

## **IC 33-33-45**

### Chapter 45. Lake County

## **IC 33-33-45-1**

### **Application**

Sec. 1. IC 33-29-1 does not apply to this chapter.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-45-2**

### **Judicial circuit**

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.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-45-3**

### **Establishment of superior court**

Sec. 3. There is established a superior court in Lake County (referred to as "the court" in this chapter).

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-45-4**

### **Name**

Sec. 4. The court shall be known as the superior court of Lake County.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-45-5**

### **Seal**

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 of which shall be spread of record upon the order book of the court.

*As added by P.L.98-2004, SEC.12.*

## **IC 33-33-45-6**

### **Juvenile court jurisdiction**

Sec. 6. 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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.59.*

### **IC 33-33-45-7**

#### **Court of record; force and effect of judgments and orders**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-8**

#### **Power and authority of 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-9**

#### **Additional court powers**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-10**

#### **Magistrates of criminal division**

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.

(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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-11**

#### **Magistrates**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-12**

#### **Personnel**

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 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-13**

#### **Location of court sessions**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-14**

#### **Books, papers, and records**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-15**

#### **Order books**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-16**

#### **Laws and rules governing 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;

(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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-17**

#### **Appeals**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-18**

#### **Process of 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-19**

#### **Chief judge; senior judge**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-20**

#### **Action of entire court**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-21**

#### **Divisions of court; assignment of judges**

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 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 necessary for the efficient operation of the court. The court by rule may establish a rotation schedule providing for the rotation of judges through the various divisions. The rotation schedule may be used if the court determines that an emergency exists. However, a senior judge of any 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.

(e) A judge of a division of the court who has not been appointed to the court under section 38 of this chapter is not eligible to be reassigned, rotated, or transferred to the other divisions of the court. However, a judge of a division of the court who has not been appointed to the court under section 38 of this chapter may apply to fill a vacancy in another division of the court through appointment as provided under this chapter.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.60.*

### **IC 33-33-45-22**

#### **Transfer of actions from circuit 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-23**

#### **Transfer of actions to circuit 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-24**

#### **Authority of circuit judge to sit in superior 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.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-45-25**

##### **Incumbent judges; retention; election**

Sec. 25. (a) 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 serving on June 30, 2011, is subject to the question of the judge's retention in office or rejection as provided in subsection (a) at the expiration of the judge's term of office under the law in effect on June 30, 2011.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.61.*

#### **IC 33-33-45-26**

##### **Number of judges**

Sec. 26. The superior court of Lake County consists of sixteen (16) judges plus the Lake circuit court judge if the circuit court judge chooses to sit on the superior court of Lake County.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-45-27**

##### **Judicial nominating commission; establishment**

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.

*As added by P.L.98-2004, SEC.12.*

#### **IC 33-33-45-28**

##### **Judicial nominating commission; membership**

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 21-13-1-6).
- (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 21-13-1-6).
- (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.

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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.2-2007, SEC.368.*

### **IC 33-33-45-29**

#### **Appointment of nonattorney commissioners**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-30**

#### **Election of attorney commissioners**

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 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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-31**

#### **Election procedures**

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)

(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.

(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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-32**

#### **Notification**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-33**

#### **Duration in office**

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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-34**

#### **Vacancies; meetings of commission**

Sec. 34. (a) When a vacancy occurs in the superior court of Lake County, 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 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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.62.*

### **IC 33-33-45-35**

#### **Nominees; requirements of commission**

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;
  - (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.

*As added by P.L.98-2004, SEC.12.*

### **IC 33-33-45-36**

#### **List of nominees; public records; submission to governor**

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 appointment.

*As added by P.L.98-2004, SEC.12.*

**IC 33-33-45-37****Withdrawal of name or list of nominations**

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.

*As added by P.L.98-2004, SEC.12.*

**IC 33-33-45-38****Selection of judges**

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.

*As added by P.L.98-2004, SEC.12.*

**IC 33-33-45-39****Repealed**

*(Repealed by P.L.201-2011, SEC.114.)*

**IC 33-33-45-40****Effective date of appointment**

Sec. 40. An appointment by the governor or chief justice, as required by section 38 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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.63.*

### **IC 33-33-45-41**

#### **Tenure of judges**

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 superior court shall serve successive six (6) year terms.

(c) 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.  
*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.64.*

### **IC 33-33-45-42**

#### **Submission to electorate; question of retention in office or rejection of judges**

Sec. 42. (a) The question of the retention in office or rejection of each judge 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.

(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 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.

(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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.58-2005, SEC.34; P.L.201-2011, SEC.65.*

**IC 33-33-45-43**

**Repealed**

*(Repealed by P.L.201-2011, SEC.114.)*

**IC 33-33-45-44**

**Conditions of office; censure or removal; political party campaigning for or against removal**

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.
- (3) Take part in any political campaign.

(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.

*As added by P.L.98-2004, SEC.12. Amended by P.L.201-2011, SEC.66.*

**IC 33-33-45-45**

**Repealed**

*(Repealed by P.L.118-2007, SEC.38.)*