

Members

Rep. Jesse Villalpando, Chairperson
Rep. Ed Mahern
Rep. Ralph Ayres
Rep. Kathy Richardson
Sen. Richard Bray, Vice-Chairperson
Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Chief Justice Randall T. Shepard
Judge Ernest Yelton
C. Joseph Anderson, Jr.
William Overdeer
Sarah M. Taylor



COMMISSION ON COURTS

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Authority: IC 33-1-15

MEETING MINUTES¹

Meeting Date: October 1, 1999
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: Rep. Jesse Villalpando, Chairperson; Rep. Ralph Ayres; Sen. Richard Bray, Vice-Chairperson; Sen. David Ford; C. Joseph Anderson, Jr.; William Overdeer; Sarah M. Taylor.

Members Absent: Rep. Ed Mahern; Rep. Kathy Richardson; Sen. William Alexa; Sen. Timothy Lanane; Chief Justice Randall T. Shepard; Judge Ernest Yelton.

I. Caseload Analysis

Lilia G. Judson, Executive Director of the Supreme Court Division of State Court Administration, presented a copy of the Indiana Judicial Service Report 1998 to the Commission. (The documents comprising the Report are available from the Legislative Information Center as 'Exhibit 1', 'Exhibit 2', 'Exhibit 3', and 'Exhibit 4', respectively.) The Report was released in September 1999 and covers data from calendar year 1998. She further described the methodology of the weighted caseload measurement system that is

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

used to establish a uniform statewide method for comparing trial court caseloads. (See pages 44-45 of Volume I). Using these measures, the Report estimates how many judicial officers are needed statewide and which counties have the most severe need for additional judicial officers. Ms. Judson indicated that the analysis takes into account some but not all of the new judicial officers added by HEA 1148 (1999). Judges and magistrates added effective July 1, 1999, have been factored into the analysis. Judges and magistrates added on a date after June 30, 1999, have not. Ron Miller, Statistical Analyst for the Supreme Court Division of State Court Administration, indicated that he was available to answer questions from the Commission members.

Ms. Judson described the order of the Supreme Court requiring the development of county and judicial district caseload plans. (A copy of the order is available from the Legislative Information Center as 'Exhibit 5'.) She said that 87 county plans have been approved. The remaining plans, mostly from the larger urban areas, have not been finalized.

Senator Bray and Representative Villalpando expressed concern that the plans will revive the automatic change of venue rules that resulted in numerous abuses before their repeal in 1991. Ms. Judson indicated that the procedures for dealing with caseload disparities may result in the venue of cases from one judge or court to another. However, transfer would not be at the discretion of the litigants. Transfer would occur only according to developed guidelines for the allocation of cases.

II. Court Personnel

A. Conversion of County Courts to Superior Courts

Judge Michael G. Witte, Judge of Dearborn County Court, addressed the Commission on behalf of the Special Courts Committee of the Indiana Judicial Conference. He indicated that he was responding to the proposal made by Judge Ernest Yelton, Judge of the Clay Circuit Court to convert all of the remaining 10 county courts in Indiana into superior courts. This proposal would affect two county courts in Vigo County, two county courts in Madison County, and one county court in each of the following counties: Blackford County, Dearborn County, Floyd County, Montgomery County, Orange County, and Rush County. He noted that the conversion of the two county courts in Vigo County is also the subject of a separate proposal before the Commission.

Judge Witte indicated that the Special Courts Committee of the Indiana Judicial Conference discussed this proposal in a recent meeting. All county court judges are members of the Committee. The Committee voted nine to one in favor of converting all county courts to superior courts. The members of the Committee felt that conversion of these courts to superior courts would improve caseload management in the affected counties without an increase in costs to the counties or the State. He said that the only no vote was cast by the Judge of Floyd County Court. His concern was that expanding the jurisdiction of the court would reduce the emphasis on servicing small claims lawsuits. Judge Witte indicated that the remainder of the county court judges felt that the problem raised by the Floyd County Court Judge could be handled by local court rule.

Judge David W. Hopper, Judge of Madison County Court #1, concurred with the testimony of Judge Witte. He indicated that conversion of the two county courts in Madison County would benefit his county.

B. Unification of Delaware Court System

Senator Craycraft requested that the Commission recommend to the General Assembly

that the Delaware Circuit Court and Delaware Superior Courts be reorganized as a unified circuit court in a manner similar to the unified Monroe Circuit Court. Judge Richard Dailey, Delaware Superior Court #2, Judge James J. Jordan, Delaware Superior Court #3, and Judge Wayne Lennington, Delaware Superior Court #4, testified that they support the proposal. Judge Steven R. Caldemeyer, Judge of Delaware Circuit Court, submitted a letter supporting the proposal. (A copy of the letter is available from the Legislative Information Center as 'Exhibit 6'.) The Judges indicated that unification of the Court would assist the judges in implementing proposed local case load plans.

C. Conversion of Vigo County Courts

Judge Barbara Brugnaux, Vigo County Court #5, requested that the Commission recommend to the General Assembly that the two county courts in Vigo County be converted into superior courts. She indicated that the conversion would assist in balancing caseloads in Vigo County. She stated that the Vigo County Commissioners and the Vigo County Council support the conversion proposal. The conversion would not require any additional expenditures by Vigo County or the State. She noted that the converted courts would continue to have a small claims docket and expressed confidence that the Vigo County courts would process these cases expeditiously.

