)~~ **IC 35-40-6-6(1)(A) and IC 35-40-6-6(1)(B)** exist or that the defendant otherwise poses a risk to the physical safety of another person or the community; or

(3) a combination of the factors described in subdivisions (1) and (2) exists.

SECTION 142. IC 35-33.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. Within twenty-eight (28) days after the termination of a warrant or an extension, or the denial of an application for a warrant or an extension, the court to which application for the warrant or an extension was made shall submit a report to the executive director of the division of state court administration ~~(IC 33-2.1-7-1)~~ **(IC 33-24-6-1)** containing the following information:

(1) The fact that a warrant or an extension was applied for.

(2) The type of warrant or extension applied for.

(3) The fact that the application for a warrant or an extension was granted, modified, or denied.

(4) The duration authorized for interception by the warrant and the number and duration of any extensions.

(5) The designated offense for which the warrant or extension was issued or applied for.

(6) The identity of the persons who applied for the warrant or extension.

(7) The nature and location of the place or facility from which communications were to be intercepted.

(8) The reasons for withholding notice under IC 35-33.5-4-3, if the notice was withheld.

SECTION 143. IC 35-33.5-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If a court grants a warrant under this article, the prosecuting attorney shall apply to the court of appeals for an ex parte de novo review of the issuing court's decision. Issuance of the warrant is subject to automatic review and shall be given priority over all other cases. The prosecuting attorney is entitled to expedited review of the issuance of the warrant under rules

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adopted by the supreme court. Notwithstanding ~~IC 33-2.1-2-2(d),~~ **IC 33-25-1-5,** the chief judge of the court of appeals shall assign these cases for review to a district other than the district where the circuit or superior court that granted the warrant is located.

(b) In the review, the court of appeals shall review the reasons for the issuance of the warrant and determine whether the requirements of this article have been met.

(c) The court of appeals may affirm, modify, or overrule the order of the court to which the application was made. The court of appeals may not increase the authority for interception beyond that requested in the application.

(d) A warrant must be stayed until the court of appeals completes the review.

(e) Issuance of an extension is not subject to automatic review under this section.

SECTION 144. IC 35-34-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The jurors on a grand jury and one (1) alternate shall be drawn, selected, and impaneled by the procedure set out in ~~IC 33-4-5, IC 33-4-5.5, or IC 33-4-5.6.~~ **IC 33-28-4 or IC 33-28-6.**

(b) Whenever the court finds that the original panel was not selected in substantial conformity with the requirements of law for the selection of the panel, the court shall discharge the panel and summon another panel.

(c) Whenever the court finds that a grand juror:

(1) is disqualified from service under law;

(2) is incapable of performing the juror's duties because of bias or prejudice;

(3) is guilty of misconduct in the performance of the juror's duties that might impair the proper functioning of the grand jury;

(4) is under the age of eighteen (18) years;

(5) is not a resident of the county;

(6) is an alien;

(7) is a mentally incompetent person;

(8) is a witness for the prosecution;

(9) has such a state of mind in reference to a target that the juror cannot act impartially and without prejudice to the substantial rights of that person;

(10) holds a juror's place on the grand jury by reason of the corruption of the officer who selected and impaneled the grand jury; or

(11) has requested or otherwise caused any officer or an officer's

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deputy to place the juror upon the grand jury;

the court shall refuse to swear that grand juror or, if the juror has been sworn, shall discharge that grand juror and swear another grand juror.

(d) After a grand jury has been impaneled, the court that called the grand jury shall appoint one (1) of the grand jurors as foreman and one (1) as clerk. During any absence of the foreman or clerk, the grand jury shall select one (1) of their number to act as foreman or clerk. The clerk shall keep minutes of the grand jury proceedings. The court shall supply a means for recording the evidence presented before the grand jury and all of the other proceedings that occur before the grand jury, except for the deliberations and voting of the grand jury and other discussions when the members of the grand jury are the only persons present in the grand jury room. The evidence and proceedings shall be recorded in the same manner as evidence and proceedings are recorded in the court that impaneled the grand jury. When ordered by the court, a transcript or a copy of the recording shall be prepared and supplied to the requesting party. If the transcript is supplied, it shall be at the cost of the party requesting it. If a copy of the recording is supplied, the party requesting it is responsible for the actual cost of reproduction. If a transcript has already been prepared, the requesting party is responsible for the actual cost of obtaining the copy. If the court finds the requesting party is an indigent defendant, the cost of the transcript or copy of the recording supplied to the defendant shall be paid by the county.

