



January 29, 2010

HOUSE BILL No. 1269

DIGEST OF HB 1269 (Updated January 26, 2010 1:08 pm - DI 107)

Citations Affected: IC 33-33; noncode.

Synopsis: Bartholomew and Clark County courts. Establishes the Bartholomew superior court No. 3 effective July 1, 2011. Requires the governor to appoint the initial judge of the Bartholomew superior court No. 3 for a term beginning July 1, 2011, and ending December 31, 2012. Provides that the initial election of the judge of the Bartholomew superior court No. 3 is the general election on November 6, 2012. Requires the Bartholomew circuit and superior courts to impose and collect an infraction judgment for each traffic violation in Bartholomew County that is: (1) at least \$20; and (2) deposited in the state general fund. Provides that, if at the end of a fiscal year the county auditor of Bartholomew County and the state office of management and budget determine that the amount of money deposited in the state general fund that is equal to \$20 multiplied by the total number of infraction judgments imposed and collected for each traffic violation in Bartholomew County was less than the amount of the salary paid by the state to the judge of the Bartholomew superior court No. 3, the treasurer of Bartholomew 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; (Continued next page)

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

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January 12, 2010, read first time and referred to Committee on Judiciary.
January 28, 2010, amended, reported — Do Pass.

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Digest Continued

and (2) the amount of the salary paid by the state to the magistrates; during the previous fiscal year. Establishes a unified circuit court for Clark County on January 1, 2011, by combining the current judge of the Clark circuit court and the three judges of the Clark superior courts into a unified circuit court with four judges. Specifies that the Clark superior court judges serving on December 31, 2010, serve as judges of the unified Clark circuit court. Transfers all cases and other matters pending in the Clark superior courts at the close of business on December 31, 2010, to the Clark circuit court on January 1, 2011. Repeals provisions concerning the establishment and operation of the Clark superior courts.

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January 29, 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. 1269

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 33-33-3-2 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) There are created
- 3 ~~two (2)~~ **three (3)** courts of record to be known as Bartholomew
- 4 superior court No. 1, ~~and~~ Bartholomew superior court No. 2, **and**
- 5 **Bartholomew superior court No. 3.**
- 6 (b) Each court is a standard superior court as described in
- 7 IC 33-29-1.
- 8 (c) Bartholomew County comprises the judicial district of each
- 9 court.
- 10 SECTION 2. IC 33-33-3-2.5 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 12 1, 2010]: **Sec. 2.5. (a) The Bartholomew circuit and superior courts**
- 13 **shall impose and collect an infraction judgment for each traffic**
- 14 **violation in Bartholomew County that is:**
- 15 (1) **at least twenty dollars (\$20); and**
- 16 (2) **deposited in the state general fund.**
- 17 (b) **At the end of each fiscal year, the county auditor of**

HB 1269—LS 6676/DI 69+



1 **Bartholomew County and the state office of management and**
2 **budget shall determine:**

3 **(1) the amount of money deposited in the state general fund**
4 **under subsection (a)(2) that is equal to twenty dollars (\$20)**
5 **multiplied by the total number of infraction judgments**
6 **imposed and collected for each traffic violation in**
7 **Bartholomew County; and**

8 **(2) the amount of the salary paid by the state under**
9 **IC 33-38-5-6 to the judge of the Bartholomew superior court**
10 **No. 3;**

11 **during the previous fiscal year.**

12 **(c) If the county auditor of Bartholomew County and the state**
13 **office of management and budget determine under subsection (b)**
14 **that the amount of money deposited in the state general fund as**
15 **determined under subsection (b)(1) is less than the amount of the**
16 **salary paid by the state under IC 33-38-5-6 to the judge of the**
17 **Bartholomew superior court No. 3, the treasurer of Bartholomew**
18 **County shall transfer without appropriation to the auditor of state**
19 **for deposit in the state general fund an amount equal to the**
20 **difference between:**

21 **(1) the amount of money deposited in the state general fund as**
22 **determined under subsection (b)(1); and**

23 **(2) the amount of the salary paid by the state under**
24 **IC 33-23-5-11 to the judge;**

25 **during the previous fiscal year.**

26 SECTION 3. IC 33-33-10-2, AS AMENDED BY P.L.234-2007,
27 SECTION 215, IS AMENDED TO READ AS FOLLOWS
28 [EFFECTIVE JANUARY 1, 2011]: Sec. 2. (a) Clark County constitutes
29 the fourth judicial circuit.