D. Porter Circuit Court

Rep. Ralph Ayres, Indiana House of Representatives, requested that the Commission recommend to the General Assembly that the juvenile referee for the Porter Circuit Court be converted to a state-paid, full-time magistrate appointed under IC 33-4-7. He submitted letters of support from the Porter County Council and the Porter County Board of Commissioners. (Copies of the letters are available from the Legislative Information Center as 'Exhibit 7' and 'Exhibit 8', respectively.)

Judge Mary R. Harper, Porter Circuit Court, thanked Rep. Ayres for his support. She indicated that the County's ability to continue paying for the magistrate is limited. The position is being funded for one-half of a budget year at a time. She reduced her budget in other areas to accommodate the referee position. She indicates that the position is needed to deal with the Court's caseload.

Rep. Villalpando indicated that replacement of the juvenile magistrate in Porter County is also the subject of a separate proposal before the Commission concerning the replacement of juvenile magistrates in all affected counties.

E. Magistrate for Bartholomew Circuit Court and Jackson Circuit Court

Rep. William Bailey, Indiana House of Representatives, requested that the Commission recommend to the General Assembly that a new full-time magistrate be authorized for joint use by Bartholomew Circuit Court and Jackson Circuit Court. He indicated that both counties have experienced significant growth in judicial caseloads. Additional court officers are needed. He said that the local bar association and county officials in both counties support the proposal. Rep. Steele submitted a letter supporting the proposal. (A copy of the letter is available from the Legislative Information Center as 'Exhibit 9'.)

Judge Stephen Heimann, Bartholomew Circuit Court, indicated that the idea for a joint magistrate had been suggested in caseload planning discussions in the judicial district. Both circuit court judges support the proposal. They have adequate space in both Court Houses for the magistrate. He indicated that travel time between the two county seats is minimized by easy interstate access between the two cities.

F. Madison Circuit Court and Madison Superior Court

Judge David W. Hopper, Judge of Madison County Court #1, requested that the Commission recommend to the General Assembly that one additional full-time magistrate be appointed under IC 33-4-7 to serve the circuit and superior courts in Madison County. He submitted a summary of the weighted caseload statistics for Judicial District No. 6, which indicates that the caseload in Madison County is at 131% of the average caseload for all counties in Indiana. (A copy of the summary is available from the Legislative Information Center as 'Exhibit 10'.) He noted that the proposed district caseload management plan will not significantly reduce the need for an additional court officer. He stated that the judges in Madison County support the proposal.

G. Conversion of Lawrence Circuit Court Juvenile Referee to Full-Time Magistrate

The Commission's Attorney distributed a letter from Rep. Steele requesting that the Commission recommend to the General Assembly that the juvenile referee serving Lawrence Circuit Court be replaced with a full-time magistrate appointed under IC 33-4-7. He suggested that the law provide that the magistrate is available to serve both the circuit and superior courts. (A copy of the letter is available from the Legislative Information Center as 'Exhibit 11'.) Rep. Villalpando noted that replacement of the juvenile magistrate in Lawrence County is also the subject of a separate proposal before the Commission concerning the replacement of juvenile magistrates in all counties.

H. Conversion of Part-Time Owen Circuit Court Magistrate to Full-Time Magistrate

Sen. Bray requested that the Commission recommend to the General Assembly that the part-time magistrate serving the Owen Circuit Court be replaced with a full-time magistrate appointed under IC 33-4-7. He said that Owen County is in the same position as other counties with only one judge. Without a magistrate, cases can be significantly delayed when the judge is busy with other matters or has a conflict of interest that does not allow the judge to preside in the case. He observed that Owen County is a resource poor county. Continued funding of the part-time magistrate causes a burden on county property taxpayers that is not shared by taxpayers in other counties that have a full-time magistrate paid with state funds.

I. Fiscal Impact

The Commission's Fiscal Analyst distributed a memorandum discussing the fiscal impact of each proposal considered by the Commission in the current meeting. (A copy of the memorandum is available from the Legislative Information Center as 'Exhibit 12'.)

III. General Discussion

Rep. Villalpando indicated that the Commission was hearing every request for courts made to the Commission. However, the Commission may limit its recommendations to the General Assembly for two reasons. First, this is a nonbudget year. Without reopening the biennial budget enacted in the 1999 Session, the state appropriation for trial courts is insufficient to pay for any additional judges or magistrates. He and Senator Bray predicted that it is unlikely that there will be a supplemental budget adopted in the 2000 Session. Second, the General Assembly might unintentionally interfere with the efforts of the courts to equalize caseloads if it were to add additional judicial personnel before all county and judicial district caseload plans were finalized. He indicated that these issues were sensitive

and required additional local debate. For example, he asked Magistrate Edward Page, Lake Superior Court, Criminal Division, what were the odds of getting a unified court in Lake County. Magistrate Page indicated that issues related to the historical development of the various divisions of Lake Superior Court and the location of satellite courts made complete unification unlikely. He indicated that the courts were in the process of trying to find better ways to handle the caseload.

Rep. Villalpando adjourned the meeting.