(e) The following oath must be administered to the grand jury:

"You, and each of you, do solemnly swear or affirm that you will diligently inquire and make true presentment of all offenses committed or triable within this county, of which you have or can obtain legal evidence; that you will present no person through malice, hatred, ill will, nor leave any unpresented through fear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your indictments you will present the truth, the whole truth, and nothing but the truth; that you will not disclose any evidence given or proceeding had before the grand jury; that you will keep secret whatever you or any other grand juror may have said or in what manner you or any other grand juror may have voted on a matter before the grand jury.".

(f) The court shall provide a printed copy of the provisions of this chapter to the grand jury upon the request of any member of the grand jury. In addition, the court shall give the grand jurors any instructions relating to the proper performance of their duties that the court considers necessary.

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(g) If a member of the grand jury has reason to believe that an offense has been committed which is triable in the county, the member may report this information to fellow jurors, who may then investigate the alleged offense.

SECTION 145. IC 35-34-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The judge of any court having criminal jurisdiction may, upon due cause shown by petition of the prosecuting attorney of the judicial circuit, order the clerk of the courts, or jury commissioner (as defined in ~~IC 33-4-5.5-4(b),~~ **IC 33-28-6-4)** to draw the names of competent persons to be summoned to serve on a special grand jury, which shall serve in addition to the grand jury regularly summoned and convened pursuant to law.

(b) A special grand jury has the powers and duties of a grand jury prescribed by law.

(c) The members of the special grand jury serve terms of three (3) months or more, as requested by the prosecuting attorney. The terms of members of a special grand jury shall be extended for the same period of time and in the same manner in which the terms of grand jury members may be extended under section 13 of this chapter.

SECTION 146. IC 35-34-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. When names of grand jurors are ordered drawn to be summoned under section 14 of this chapter, the judge shall specify the number of names to be drawn, and shall enter an order in sufficient time before the grand jury session to permit counsel to know and investigate the panel of special grand jurors. The order of names listed in the panel and called for service and entered in the order book of the court shall be the same as that provided in ~~IC 33-4-5-9 or IC 33-4-5.5,~~ **IC 33-28-4-9 or IC 33-28-6,** as may be applicable. The clerk shall issue venires or summonses for such jurors as the courts may direct. The sheriff or bailiff shall then call the special grand jurors to the jury box in the same order as that in which their names were drawn from the box and certified thereto.

SECTION 147. IC 35-36-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) In a criminal prosecution, if a change of venue has been taken from the county in which the prosecution originated, the prosecuting attorney from the original county shall prosecute the case in the trial court to which the case was venued. The trial court to which the case was venued may appoint a prosecuting attorney to assist on the case.

(b) In a case described in subsection (a), if the defendant is entitled to pauper counsel, the original trial court shall furnish pauper counsel.

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The trial court to which the case was venued may remove from the case the pauper counsel furnished by the original trial court, and:

(1) request the original trial court to furnish another pauper counsel;

(2) appoint pauper counsel of its choice; or

(3) request the public defender of the state of Indiana to provide counsel under ~~IC 33-9-11.~~ **IC 33-40-2.**

(c) The original trial court shall determine the amount of the fee and the expenses incurred by the pauper counsel and shall order the appropriate reimbursement to be paid to him by the county in which the prosecution originated. The fees and expenses of a public defender appointed under ~~IC 33-9-11~~ **IC 33-40-2** shall be paid in accordance with that chapter.

