



January 22, 2010

HOUSE BILL No. 1154

DIGEST OF HB 1154 (Updated January 20, 2010 2:37 pm - DI 92)

Citations Affected: IC 33-33.

Synopsis: Marion County magistrates. Allows the judges of the Marion superior court and the judge of the Marion circuit court to appoint not more than 24 additional full-time magistrates if the executive committee of the Marion superior court imposes and collects an infraction judgment for each traffic violation in Marion County that is: (1) at least \$35; and (2) deposited in the state general fund. Provides that, if at the end of a fiscal year the controller of the city of Indianapolis and the state office of management and budget determine that the amount of money deposited in the state general fund was less than the amount of the salaries paid by the state to the magistrates, the treasurer of Marion County shall transfer to the auditor of state for deposit in the state general fund an amount equal to the difference between: (1) the amount of money deposited in the state general fund; and (2) the amount of the salaries paid by the state to the magistrates; during the previous city fiscal year. Requires Marion County to annually deposit money in the Marion County guardian ad litem fund in an amount equal to the salaries paid to the commissioners and other personnel replaced by the additional magistrates.

Effective: July 1, 2010; January 1, 2011.

Pryor, Porter, Richardson

January 7, 2010, read first time and referred to Committee on Judiciary.
January 12, 2010, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to House Rule 127.
January 21, 2010, amended, reported — Do Pass.

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January 22, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1154

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

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

1 SECTION 1. IC 33-33-49-32, AS AMENDED BY P.L.80-2006,
 2 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2010]: Sec. 32. (a) In addition to the ~~magistrate~~ **magistrates**
 4 appointed under ~~section~~ **sections 31 and 32.5** of this chapter, the
 5 judges of the superior court may, by a vote of a majority of the judges,
 6 appoint
 7 (1) ~~four (4)~~ **four (4)** full-time magistrates under IC 33-23-5 until January
 8 1, 2008, not more than two (2) of whom may be from the same
 9 political party; and
 10 (2) ~~eight (8)~~ **eight (8)** full-time magistrates under IC 33-23-5, after
 11 ~~December 31, 2007~~, not more than four (4) of whom may be from
 12 the same political party.
 13 (b) The magistrates **appointed under subsection (a)** continue in
 14 office until removed by the vote of a majority of the judges of the court.
 15 (c) A party to a superior court proceeding that has been assigned to
 16 a magistrate appointed under this section may request that an elected
 17 judge of the superior court preside over the proceeding instead of the

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1 magistrate to whom the proceeding has been assigned. A request under
2 this subsection must be in writing and must be filed with the court:

- 3 (1) in a civil case, not later than:
 - 4 (A) ten (10) days after the pleadings are closed; or
 - 5 (B) thirty (30) days after the case is entered on the
 - 6 chronological case summary, in a case in which the defendant
 - 7 is not required to answer; or
- 8 (2) in a criminal case, not later than ten (10) days after the
- 9 omnibus date.

10 Upon a timely request made under this subsection by either party, the
11 magistrate to whom the proceeding has been assigned shall transfer the
12 proceeding back to the superior court judge.

13 SECTION 2. IC 33-33-49-32.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JANUARY 1, 2011]: **Sec. 32.5. (a) In addition to the**
16 **magistrates appointed under sections 31 and 32 of this chapter, the**
17 **judges of the superior court and the judge of the circuit court may**
18 **appoint not more than twenty-four (24) full-time magistrates under**
19 **IC 33-23-5 if the executive committee of the superior court imposes**
20 **and collects an infraction judgment for each traffic violation in**
21 **Marion County that is:**

- 22 (1) at least thirty-five dollars (\$35); and
- 23 (2) deposited in the state general fund.
- 24 (b) The allocation of appointments under subsection (a) shall be
- 25 determined by agreement between the judges of the superior court
- 26 and the judge of the circuit court with consideration given to the
- 27 case load of each court. However, at least two (2) of the magistrates
- 28 appointed under subsection (a) shall be appointed by the judge of
- 29 the circuit court.