30 (b) The judges of the Clark circuit court and Clark superior court
31 may jointly appoint two (2) full-time magistrates under IC 33-23-5 to
32 serve the circuit and superior courts: court.

33 (c) A magistrate continues in office until removed by the judges of
34 the Clark circuit and superior courts: court.

35 SECTION 4. IC 33-33-10-2.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JANUARY 1, 2011]: Sec. 2.5. (a) The Clark circuit
38 court is a court of general jurisdiction with four (4) judges. The
39 divisions of the court shall be known as Clark circuit court No. 1,
40 No. 2, No. 3, and No. 4. The court shall maintain the following
41 dockets:

42 (1) A small claims and misdemeanor division under

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IC 33-28-3 that has a:

- (A) small claims docket; and**
- (B) minor offenses and violations docket.**
- (2) Criminal.**
- (3) Juvenile.**
- (4) Civil.**
- (5) Probate.**

(b) The assignment of judges of the circuit court to the dockets specified in subsection (a) must be by rule of the circuit court.

SECTION 5. IC 33-33-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 7. **(a) Each superior division of the circuit court of Clark County shall hold its sessions at the courthouse of the county, or at other convenient places as the circuit court designates in the county. The county commissioners shall provide suitable quarters for each division of the circuit court and each magistrate appointed by the circuit court.**

(b) Each year the Clark County fiscal body shall budget the necessary funds to provide for the operation and maintenance of the:

- (1) circuit court, including magistrates appointed by the circuit court; and**
- (2) office of the clerk of the circuit court.**

SECTION 6. IC 33-33-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 8. The clerk of **the circuit court**, under the direction of a judge of the **superior circuit 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.

SECTION 7. IC 33-33-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 12. The process of ~~each superior~~ **the circuit 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:~~ **by law.**

SECTION 8. IC 33-33-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 15. (a) ~~The~~ **A** judge of **a division of** the Clark circuit court may, with the consent of a judge of **another division of** the **superior circuit 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~~

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1 circuit court, transfer any action or proceeding from that superior court
2 to the circuit court. The judge of a superior court may, with the consent
3 of the judge of the other superior court, transfer any action or
4 proceeding from that superior court to the other superior court. **judge's**
5 **division to the other judge's division.**

6 (b) A judge of a city or town court located in Clark County may,
7 with the consent of the judge of a division of the Clark circuit
8 court, transfer to the division of the circuit court any cause of
9 action filed and docketed in the city or town court. All original
10 pleadings and documents and bail bonds filed in the cause of action
11 shall be transferred from the city or town court to the receiving
12 division of the circuit court. The cause of action shall be redocketed
13 in the receiving division of the circuit court and disposed of as if
14 originally filed with the receiving division of the circuit court.

15 (b) (c) The judge of a **division of** the Clark circuit court may, with
16 the consent of the judge of **another division of** the superior circuit
17 court, sit as a judge of that superior **the other division of the circuit**
18 court in any matter. as if the judge were an elected judge of that
19 superior court. The judge of a superior court may, with consent of the
20 judge of the circuit court, sit as a judge of the circuit court as if the
21 judge were an elected judge of the circuit court. The judge of a superior
22 court may, with the consent of the judge of the other superior court, sit
23 as judge of the other superior court as if the judge were the elected
24 judge of that superior court.

25 SECTION 9. IC 33-33-10-16 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JANUARY 1, 2011]: **Sec. 16. (a) The Clark circuit**
28 **court shall be governed by a board of judges composed of all the**
29 **circuit court judges. The board of judges shall administer the**
30 **Clark circuit court for all purposes.**

31 (b) The judges of the circuit court shall select from among
32 themselves a presiding judge of the circuit court. The presiding
33 judge shall be selected for a minimum term of twelve (12) months.

