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Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Rep. Jesse Villalpando, Vice Chair
Rep. Kathy Richardson
Rep. Ralph Ayres
Rep. Dale Sturtz



Lay Members:

Hon. Randall Shepard
Hon. Ernest Yelton
Mary Lou Schnell
William Overdeer
Sarah Taylor

COMMISSION ON COURTS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 232-9588 Fax: (317) 232-2554

LSA Staff:

Susan Preble, Fiscal Analyst for the Commission
George Angelone, Attorney for the Commission

Authority: IC 33-1-15

MEETING MINUTES

Meeting Date: August 20, 1998
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Richard Bray, Chairperson; Sen. David Ford; Sen. Timothy Lanane; Rep. Jesse Villalpando, Vice Chairperson; Rep. Kathy Richardson; Rep. Ralph Ayres; Rep. Dale Sturtz; Honorable Randall Shepard; Honorable Ernest Yelton; William Overdeer; Sarah Taylor.

Members Absent: Sen. William Alexa; Mary Lou Schnell.

CALL TO ORDER AND OPENING REMARKS

Senator Bray called the meeting to order at 10:45 a.m. The Commission then approved the minutes of the meeting of August 6, 1998.

CONSIDERATION OF REQUESTS FOR JUDICIAL OFFICERS

Judge Steven Fleece, Clark Superior Court, presented a request for one (1) magistrate to serve both the circuit and superior courts. Judge Fleece distributed handouts and stressed the factors that increase court's caseload, including the proximity of entertainment centers, mental health, juvenile and adult correctional facilities, and a burgeoning population that widens the judge to citizen ratio.¹

Judge Anthony Meyer, Dearborn/Ohio Circuit Court, presented a request for one (1) magistrate to serve the circuit court. Judge Meyer distributed handouts which included letters of support from the county's bar association and cost summaries prepared by the bar association based on data provided by the county clerk.² Judge Meyer explained that due to the county's poor fiscal situation, a state-paid magistrate is the best option. He stated that a magistrate would be able to assist him with pre-trial conferences, hearings, and juvenile matters. Judge Meyer reported that his court experiences 206 new juvenile filings each year, which impact the court due to the new CHINS statute, which requires more

¹Copies of the handouts are on file in the Legislative Information Center, Room 230 of the State House, Indianapolis, Indiana. The telephone number of the Legislative Information Center is (317) 232-9856, and the mailing address is 200 West Washington Street, Suite 301, Indianapolis, Indiana 46204-2789.

²Copies of the handouts are on file at the Legislative Information Center. (See footnote 1).

hearings, and the extra time and care required when handling cases involving the termination of parental rights. In response to a question from the Commission, Judge Meyer explained that while the Dearborn/Ohio Circuit Court is a joint circuit court, Ohio County is not in need of additional judicial officers.

Chief Justice Randall Shepard questioned the cost summary submitted to the Commission and wondered why an additional magistrate would increase administrative costs to the county when case filings would not be impacted. Judge Meyer stated his belief that the summary overstated the cost to the county, but that additional court reporters would be required.

Pat Coughill, Dearborn/Ohio County Bar Association, testified that a majority of the bar association voted to request an additional magistrate rather than convert the county court to a superior court. Ms. Coughill stated that a magistrate would cost less than a judge, and that current space could house a magistrate, but not a judge. In response to issues raised by the Commission, Rep. Richardson responded that in her experience, additional judicial officers enable courts to process cases more quickly, which has a trickle-down effect on the clerk's office.

Jim Humphrey, incoming Dearborn/Ohio Circuit Court judge, testified in support of Judge Meyer's request.

Judge G. Michael Witte, Dearborn County Court, presented a request for the conversion of the existing county court to a superior court, and the addition of a second superior court. He distributed handouts reflecting the increased caseload experienced by his court due to population factors and river boats.³ Judge Witte stressed that he would like an evaluation of the entire court structure in Dearborn County, and stated his belief that the conversion of his court to a superior court is a better solution than requesting an additional magistrate. He testified that while the circuit court's caseload is not increasing, the county court's caseload is increasing at a steady rate. In response to Judge Meyer's fiscal concerns, Judge Witte explained that because the second superior court would not come into effect until 2001, the county would have three years to plan for it, but with a magistrate, the county would feel an immediate fiscal impact.