SECTION 148. IC 35-37-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) If a judge of a court of record in any state which has made provision for the commanding of persons within that state to attend and testify in this state certifies under the seal of the court that:

(1) there is a criminal prosecution pending in the court, or that a grand jury investigation has commenced or is about to commence;

(2) a person being within this state is a material witness in the prosecution or grand jury investigation; and

(3) the person's presence will be required for a specified number of days;

upon presentation of the certificate to a judge of a court of record with jurisdiction to try felony cases in the county in which the person is located, the judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at the hearing the judge determines that:

(1) the witness is material and necessary;

(2) it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state; and

(3) the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to the person protection from arrest, and the service of civil and criminal process;

the judge shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in

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the subpoena. In any hearing the certificate is prima facie evidence of all the facts stated in it.

(c) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the attendance of the witness in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be immediately brought before the judge for the hearing. If the judge is satisfied of the desirability of the custody and delivery, the judge may, in lieu of issuing a subpoena, order that the witness be immediately taken into custody and delivered to an officer of the requesting state. For this determination, the certificate is prima facie proof of such desirability.

(d) If a witness subpoenaed as provided in this section is paid or tendered a sum for expenses and fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

(e) The amount of the payment for expenses under subsection (d) of this section and section 4(b) of this chapter is set out in ~~IC 33-19-1-5.~~ **IC 33-37-10-2.**

SECTION 149. IC 35-37-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If a person in any state that has made provision for commanding persons within its borders to attend and testify in criminal prosecutions in this state or grand jury investigations commenced or about to commence in this state is a material witness in a prosecution pending in a court of record in this state or in a grand jury investigation which has commenced or is about to commence in this state, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county of the state in which the witness is found.

(b) If the witness is summoned to attend and testify in this state, the witness shall be tendered a sum for expenses equal to the amount provided under ~~IC 33-19-1-5.~~ **IC 33-37-10-2.** The fees shall be a proper charge upon the county in which the criminal prosecution or grand jury investigation is pending.

(c) A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within this state for a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court.

(d) If the witness fails without good cause to attend and testify as

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directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

SECTION 150. IC 35-38-2-1, AS AMENDED BY P.L.277-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Whenever it places a person on probation, the court shall:

(1) specify in the record the conditions of the probation; and

(2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (c). If the person was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (d). The court may:

(1) modify the conditions (except a fee payment may only be modified as provided in section 1.7(b) of this chapter); or

(2) terminate the probation;

at any time. If the person commits an additional crime, the court may revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under ~~IC 33-19-6-1.5;~~ **IC 33-37-5-2;** and

(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

(A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer; or

(C) town general fund when requested by the town fiscal officer.

(d) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

(1) not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) as an initial probation user's fee;

(2) a monthly probation user's fee of not less than fifteen dollars ($15) nor more than thirty dollars ($30) for each month that the

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person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter;

(4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; and

(5) an administrative fee of one hundred dollars ($100);

to either the probation department or the clerk.

(e) In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:

(1) not more than a fifty dollar ($50) initial probation user's fee;

(2) a monthly probation user's fee of not less than ten dollars ($10) nor more than twenty dollars ($20) for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; and

(4) an administrative fee of fifty dollars ($50);

to either the probation department or the clerk.

(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

(1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and

(2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The probation department or clerk shall collect the administrative fee under subsection (e)(4) before collecting any other fee under subsection (e). All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to

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the fiscal officer of the city or town for deposit into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those city or town courts that have an adult probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection (f).

(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(i) A person placed on probation for more than one (1) crime:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to the probation department or the clerk.

(j) This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's

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account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 151. IC 35-38-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. As a condition of probation for a person who is found to have:

(1) committed an offense under IC 9-30-5; or

(2) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult;

the court shall require the person to pay the alcohol and drug countermeasures fee under ~~IC 33-19.~~ **IC 33-37.**

SECTION 152. IC 35-38-2-3, AS AMENDED BY P.L.166-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with

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conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

(1) continue the person on probation, with or without modifying or enlarging the conditions;

(2) extend the person's probationary period for not more than one (1) year beyond the original probationary period; or

(3) order execution of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order a sanction as set forth in subsection (g); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or

(2) order execution of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection (i); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(k) A judgment revoking probation is a final appealable order.