34 SECTION 10. IC 33-33-10-17 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JANUARY 1, 2011]: **Sec. 17. (a) When any action of**
37 **the entire circuit court is required, including selection of a**
38 **presiding judge under section 16(b) of this chapter and adoption of**
39 **rules under section 19 of this chapter, the judges of the circuit**
40 **court shall act by consensus.**

41 (b) If consensus is not possible under subsection (a), the decision
42 of the majority of the judges controls.

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1 SECTION 11. IC 33-33-10-18 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2011]: **Sec. 18. In accordance with rules**
4 **adopted by the board of judges under section 19 of this chapter, the**
5 **presiding judge shall do the following:**

- 6 (1) Ensure that the circuit court operates efficiently and
- 7 judicially under rules adopted by the board of judges.
- 8 (2) Upon approval by the board of judges, annually submit to
- 9 the fiscal body of Clark County a budget for the court,
- 10 including amounts necessary for:
 - 11 (A) the operation of the circuit's probation department;
 - 12 (B) the defense of indigents;
 - 13 (C) compensating employees of the circuit court; and
 - 14 (D) maintaining an adequate law library.
- 15 (3) Upon approval by the board of judges, make the
- 16 appointments or selections required of a circuit or superior
- 17 court judge.

18 SECTION 12. IC 33-33-10-19 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JANUARY 1, 2011]: **Sec. 19. (a) Before March 15 of**
21 **each year, the board of judges of the circuit court shall adopt rules**
22 **to provide for the administration of the circuit court, including**
23 **rules governing the following:**

- 24 (1) Allocation of case load.
- 25 (2) Legal representation for indigents.
- 26 (3) Budgetary matters of the circuit court.
- 27 (4) Operation of the probation department.
- 28 (5) Term of administration of the presiding judge.
- 29 (6) Employment and management of circuit court personnel.
- 30 (7) Cooperative efforts with other courts for establishing and
- 31 administering shared programs and facilities.

32 (b) The board of judges of the circuit court shall file with the
33 division of state court administration a copy of the rules adopted
34 under this section.

35 SECTION 13. IC 33-33-10-20 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JANUARY 1, 2011]: **Sec. 20. (a) Each judge of the**
38 **circuit court may employ personnel necessary for the proper**
39 **administration of the judge's docket.**

40 (b) Personnel employed under this section:

- 41 (1) include court reporters, bailiffs, clerical staff, and any
- 42 additional officers necessary for the proper administration of

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**the circuit court; and
(2) are subject to the rules concerning employment and management of circuit court personnel adopted by the board of judges under section 19 of this chapter.**

SECTION 14. IC 33-33-10-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 21. (a) The board of judges of the circuit court shall appoint a court administrator to implement and administer the decisions made by the board of judges.**

(b) A circuit court administrator appointed under this section is subject to the rules concerning employment and management of circuit court personnel adopted by the board of judges under section 19 of this chapter.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2011]: IC 33-33-10-1; IC 33-33-10-3; IC 33-33-10-4; IC 33-33-10-5; IC 33-33-10-6; IC 33-33-10-9; IC 33-33-10-10; IC 33-33-10-11; IC 33-33-10-13.

SECTION 16. [EFFECTIVE JANUARY 1, 2011] **(a) Subject to subsection (b), a judge of a Clark superior court established by IC 33-33-10-3, as repealed by this act, serving on a Clark superior court on December 31, 2010, is entitled to serve as a judge of the Clark circuit court under IC 33-33-10-2.5, as added by this act, for a term beginning January 1, 2011. The judge may serve as judge of the Clark circuit court until the expiration of the Clark superior court term that the judge was serving under the law in effect on December 31, 2010.**

(b) The judges of the Clark circuit court and Clark superior courts serving on December 31, 2010, shall serve as judges of the following Clark circuit court divisions established by IC 33-33-10-2.5, as added by this act, beginning January 1, 2011:

- (1) The judge of the Clark circuit court shall serve as the initial judge of Clark circuit court No. 1.**
- (2) The judge of Clark superior court No. 2 shall serve as the initial judge of Clark circuit court No. 2.**
- (3) The judge of Clark superior court No. 3 shall serve as the initial judge of Clark circuit court No. 3.**
- (4) The judge of Clark superior court No. 1 shall serve as the initial judge of Clark circuit court No. 4.**

(c) The superior courts for Clark County are abolished as of January 1, 2011. All cases and other matters pending in the Clark superior courts at the close of business on December 31, 2010, shall

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1 be transferred to the Clark circuit court on January 1, 2011. A case
2 or other matter transferred under this SECTION shall be treated
3 as if the case or other matter were originally filed in the Clark
4 circuit court.

5 (d) On January 1, 2011, all property and obligations of the
6 Clark superior courts become the property and obligations of the
7 Clark circuit court.

8 (e) This SECTION expires January 1, 2016.

9 SECTION 17. [EFFECTIVE JULY 1, 2010] (a) Notwithstanding
10 IC 33-33-3-2, as amended by this act, and IC 33-33-3-2.5, as added
11 by this act, the Bartholomew superior court No. 3 is not established
12 until July 1, 2011.

13 (b) The governor shall appoint a person under IC 3-13-6-1(f) to
14 serve as the initial judge of the Bartholomew superior court No. 3
15 established by IC 33-33-3-2, as amended by this act.

16 (c) The term of the initial judge appointed under subsection (b)
17 begins July 1, 2011, and ends December 31, 2012.

18 (d) The initial election of the judge of the Bartholomew superior
19 court No. 3 established by IC 33-33-3-2, as amended by this act, is
20 the general election on November 6, 2012. The term of the initially
21 elected judge begins January 1, 2013.

22 (e) This SECTION expires January 2, 2013.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1269, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-33-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) There are created ~~two (2)~~ **three (3)** courts of record to be known as Bartholomew superior court No. 1, ~~and~~ Bartholomew superior court No. 2, **and Bartholomew superior court No. 3.**

(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.

SECTION 2. IC 33-33-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. (a) The Bartholomew circuit and superior courts shall impose and collect an infraction judgment for each traffic violation in Bartholomew County that is:**

- (1) at least twenty dollars (\$20); and
- (2) deposited in the state general fund.

(b) **At the end of each fiscal year, the county auditor of Bartholomew County 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) that is equal to twenty dollars (\$20) multiplied by the total number of infraction judgments imposed and collected for each traffic violation in Bartholomew County; and**
- (2) **the amount of the salary paid by the state under IC 33-38-5-6 to the judge of the Bartholomew superior court No. 3;**

during the previous fiscal year.

(c) **If the county auditor of Bartholomew County and the state office of management and budget determine under subsection (b) that the amount of money deposited in the state general fund as determined under subsection (b)(1) is less than the amount of the salary paid by the state under IC 33-38-5-6 to the judge of the Bartholomew superior court No. 3, the treasurer of Bartholomew County shall transfer without appropriation to the auditor of state**

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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 as determined under subsection (b)(1); and

(2) the amount of the salary paid by the state under IC 33-23-5-11 to the judge;

during the previous fiscal year."

Page 3, delete lines 41 through 42.

Page 4, line 1, before "of" begin a new paragraph and insert:

"(b) If consensus is not possible under subsection (a), the decision".

Page 4, line 1, delete "controls; and" and insert "controls."

Page 4, delete lines 2 through 3.

Page 6, after line 11, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2010] (a) Notwithstanding IC 33-33-3-2, as amended by this act, and IC 33-33-3-2.5, as added by this act, the Bartholomew superior court No. 3 is not established until July 1, 2011.

(b) The governor shall appoint a person under IC 3-13-6-1(f) to serve as the initial judge of the Bartholomew superior court No. 3 established by IC 33-33-3-2, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins July 1, 2011, and ends December 31, 2012.

(d) The initial election of the judge of the Bartholomew superior court No. 3 established by IC 33-33-3-2, as amended by this act, is the general election on November 6, 2012. The term of the initially elected judge begins January 1, 2013.

(e) This SECTION expires January 2, 2013."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1269 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 7, nays 0.

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