February 11, 2011

HOUSE BILL No. 1266

DIGEST OF HB 1266 (Updated February 9, 2011 2:30 pm - DI 69)

Citations Affected: IC 33-33; noncode.

Synopsis: Clark County courts. Establishes a unified circuit court for Clark County by combining the current judge of the Clark circuit court and the three judges of the Clark superior court into a unified circuit court with four judges. Specifies that the Clark superior court judges serving on December 31, 2011, serve as judges of the unified circuit court beginning January 1, 2012. Transfers all cases and other matters pending in the Clark superior court at the close of business on December 31, 2011, to the unified circuit court on January 1, 2012. Repeals provisions concerning the establishment and operation of the Clark superior court.

Effective: December 31, 2011; January 1, 2012.

Stemler, Clere, Goodin

January 12, 2011, read first time and referred to Committee on Courts and Criminal Code.
February 10, 2011, reported — Do Pass.

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February 11, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1266

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 33-33-10-2, AS AMENDED BY P.L.234-2007, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: 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 two (2) full-time magistrates under IC 33-23-5 to serve the circuit ~~and superior courts.~~ **court.**

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

SECTION 2. IC 33-33-10-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 2.5. (a) The Clark circuit court is a court of general jurisdiction with four (4) judges. The divisions of the court shall be known as Clark circuit court No. 1, No. 2, No. 3, and No. 4. Clark County constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:**

(1) A small claims and misdemeanor division under 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 3. IC 33-33-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: 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 4. IC 33-33-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: 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 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.~~ **judge's division to the other judge's division.**

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

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originally filed with the receiving division of the circuit court.

~~(b)~~ **(c)** The judge of **a division of** the Clark circuit court may, with the consent of the judge of **another division of** the ~~superior~~ **circuit** court, sit as a judge of ~~that superior~~ **the other division of the circuit** 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 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.~~

SECTION 5. IC 33-33-10-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 16. (a) The Clark circuit court shall be governed by a board of judges composed of all the circuit court judges. The board of judges shall administer the Clark circuit court for all purposes.**

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

SECTION 6. IC 33-33-10-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 17. (a) When any action of the entire circuit court is required, including selection of a presiding judge under section 16(b) of this chapter and adoption of rules under section 19 of this chapter, the judges of the circuit court shall act by consensus.**

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

SECTION 7. IC 33-33-10-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 18. In accordance with rules adopted by the board of judges under section 19 of this chapter, the presiding judge shall do the following:**

(1) Ensure that the circuit court operates efficiently and judicially under rules adopted by the board of judges.

(2) Upon approval by the board of judges, annually submit to the fiscal body of Clark County a budget for the court, including amounts necessary for:

(A) the operation of the circuit's probation department;

(B) the defense of indigents;

(C) compensating employees of the circuit court; and

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(D) maintaining an adequate law library.

(3) Upon approval by the board of judges, make the appointments or selections required of a circuit or superior court judge.

SECTION 8. IC 33-33-10-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 19. (a) Before March 15 of each year, the board of judges of the circuit court shall adopt rules to provide for the administration of the circuit court, including rules governing the following:**

(1) Allocation of case load.

(2) Legal representation for indigents.

(3) Budgetary matters of the circuit court.

(4) Operation of the probation department.

(5) Term of administration of the presiding judge.

(6) Employment and management of circuit court personnel.

(7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

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

SECTION 9. IC 33-33-10-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 20. (a) Each judge of the circuit court may 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 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 10. IC 33-33-10-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **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

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section 19 of this chapter.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2012]: 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 33-33-10-8; IC 33-33-10-9; IC 33-33-10-10; IC 33-33-10-11; IC 33-33-10-12; IC 33-33-10-13.

SECTION 12. [EFFECTIVE DECEMBER 31, 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, 2011, 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, 2012. 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, 2011.**

(b) The judges of the Clark circuit court and Clark superior courts serving on December 31, 2011, 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, 2012:

(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, 2012. All cases and other matters pending in the Clark superior courts at the close of business on December 31, 2011, shall be transferred to the Clark circuit court on January 1, 2012. A case or other matter transferred under this SECTION shall be treated as if the case or other matter were originally filed in the Clark circuit court.

(d) On January 1, 2012, all property and obligations of the Clark superior courts become the property and obligations of the Clark circuit court.

(e) This SECTION expires January 1, 2017.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1266, 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.

STEUERWALD, Chair

Committee Vote: yeas 10, nays 0.

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