(l) Failure to pay fines or costs required as a condition of probation may not be the sole basis for commitment to the department of correction.

(m) Failure to pay fees or costs assessed against a person under ~~IC 33-9-11.5-6, IC 33-19-2-3(c),~~ **IC 33-40-3-6, IC 33-37-2-3(c),** or IC 35-33-7-6 is not grounds for revocation of probation.

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SECTION 153. IC 35-40-10-2, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established ~~under IC 33-14-8-1~~ **by IC 33-39-8-2** shall develop and disseminate model notice forms for use by prosecuting attorneys.

SECTION 154. IC 35-41-1-6.3, AS ADDED BY P.L.195-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.3. "Crime of domestic violence," for purposes of IC 3-7-13-5 and ~~IC 33-4-5-7,~~ **IC 33-28-4-8,** means an offense or the attempt to commit an offense that:

(1) has as an element the:

(A) use of physical force; or

(B) threatened use of a deadly weapon; and

(2) is committed against a:

(A) current or former spouse, parent, or guardian of the defendant;

(B) person with whom the defendant shared a child in common;

(C) person who was cohabiting with or had cohabited with the defendant as a spouse, parent, or guardian; or

(D) person who was or had been similarly situated to a spouse, parent, or guardian of the defendant.

SECTION 155. IC 35-47-2-1, AS AMENDED BY P.L.195-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Except as provided in subsection (b) and section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about the person's body, except in the person's dwelling, on the person's property or fixed place of business, without a license issued under this chapter being in the person's possession.

(b) Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or ~~IC 33-4-5-7,~~ **IC 33-28-4-8,** a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun in any vehicle or on or about the person's body in the person's dwelling or on the person's property or fixed place of business.

SECTION 156. IC 35-47-4-6, AS ADDED BY P.L.195-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person who has been convicted of domestic battery under IC 35-42-2-1.3 and who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a domestic batterer, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the person's

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right to possess a firearm has been restored under IC 3-7-13-5 or ~~IC 33-4-5-7.~~ **IC 33-28-4-8.**

SECTION 157. IC 35-50-5-3, AS AMENDED BY P.L.88-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);

(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;

(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;

(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and

(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

(1) attaches to the property of the person subject to the order;

(2) may be perfected;

(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to the victim services division of the Indiana criminal justice institute in an amount not exceeding:

(1) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and

(2) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or

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IC 16-21-8.

The victim services division of the Indiana criminal justice institute shall deposit the restitution received under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

(1) The name and address of the person that is to receive the restitution.

(2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by ~~IC 33-17-2-3.~~ **IC 33-32-3-2.** The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and

(2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

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SECTION 158. IC 35-50-5-4, AS AMENDED BY P.L.2-2002, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) This section applies only:

(1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and

(2) to a person who is sentenced under this article for a felony or a misdemeanor.

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

(1) may not exceed an amount the person can or will be able to pay;

(2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and

(3) takes into consideration and gives priority to any other restitution, reparation, repayment, costs, fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by ~~IC 33-17-2-3.~~ **IC 33-32-3-2.**

(e) An order under this section is not discharged:

(1) by the completion of a sentence imposed for a felony or misdemeanor; or

(2) by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6 before their repeal).

SECTION 159. IC 36-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:

(1) an admission of violation before the violations clerk under ~~IC 33-6-3;~~ **IC 33-36;** or

(2) administrative enforcement under section 9 of this chapter.

(b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.

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(c) An ordinance defining a moving traffic violation may not be enforced under ~~IC 33-6-3~~ **IC 33-36** and must be enforced in accordance with IC 34-28-5.

SECTION 160. IC 36-4-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The clerk shall do the following:

(1) Serve as clerk of the city legislative body under IC 36-4-6-9 and maintain custody of its records.

