SENATE BILL No. 128

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-8-1; IC 33-35.

Synopsis: City and town courts. Requires the judge of a city or town court to be an attorney in good standing admitted to the practice of law in Indiana. Allows a person who is: (1) a judge of a city or town court serving on June 30, 2011; and (2) not an attorney in good standing admitted to the practice of law in Indiana; to continue to serve only for the remainder of the person's term. Repeals a superseded provision concerning qualifications for town court judges. Provides that: (1) the city courts and town courts in Lake County; and (2) the city court in a second class city; have original and concurrent civil jurisdiction with the circuit court and superior courts of the county in which the city and town courts are located over: (A) civil actions in which the amount sought or value of the property sought to be recovered is not more than $6,000; (B) possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed $6,000; and (C) emergency possessory actions between a landlord and tenant. Provides that a city court in a second class city is a court of record.

Effective: June 29, 2011; July 1, 2011.

Randolph

January 5, 2011, read first time and referred to Committee on Judiciary.

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Introduced

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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SENATE BILL No. 128

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 3-8-1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) This section applies to a candidate for any of the following offices:

(1) 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).

(2) Judge of a town court.

(b) A person is not qualified to run for an office subject to this section unless not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination the person is registered to vote in a county in which the municipality is located.

(c) Before a candidate for the office of judge of a city court described in subsection (a)(1) or a town 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 2. IC 3-8-1-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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 33-35-5-7(c).~~ Before a candidate for the office of judge of ~~the~~ **a city** 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 3. IC 33-35-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. **(a)** The:

(1) city ~~court of each of the four (4) cities having the largest populations~~ **courts** and the town ~~court of the town having the largest population~~ **courts** in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); **and**

(2) city court in a second class city not otherwise described in subdivision (1);

have the jurisdiction described in subsection (b).

(b) The city and town courts described in subsection (a) have **original and** concurrent civil jurisdiction with the circuit court **and the superior courts** of the county ~~where the amount in controversy does not exceed three thousand dollars ($3,000). The~~ **in which the city and town courts are located over the following:**

(1) Civil actions in which the amount sought or value of the

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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) A city or town 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.

(d) However, ~~the~~ **a** 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.

SECTION 4. IC 33-35-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) **Except as provided in subsection (b),** a city court is not a court of record.

(b) A city court in a second class city is a court of record.

~~(b)~~ **(c)** A town court is not a court of record.

~~(c)~~ **(d)** A person selected as judge of ~~the following courts~~ **a city or town court** 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.~~

admitted to the practice of law in Indiana.

SECTION 5. IC 33-35-5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 29, 2011]: **Sec. 7.5. (a) A person who is a judge of a city or town court:**

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(1) serving on June 30, 2011; and

(2) who is not an attorney in good standing admitted to the practice of law in Indiana as required by section 7 of this chapter;

shall continue to serve as judge of the city or town court for the remainder of the person's term in effect on June 30, 2011.

(b) A person who is a judge of a city or town court:

(1) serving on June 30, 2011; and

(2) who is not an attorney in good standing admitted to the practice of law in Indiana as required by section 7 of this chapter;

may not run for election as a city or town court judge after June 30, 2011, unless the person is an attorney in good standing admitted to the practice of law in Indiana as required by section 7 of this chapter.

SECTION 6. IC 3-8-1-29.5 IS REPEALED [EFFECTIVE JULY 1, 2011].

SECTION 7. [EFFECTIVE JULY 1, 2011] **(a) Notwithstanding any provision in IC 3 to the contrary concerning placement of a candidate's name on a ballot, if an election for a city or town court judgeship under IC 33-35-1 will occur on November 8, 2011, a person who is otherwise qualified to run for the judgeship is only required to file a declaration of candidacy before August 1, 2011, to have the person's name placed on the ballot as a candidate for the judgeship.**

(b) This SECTION expires January 1, 2012.

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