Judge Kevin Wallace, DeKalb Superior Court, presented a request for one (1) additional superior court judge. Judge Wallace distributed a handout and explained that in 1996, the county bar voted unanimously for an additional superior court.⁴ He testified that the county built an additional courtroom that stands ready for occupancy. Judge Wallace emphasized that the weighted caseload statistics demonstrate the county's need for another judge.

Judge Stephen Platt, Elkhart Superior Court, presented a request for one (1) magistrate or superior court judge. Judge Platt testified to the good working relationship between the courts and the county, but that litigants are not well served due to the lack of judicial officers needed to handle the existing caseload. As an example, he reported that 550 paternity cases were filed last year in the superior court. Judge Platt assured the Commission that the county has provided space and support for an additional judicial officer, and that ideally, he would like an additional magistrate which could be converted to a new court in 2001.

Judge Richard Striegel, Floyd Superior Court, presented a request for one (1) magistrate to serve the county's three courts and to be appointed by all three judges. Judge Striegel testified that the largest river boat facility in the U.S. will be located in Harrison County, but that its presence will greatly impact Floyd County because it will result in an increased caseload. He stated that Floyd County has a hearing room available to house a magistrate and is willing to hire a court reporter to assist the magistrate.

In response to Judge Striegel's testimony, Sen. Bray commented that when the river boat legislation was brought before the legislature, its supporters assured the General Assembly that the fiscal impact to the counties would be minimal.

Magistrate Christina Miller, Lake Circuit Court, presented a request for two (2) magistrates to serve

³Copies of the handouts are on file at the Legislative Information Center. (See footnote 1).

⁴A copy of the handout is on file at the Legislative Information Center. (See footnote 1).

the circuit court. Magistrate Miller distributed a handout and reminded the Commission that the weighted caseload study indicates that Lake County needs eight (8) additional judicial officers.⁵ She testified that the circuit court is the only venue for many matters and is the only court with general civil jurisdiction in Crown Point. Magistrate Miller stressed that the matters heard by the circuit court are often complex and demand a great deal of time. She reported that a paternity case filed today would not be heard until March of 1999. In response to a question from Rep. Villalpando, Magistrate Miller clarified that the magistrates requested would be utilized in the mental health and family law areas. Responding to Sen. Bray's comment that it is highly unusual to have three magistrates under one judge, Magistrate Miller reported that three magistrates are currently assigned to Judge Bonaventura's court (Lake Superior Court, Juvenile Division).

Judge James Danikolas, Lake Superior Court, Civil Division, presented a request for two (2) superior court magistrates. Judge Danikolas distributed a handout and testified that his court has not had a new judicial officer since 1927.⁶ He requested that his two part-time civil commissioners be elevated to full-time magistrates. In response to questions from the Commission, Judge Danikolas clarified that the civil division is comprised of five (5) judges, two (2) part-time probate commissioners and two (2) part-time civil commissioners.

Magistrate Charlotte Peller, Lake Superior Court, Juvenile Division, presented a request for two (2) juvenile court magistrates. Magistrate Peller appeared before the Commission and made her request on behalf of Judge Mary Beth Bonaventura. She reported that the additional magistrates are necessary to meet the extra requirements made by the Indiana Supreme Court and the General Assembly with regard to juvenile cases and to handle the 2,000 additional CHINS cases expected this year. Magistrate Peller also testified that the Division anticipates that an additional 1,000 cases involving the termination of parental rights will be filed this year. She cited a study conducted in Utah which resulted in a recommendation that a minimum of 30 minutes should be spent by the court for each CHINS review. Magistrate Peller reported that she spends 3.5 hours hearing 15 cases (14 minutes per case), which obviously shortchanges children. In response to a question from the Commission, Magistrate Peller explained that juvenile magistrates' salaries are paid in part by the county and in part by the state.

Judge Julie Cantrell, Lake Superior Court, County Division, presented a request for one (1) magistrate. Judge Cantrell testified that one magistrate is currently assigned to her court to assist with the variety of cases her court hears, including civil plenary, small claims, Class D felonies and traffic matters. She testified that she inherited a backlog of 35,000 cases and that 26,000 new cases were filed in 1997. However, Judge Cantrell reported that by creating a "roving" court which travels around the county hearing small claims cases twice a week in the evening, the number of cases (both the backlog and new cases filed in 1997) is down to 21,000. She stated that space exists for an additional magistrate.