(2) Maintain all records required by law.

(3) Keep the city seal.

(4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.

(5) Perform other duties prescribed by law.

(6) Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.

(7) Take depositions, without charging a fee.

(8) Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.

(9) Serve as clerk of the city court under ~~IC 33-10.1-6-2,~~ **IC 33-35-3-2,** if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under ~~IC 33-10.1-6-1.1.~~ **IC 33-35-3-1.**

SECTION 161. IC 36-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) This section applies to third class cities.

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under ~~IC 33-10.1-6-1.1,~~ **IC 33-35-3-1,** the clerk shall serve as clerk of the city court.

SECTION 162. IC 36-5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The clerk-treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the town legislative body.

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(2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.

(3) Prescribe payroll and account forms for all town offices.

(4) Prescribe the manner in which creditors, officers, and employees shall be paid.

(5) Manage the finances and accounts of the town and make investments of town money.

(6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.

(7) Maintain custody of the town seal and the records of the legislative body.

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.

(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.

(11) Serve as clerk of the town court under ~~IC 33-10.1-6-2,~~ **IC 33-35-3-2,** if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under ~~IC 33-10.1-6-1.1.~~ **IC 33-35-3-1.**

(12) Perform all other duties prescribed by statute.

(b) A clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

SECTION 163. IC 36-9-27-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 106. (a) Any owner of land affected by a final order or determination of a board is entitled to judicial review of that order or determination in the circuit or superior court of the county in which the board is located. The owner must file in the court a petition:

(1) setting out the order or determination complained of; and

(2) alleging specifically that the order or determination is arbitrary, capricious, unlawful, or not supported by substantial evidence;

and pay the fee required under ~~IC 33-19-5-4.~~ **IC 33-37-4-4.** If the order or determination to be appealed was made by a joint board, the petition must be filed in the circuit or superior court of the county that elected

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the surveyor who serves as an ex officio member of the joint board.

(b) A petition for judicial review under subsection (a) must be filed within twenty (20) days after:

(1) the date of publication of notice by the board that the order or determination has been made; or

(2) the order or determination was served on the person seeking the judicial review, if the order was served on that person.

(c) A copy of the petition shall be served on the board within five (5) days after the petition is filed. If the order or determination arose in a proceeding initiated by petition for the construction of a new drain under section 54 of this chapter, a copy shall also be served on the attorney for the petitioner, unless the petitioner is the person seeking the judicial review. Service under this subsection:

(1) is sufficient to bring the board and any petitioner for a new drain into court;

(2) may be made on the board by serving a copy of the petition on the county surveyor personally or by leaving it at the surveyor's official office; and

(3) may be made on the attorney for the petitioner by serving a copy of the petition on the attorney personally or by leaving a copy of it at the attorney's address as set forth in the petition.

(d) Within twenty (20) days after receipt of notice that any person has filed a petition for review, the board shall prepare a certified copy of the transcript of the proceedings before the board and file it with the clerk of the court. The petitioner shall pay the cost of preparing this transcript. An extension of time in which to file the transcript shall be granted by the court upon a showing of good cause.

(e) On the filing of a petition for review, the clerk of the court shall docket the cause in the name of petitioner and against the board. The issues shall be considered closed by denial of all matters at issue without the necessity of filing any further pleadings.

(f) When the owners of less than ten percent (10%) of the affected lands petition for judicial review, issues not triable de novo do not operate to stay work unless an appeal bond is posted.

SECTION 164. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 33-1; IC 33-2; IC 33-2.1; IC 33-3; IC 33-4; IC 33-5; IC 33-5.1; IC 33-6; IC 33-8; IC 33-9; IC 33-10.1; IC 33-10.5; IC 33-11.6; IC 33-12; IC 33-13; IC 33-14; IC 33-15; IC 33-16; IC 33-17; IC 33-19; IC 33-20; IC 33-21.

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SENATE MOTION

Madam President: I move that Senator Bowser be added as second author and Senator Landske be added as coauthor of Senate Bill 263.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 263 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 263, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

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