- 30 (c) The:
 - 31 (1) judge of the circuit court has exclusive authority to
 - 32 appoint magistrates allocated to the circuit court; and
 - 33 (2) judges of the superior court have exclusive authority to
 - 34 appoint magistrates allocated to the superior court by a vote
 - 35 of the majority of the judges of the superior court.

36 (d) Not more than a simple majority of the magistrates
37 appointed under this section may be from the same political party.

- 38 (e) Magistrates appointed by the:
 - 39 (1) judge of the circuit court serve at the pleasure of the judge
 - 40 of the circuit court; and
 - 41 (2) judges of the superior court continue in office until
 - 42 removed by the vote of a majority of the judges of the

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superior court.
(f) At the end of each city fiscal year, the controller of the city of Indianapolis and the state office of management and budget shall determine:

- (1) the amount of money deposited in the state general fund under subsection (a)(2); and
- (2) the amount of the salaries paid by the state under IC 33-23-5-11 to magistrates appointed under this section; during the previous city fiscal year.

(g) If the controller of the city of Indianapolis and the state office of management and budget determine under subsection (f) that the amount of money deposited in the state general fund under subsection (a)(2) is less than the amount of the salaries paid by the state under IC 33-23-5-11 to magistrates appointed under this section, the treasurer of Marion County shall transfer without appropriation to the auditor of state for deposit in the state general fund an amount equal to the difference between:

- (1) the amount of money deposited in the state general fund under subsection (a)(2); and
- (2) the amount of the salaries paid by the state under IC 33-23-5-11 to magistrates appointed under this section; during the previous city fiscal year.

(h) If the superior court is able to terminate a commissioner or any other person described in section 15(a) of this chapter who serves the court because of the appointment of a magistrate under this section, the fiscal body of Marion County shall do the following:

- (1) Deposit the remainder of the terminated commissioner's or other person's salary that would have been paid to the commissioner or other person during the remainder of the city fiscal year into the Marion County guardian ad litem fund at the end of the city fiscal year.
- (2) Deposit an amount equal to the last year's salary of the terminated commissioner or other person into the Marion County guardian ad litem fund at the end of each city fiscal year that follows the city fiscal year described in subdivision (1).

(i) A party to a circuit court or superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected judge of the circuit court or superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection

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1 **must be in writing and must be filed with the court:**
2 **(1) in a civil case, not later than:**
3 **(A) ten (10) days after the pleadings are closed; or**
4 **(B) thirty (30) days after the case is entered on the**
5 **chronological case summary, in a case in which the**
6 **defendant is not required to answer; or**
7 **(2) in a criminal case, not later than ten (10) days after the**
8 **omnibus date.**
9 **Upon a timely request made under this subsection by either party,**
10 **the magistrate to whom the proceeding has been assigned shall**
11 **transfer the proceeding back to the circuit court judge or superior**
12 **court judge.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1154, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 15, delete "July 1, 2010]" and insert "January 1, 2011]".

Page 3, line 2, after "each" insert "city".

Page 3, line 9, after "previous" insert "city".

Page 3, line 22, after "previous" insert "city".

and when so amended that said bill do pass.

(Reference is to HB 1154 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1154, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 23, after "(h)" insert "**If the superior court is able to terminate a commissioner or any other person described in section 15(a) of this chapter who serves the court because of the appointment of a magistrate under this section, the fiscal body of Marion County shall do the following:**

(1) Deposit the remainder of the terminated commissioner's or other person's salary that would have been paid to the commissioner or other person during the remainder of the city fiscal year into the Marion County guardian ad litem fund at the end of the city fiscal year.

(2) Deposit an amount equal to the last year's salary of the terminated commissioner or other person into the Marion County guardian ad litem fund at the end of each city fiscal



**year that follows the city fiscal year described in subdivision
(1).
(i)".**

and when so amended that said bill do pass.

(Reference is to HB 1154 as printed January 13, 2010.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 1.

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