

## **IC 34-35-2**

### **Chapter 2. Change of Venue From County in Civil Actions**

#### **IC 34-35-2-1**

##### **Counties with two or more adjoining counties**

Sec. 1. (a) This section applies when a change of venue is taken from the county in any civil action pending in any circuit, superior, or probate court of Indiana from any county having two (2) or more adjoining counties.

(b) If the parties to the action agree in open court within three (3) days from the filing of the affidavit or motion for the change of venue upon the county to which the change of venue of the action shall be changed, it is the duty of the court to send, transfer, and venue the action to the agreed upon county.

(c) In the absence of an agreement described in subsection (b), within two (2) days the court shall submit to the parties a written list of all the counties adjoining the county from which the venue is changed. Within two (2) days of receiving the list, the parties shall alternately strike off the names of the counties except one (1). The moving party for the change of venue is the first to strike, and the action shall be sent to the county not stricken off under this procedure.

*As added by P.L.1-1998, SEC.31.*

#### **IC 34-35-2-2**

##### **Counties with populations of at least 100,000**

Sec. 2. (a) This section applies to a county with a population of at least one hundred thousand (100,000) that is adjoined by three (3) or fewer other counties.

(b) In addition to listing the adjoining counties, the court shall also list the two (2) nonadjoining counties, the county seats of which are nearest measured along the most direct improved and main traveled highways to the county seat of the county from which the change of venue is sought. The additional two (2) nonadjoining counties shall, together with the adjoining counties, comprise the original list from which the parties shall strike on all initial changes of venue taken from the county in which the cause is first filed.

*As added by P.L.1-1998, SEC.31.*

#### **IC 34-35-2-3**

##### **Nonadjoining counties; prior change of venue**

Sec. 3. (a) If the venue of the action has already been changed from an adjoining county, the name of the adjoining county shall not be included in the written list submitted by the court.

(b) If excluding the county from which venue was first changed results in fewer than three (3) adjoining counties, the list submitted by the court shall include the following:

- (1) The adjoining county or counties.
- (2) Not more than three (3) nonadjoining counties, the county seats of which are nearest to the county seat of the county from

which the change of venue is sought when measured along improved and main traveled highways.  
*As added by P.L.1-1998, SEC.31.*

#### **IC 34-35-2-4**

##### **Counties stricken from list by parties**

Sec. 4. Each party may strike off one (1) of the three (3) counties submitted within two (2) days after the list is submitted, and the action shall be sent to the county remaining. If either of the parties refuses or fails to strike off the names of the counties within the time limit, the clerk of the court shall strike off the names for the party.  
*As added by P.L.1-1998, SEC.31.*

#### **IC 34-35-2-5**

##### **Counties with populations of more than 400,000 but less than 700,000**

Sec. 5. (a) This section applies in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) Whenever a change of venue is taken from the county in any civil action pending in any circuit, superior, or probate court of Indiana, if the parties to the action agree in open court within three (3) days from the date of the filing of the affidavit or motion for change of venue from the county to which county the change of venue of the action shall be changed, it is the duty of the court to send, transfer, and venue the action to the agreed upon county.

(c) In the absence of an agreement described in subsection (b), the nonmoving party shall, within two (2) days after receipt of notice of the filing of change of venue from the county, submit to the moving parties the names of two (2) counties which must be selected from the adjoining counties or the five (5) nonadjoining counties, the county seats of which are nearest measured along the most direct improved and main traveled highways to the county seat of the county from which the change of venue is sought.

(d) If the venue of the action has already been changed from an adjoining county, the name of the adjoining county shall not be included in the written list to be submitted by the nonmoving party under subsection (c).

(e) The moving party shall strike one (1) of the two (2) counties submitted within two (2) days after receipt of the names of the counties, and the action shall be sent to the county remaining.

(f) If the nonmoving party fails or refuses to name the counties as provided in this section, the court shall, not later than two (2) days after the deadline has expired, name the counties. If the moving party fails or refuses to strike off the name of one (1) of the named counties within the time limit provided in this section, the clerk of the court shall strike off the names for the party within two (2) days.  
*As added by P.L.1-1998, SEC.31.*