Judge Robert Gilmore, Jr., LaPorte Circuit Court, presented a request for one (1) circuit court magistrate. Judge Gilmore distributed a handout and cited a number of factors which have increased the court's caseload, including a river boat, two (2) large correctional facilities, one (1) juvenile detention center and the proximity to Interstate 94.⁷ He stated that the additional magistrate would assist with domestic relations cases twice a week and with civil cases twice a week. Judge Gilmore explained that because the magistrate would not hear jury trials, space currently exists to accommodate an additional magistrate, but not an additional judge.

Judge Richard McIntyre, Lawrence Circuit Court, and Andrea McCord, Lawrence Circuit Court Title IV-D Referee, presented a request to upgrade the existing circuit court juvenile referee to magistrate status. Judge McIntyre distributed a handout and explained that his request would allow a magistrate to hear cases that special judges currently handle.⁸ He testified that because his wife is an attorney in the county with a large family law practice, the use of special judges is necessary to avoid a

⁵A copy of the handout is on file at the Legislative Information Center. (See footnote 1).

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conflict of interest when she appears before his court. Judge McIntyre stated that the county council and commissioners support his request and are willing to pay part of the magistrate's salary. He reported that his juvenile court is very active, which makes it difficult to keep the court calendar on schedule. In closing, Judge McIntyre conveyed a reminder to the Commission from Rep. Brent Steele that Lawrence County has both the highest teen pregnancy and divorce rates in the state.

Judge Thomas Newman, Jr. Madison Superior Court #3 and Judge David Hopper, Madison County Court, presented a request for one (1) magistrate to serve both the county and superior courts. Judge Newman distributed a handout and stated that in 1991, Madison County voluntarily created a successful unified court system and pooled all financial and administrative resources.⁹ He stated that the new magistrate would be selected by all the judges and would serve each judge equally. Judge Hopper reiterated Judge Newman's comments and added that an additional magistrate would allow the courts to concentrate on criminal cases and the severe jail overcrowding problem faced by the county. In response to a question from the Commission, Judge Newman explained that Madison County is under a federal mandate to eliminate jail overcrowding. He commented further that other factors impact the court's caseload including the change of venue rule, correctional and juvenile detention facilities.

Judge Frank Nardi, Owen Circuit Court, presented a request to convert the existing part-time referee to a full-time magistrate. He distributed a handout and explained that the referee handles all small claims and infractions and holds misdemeanor and Class D felony hearings from 1:00 - 5:30 daily and conducts evening court once a week.¹⁰ Judge Nardi testified that the county's population growth has resulted in a heavy caseload which requires special judge appointments. He reported that there have been no new judicial officers since 1975, and that if the referee were converted to a magistrate, her expanded jurisdiction would allow her to hear more cases and enable the court to better meet deadlines. Judge Nardi testified that the facilities exist to house a full-time magistrate, and that the county bar association supports his request.

Richard Lorenz, an attorney practicing in Owen County, testified that the bar would like a superior court in the county because courtroom time is required for most cases. He commented that while the General Assembly gives counties new requirements each year, it does not provide additional judicial officer to help meet them, and stressed how difficult it is for one judge to handle the county's caseload.

Judge George Beamer, Jr., St. Joseph Superior Court, presented a request for two (2) magistrates. Judge Beamer distributed a handout and reported that St. Joseph County's need for judicial officers is the third greatest in the state and his court is experiencing an increase in caseload.¹¹ As an example, he stated that 350 traffic cases are on the docket every day. He testified that while magistrates help with temporary matters, when the need for additional judicial officers is demonstrable and long term, the solution is a new court. Judge Beamer stated that the county council and bar support his request, and that facilities will be available by 2000, at which time he would like to convert the magistrate positions to judgeships.

DISCUSSION OF FUTURE MEETINGS

Rep. Ayres asked if the Commission would take testimony regarding the conversion of juvenile magistrates' salaries to 100% being paid by the state. Sen. Bray said the issue would be on the agenda for the Sept. 10, 1998 meeting. He then asked the members about rescheduling the Sept. 24, 1998 meeting for the first week of October. Sen. Bray stated the date for the meeting would be finalized by the next meeting. He also stated that the final Commission meeting will be held in mid-October in order to confirm recommendations and vote on the final report due to the Legislative Council by Nov. 1, 1998.

ADJOURNMENT

With no further business before the Commission, Senator Bray adjourned the meeting at 1:15 p.m.

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